THE SUM OF ALL PARTS
Reducing Civilian Harm in Multinational Coalition Operations
A Latvian soldier checks grid coordinates while discussing operations with NATO counterparts.
**Center for Civilians in Conflict (CIVIC)** is an international organization dedicated to promoting the protection of civilians caught in conflict. CIVIC’s mission is to work with armed actors and civilians in conflict to develop and implement solutions to prevent, mitigate, and respond to civilian harm. Our vision is a world where parties to armed conflict recognize the dignity and rights of civilians, prevent civilian harm, protect civilians caught in conflict, and amend harm.

CIVIC was established in 2003 by Marla Ruzicka, a young American activist and humanitarian who advocated on behalf of civilian war victims and their families in Iraq and Afghanistan. Building on her extraordinary legacy, CIVIC now operates in conflict zones throughout the Middle East, Africa, Europe, and South Asia to advance a higher standard of protection for civilians.

At CIVIC, we believe that parties to armed conflict have a responsibility to prevent and address civilian harm. To accomplish this, we assess the causes of civilian harm in particular conflicts, craft practical solutions to address that harm, and advocate the adoption of new policies and practices that lead to the improved wellbeing of civilians caught in conflict. Recognizing the power of collaboration, we engage with civilians, governments, militaries, and international and regional institutions to identify and institutionalize strengthened protections for civilians in conflict.

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US Army Soldiers from the 173rd Airborne Brigade Combat Team provide security after dismounting a CH-47 Chinook helicopter during training at the Joint Multi-National Training Center in Hohenfels, Germany.

US Army/Gary L. Kieffer
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EXECUTIVE SUMMARY

Multinational operations, undertaken through ad-hoc coalitions as well as permanent alliances such as the North Atlantic Treaty Organization (NATO), have been and will continue to be a prominent feature of US security policy. Multinational operations offer a number of benefits, including enhanced capabilities, burden sharing, and international legitimacy. However, the characteristics of coalition warfare can also create unique challenges for preventing and addressing civilian harm, including differing political incentives, complicated and sometimes parallel command structures, variable levels of interoperability, disparate rules of engagement (ROE) and national caveats, and diverging civilian harm-related policies, such as incident assessment, public acknowledgement, and amends. This report explores these challenges in detail and identifies meaningful recommendations for civilian and military leaders to mitigate challenges and seize opportunities to prevent and address civilian harm in future coalition operations. While this report focuses primarily on coalitions which the US leads or is involved in, its analysis may carry relevance for other coalitions as well.

Summary of Findings

1. The desire of coalitions to maximize participation for political reasons often leads to tradeoffs in other areas, including interoperability, unity of effort, and the capacity and willingness of states to effectively mitigate harm.

2. Sustained commitments by high-level civilian and military leadership, including a command climate that emphasizes the importance of preventing civilian harm, are essential for effective civilian harm mitigation and civilian protection.

3. National caveats and additional restrictions on ROE are important tools for nations to ensure that their forces’ operations minimize civilian harm. At the same time, when national caveats, differing ROEs, or other sensitivities are poorly communicated or misunderstood between members of a coalition, unanticipated force protection issues may arise, exacerbating risks for civilian harm.

4. The presence of a robustly staffed and resourced civilian harm mitigation cell to track, assess, and learn from allegations of civilian harm – such as ISAF’s Civilian Casualty Mitigation Team in Afghanistan – should be considered a best practice.

5. Coalition structures may disincentivize transparency by enabling states to attribute civilian harm to the coalition as a whole, obscuring state responsibility through the premise of collective action.

6. The lack of transparency facilitated by coalition structures also has significant bearing on the provision of amends for harm. When nations refuse to step forward and take responsibility for civilian harm, making amends is by definition impossible.

7. Because each coalition participant often has its own standards, policies, and domestic legislation regarding in-kind or monetary forms of ex gratia compensation, the process of soliciting amends from coalition members places an undue burden on civilians already suffering the loss of loved ones, their homes, and their livelihoods.

8. Coalition lessons learned processes – including the extent to which formal processes are utilized, whether documented lessons contribute to institutional change, and the ways in which civilian casualty assessments are included in lessons learned efforts – warrant significant improvement.

Summary of Recommendations

1. Include civilian harm mitigation practices and procedures in combined exercises, peacetime training, and pre-deployment training.

2. Civilian harm mitigation should be repeatedly emphasized at the highest levels of command and throughout coalition policies and practices.

3. Standardize ROE as much as possible from the outset of operations and ensure regular training on ROE concepts.

4. Account for gaps in civilian harm mitigation capabilities when allocating roles and responsibilities.

5. Ensure that caveats and other national sensitivities are communicated early and effectively, and consider reducing caveats where appropriate.

6. Centralize civilian harm investigating and reporting in a multinational Civilian Casualty Mitigation Cell responsible for assessing all reports of civilian harm, identifying lessons learned, and using that analysis to adapt tactics, techniques and procedures.

7. Ensure that any multinational operation includes effective civil-military coordination on issues pertaining to civilian harm.

8. Standard operating procedures for assessing third party reports of civilian casualty incidents should ensure that the assessment team takes steps to identify
and interview witnesses who can substantiate claims with first-hand knowledge.

9. Coalitions should publicly clarify the steps they take to evaluate and determine the credibility of external reports.

10. Establish a coalition-wide civilian harm disclosure policy that includes guidelines for both public and private acknowledgement of civilian harm incidents.

11. Establish a coalition-wide amends program to facilitate and streamline the payment of ex gratia.

12. Transfer civilian harm mitigation capabilities and processes to the host nation and/or transitional mission as appropriate for the conflict.

13. At the conclusion of coalition operations, resolve outstanding civilian casualty assessments and provide a mechanism for civilians to continue to report civilian harm incidents.


I. INTRODUCTION

Since the Vietnam War, the majority of US military operations have been undertaken as a part of multinational coalitions. If the last five decades of practice serve as prologue, multinational coalitions will remain an enduring feature of US security policy well into the future. Multinational operations help to distribute the burden of fighting, enhance the capabilities of a fighting force, and can reflect broader international legitimacy for military action. However, the characteristics of coalition warfare, which include complicated and sometimes parallel command structures, highly variable levels of interoperability, and differing political incentives between participants, can also create unique challenges for preventing and addressing civilian harm. This report was produced in response to these challenges and provides practical recommendations for civilian and military leaders in order to minimize the risks to civilians in future coalition operations. While this report focuses primarily on coalitions which the US leads or is involved in, its analysis may carry relevance for other coalitions as well.

The areas explored in this report include:

- The ways in which political incentives to achieve broad multinational participation can bring tradeoffs in areas that have significant bearing on the effects of military operations on civilians, to include interoperability of systems, laws, and practices; transparency; unity of effort; and the capacity and willingness to effectively mitigate civilian harm;

- The role of senior-level civilian and military leadership in prioritizing civilian harm mitigation in coalition operations;

- The effects of differing rules of engagement and national caveats among participating nations;

- The value of an appropriately staffed civilian harm mitigation cell for tracking, assessing, and learning from allegations of civilian harm;

- The effect of coalition structures on incentives for transparency and accountability;

- The effect of coalition structures on efforts and programs designed to provide amends, to include ex gratia payments to civilians harmed by coalition operations; and

- The importance of transitioning civilian harm mitigation functions to the host nation and/or follow-on mission at the close of coalition operations.

II. METHODS

This report is based on twenty interviews with US military and government personnel, civilian analysts, and representatives of international organizations and non-government organizations (NGOs). Each subject had direct experience working on or engaging with multinational coalitions, particularly NATO’s International Security Assistance Force (ISAF) in Afghanistan and its successor Resolute Support Mission (RS) and the US-led Operation Inherent Resolve (OIR)1 in Iraq and Syria. Their perspectives represent their personal views rather than that of their current or previous affiliations unless otherwise stated. These interviews have been heavily supplemented with extensive research of secondary literature and US military publications.

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1 Also referred to as Combined Joint Task Force Operation Inherent Resolve (CJTF-OIR).
International Security Assistance Forces (ISAF) speak with a local Afghan in Kapisa Province.

US Navy Petty Officer 1st Class Mark O’Donald
III. CHARACTERISTICS OF MULTINATIONAL OPERATIONS & CIVILIAN HARM IMPLICATIONS

The US military defines multinational operations as “operations conducted by forces of two or more nations, usually undertaken within the structure of a coalition or alliance.”\(^2\) An alliance is typically defined as a formal agreement between two or more nations centered around broadly defined, long-term security cooperation.\(^3\) As such, alliances may have standing command structures, doctrine, and procedures. NATO is one such example. A coalition, on the other hand, is typically defined as an ad-hoc security arrangement, often with narrowly defined objectives focused on a single event or threat.\(^4\) OIR, the US-led campaign against the Islamic State (ISIS) in Iraq and Syria, is one such example.

The unique characteristics of multinational operations create a number of opportunities and challenges for civilian harm mitigation. Overall, military officials interviewed for this report consistently emphasized the benefits of coalition operations for civilians, noting that the process of enlisting participation and buy-in from coalition members can result in more legitimate and restrained operations than those which might occur unilaterally.\(^5,6\) For example, during NATO’s Operation Allied Force in Kosovo, allies’ concerns about domestic political backlash resulting from civilian casualties led to more restraint during the targeting process. Dual-hatted NATO and US Commander Wesley Clark reportedly warned Washington not to pursue specific targets because “the Allies may walk away from this thing” and later said, “We always maintained that no single target or set of targets was more important than NATO cohesion. This was the most crucial decision of the campaign.”\(^7\) Similarly, during ISAF and US operations in Afghanistan, Afghan President Karzai exerted strong pressure on the coalition to reduce civilian harm, including by successfully demanding that forces cease most night raids\(^8,9\) and do more to prevent civilian casualties from airstrikes.\(^10\)

At the same time, coalitions introduce certain complexities that, if not adequately mitigated, may increase the risk of civilian harm. These are discussed in depth below.

Forming the Coalition: As Strong as the Weakest Link

The inherently political process of forming a coalition, even when driven by strategic motives, can have consequences for interoperability and unity of effort, with downstream consequences for civilians on the battlefield.\(^12,13,14,15\) While there is no standard template for forming an alliance, the process typically includes soliciting members through diplomatic channels, agreeing on strategic goals, determining the command structure of the response force, issuing strategic guidance, and developing protocols.\(^16,17\) Even NATO, with its standing membership, doctrine, and tactics, techniques, and procedures (TTPs),\(^18\) must still convince member states to participate in a new mission or operation. New NATO missions must also be unanimously approved by the North Atlantic Council.
In many cases, the state leading the formation of a coalition will seek to maximize the participation of other states in order to enhance the legitimacy of the operation in the eyes of the international community and the local populations affected. In OIR, for example, the participation of Middle Eastern partners such as Saudi Arabia, Bahrain, Jordan, and Lebanon was seen as essential to ensuring the mission’s legitimacy in the region.21

Meanwhile, the political incentives driving any one member to join a coalition carry significant implications for the nature of their participation. States may join for reasons other than strategic interest in the mission itself. In Afghanistan, for example, many lower-capacity partners opted into NATO operations not out of strategic interest in countering terrorism, but because they wanted to “show up” for NATO as an institution.22,23 For countries such as these, a lack of strategic interest in the mission itself may translate to a lower resource commitment or a lower appetite for risk (whether to its own forces or political and reputational risks, including harm to civilians). The drive to ensure broad participation in a coalition may therefore compel coalition leadership to accommodate varying capacities and risk tolerance levels. This may, in turn, result in wide variation in the restrictiveness of rules of engagement (ROE) and, ubiquitous in the case of NATO in Afghanistan, national caveats restricting what countries’ militaries can do in a coalition environment – a phenomenon to be discussed further below.24,25 In some cases, such restrictions may reduce the opportunity or tolerance for civilian harm. In others, they may cause confusion or lack of preparedness that can increase the risk of civilian harm. And regardless of explicit restrictions, states with a low tolerance for risk relative to their strategic interest in the mission are less likely to subscribe to civilian harm mitigation practices or proactive protection measures that place a heavier risk burden on their forces – even if such practices are seen as essential to the mission’s long-term success. For these reasons, the failure to adequately account for each participating country’s strategic interests and appetite for risk – including risk to its own forces, reputational risks regarding civilian harm, and other political risks including domestic support – can result in unanticipated challenges when dealing with civilian harm prevention and mitigation.26,27

The political or strategic desire for wide participation may also bring trade-offs in terms of interoperability, particularly at the beginning stages of coalitions that lack common tactics and procedures. Inconsistent doctrine and training, disparate ROE, or varying interpretations of international humanitarian law (IHL) may have obvious consequences for civilians. Within NATO, for example, few members have consistent national-level doctrine, guidance, and training regarding civilian harm mitigation.28 But challenges to interoperability in terms of incompatible technology or equipment – for example, the use of non-interoperable digital systems to share data and imagery – can also lead to civilian harm by providing an incomplete operating picture.29,30

Ultimately, the ability of a coalition to effectively mitigate harm to civilians depends on the alignment of political interests, unity of effort, and at least a basic level of operational compatibility. But all too often, the capacity and willingness of each participating state to mitigate civilian harm is ignored during the political coalition formation process, rendering structural challenges to civilian harm mitigation all the more daunting. The result is coalition partners who may lack the training, equipment, arms, policies, procedures, or political will to effectively mitigate civilian harm – and coalition

21 Phone interview with former National Security Council official and Army infantry officer, April 11, 2018.
23 Phone interview with policy researcher at RAND Corporation, March 12, 2018.
25 Phone interview with policy researcher at RAND Corporation, March 12, 2018.
26 Ibid.
30 Phone interview with Sarah Holewinski, Senior Fellow at the Center for a New American Security, April 18, 2018.
Fig. 11-3 **Integrated Command Structure**

Fig. 11-4 **Lead Nation Command Structure**

Fig. 11-5 **Parallel Command Structure**

Source: JP 3-16
leadership who must discover and mitigate such risks on the fly.\textsuperscript{31}

**Command and Control**

The command and control (C2) structures of multinational coalitions generally take one of three forms: an integrated structure, whereby forces of participating nations are integrated under one strategic commander, as with the NATO-led ISAF; a lead-nation structure, whereby participating nations place their forces under the control of one nation, with a command and staff dominated by the lead nation and utilizing its processes; and a parallel command structure, wherein no single force commander is designated and participating nations must develop a means for coordination to attain unity of effort.\textsuperscript{32} Importantly, because nations never give a foreign commander full command of their national forces, all participating forces report to some extent to two chains of command: a national command and a multinational command, which may have operational control (OPCON) or tactical control (TACON) of those forces.\textsuperscript{33}

Multinational structures also result in “dual-hatted” roles — for example, a US officer may serve as both the Commander of US forces in the region and as the Commander or Deputy of the multinational force.\textsuperscript{34} This has been well illustrated in Afghanistan, where a US general has served as both Commander of US forces and Commander of ISAF and now RS.

The parallel chains of command inherent to multinational operations can present a significant challenge to unity of effort. To mitigate this, multinational forces often set up a multinational coordination center such as a Joint Operations Center (JOC),\textsuperscript{35} as well as a liaison system to facilitate an understanding of each nation’s commitment, limitations, and sensitivities. NATO also uses standardization agreements and allied publications to promote standardization of doctrine, TTPs, equipment, and planning processes.\textsuperscript{36} Standardization in ad-hoc coalitions is more difficult.

The unique command structures of multinational operations have important ramifications for preventing and addressing civilian harm. Parallel or less integrated chains of command, for example, may increase the risk of civilian harm by introducing friction at more points in the decision-making process, creating confusion among partners, and reducing unity of effort. During Operation Allied Force in Kosovo, for example, political disputes between coalition partners about acceptable levels of civilian harm and the legality of targeting media facilities and dual-use infrastructure eventually prompted the US to develop its own approval process for targets it was willing to strike independently.\textsuperscript{37,38} Regardless of the legitimacy of US independent targets, the development of this parallel chain of command indicated an initial lack of consensus around the mission and the role of the use of force. Analysis from a lessons learned study on the operation attributed this to the desire to maintain unity of the coalition and wide participation above all else.\textsuperscript{39} As a result, the operation suffered from a “lack of coherent political direction and military objectives.”\textsuperscript{40}

Alternatively, integrated command structures minimize friction points through common procedures and more streamlined decision-making. An integrated chain of command also facilitates direct communication between systems and units to create a common operating picture. Not only is this ideal for overall mission effectiveness, it also supports civilian harm mitigation efforts by facilitating the positive identification of legitimate military targets as well as the identification of civilians and civilian infrastructure to be avoided.\textsuperscript{41,42} An integrated chain of command can also result in a more streamlined targeting process,
reduce opportunities for error, increase the probability that targets fit the mission commander’s overall intent, and facilitate the attribution of errors when they do occur. And on a broader level, an integrated chain of command indicates a higher level of consensus regarding the appropriate role of the use of force, including more unified overall policies and procedures regarding civilian harm.

Thus, although all coalitions by nature involve dual chains of command, civilian harm mitigation policies are best served by command structures that are as integrated as possible.

Committed Leadership: An Essential Ingredient

Across coalitions, the importance of high-level commitment to civilian harm mitigation from military and civilian leadership – facilitated most easily through an integrated chain of command – is evident. Nowhere has this been clearer than in the evolution of ISAF, where the prioritization of civilian harm mitigation at the highest levels of leadership translated to decreased civilian casualty levels.44

By 2008, civilian casualties had become a significant issue for ISAF, both in its relationship with the Afghan government and in achieving the counterinsurgency mission itself.45,46 In response, a 2008 Tactical Directive issued by the American Commander of ISAF (COMISAF) General McKiernan emphasized minimizing civilian casualties as a stated goal of the coalition’s mission, required commanders to conduct training on the application and employment of force, and required the immediate investigation and acknowledgement of alleged civilian casualty incidents – a policy discussed in further detail below.47 Upon his arrival to the position in 2009, COMISAF General McChrystal issued a revised Tactical Directive further prioritizing civilian harm reduction and prescribing a “cultural shift” within ISAF to that end.48 In addition to the above, the directive also limited the use of air and mortar strikes against houses (barring imminent danger of personnel) and required extensive pattern of life analyses prior to ordering airstrikes.49 McChrystal’s successor, COMISAF General Petraeus, followed suit with another updated Tactical Directive, which reaffirmed the goal of “reduc[ing] the loss of innocent civilian life to an absolute minimum” and required commanders authorizing strikes to determine before firing that there are no civilians present.50 COMISAF General Allen’s updated Tactical Directives again emphasized a goal of “eliminat[ing] ISAF-caused civilian casualties across Afghanistan” and, among other steps, further limited airstrikes on residential compounds to situations of self-defense only when no other options were available.51

According to an ISAF white paper detailing these efforts, these directives’ emphasis on reducing civilian casualties “constitute[d] a unifying focus in the conduct of all ISAF operations and activities.”52 This new prioritization was also evident in Washington: by 2010, weekly reports to the US Secretary of Defense and to the White House contained a dedicated section on civilian harm – communicating to forces on the ground that civilian casualty mitigation was seen as a key metric to measure how well ISAF was accomplishing its mission.53 Civilian harm mitigation was thus not only a commitment on paper, but also one that had permeated command climate, defined as the way a unit conducts its business based on what commanders say, do, and give attention to.54

The sustained prioritization of civilian harm prevention
and mitigation by senior leadership yielded significant results. The Joint Civilian Casualty Study (JCCS), sponsored by the Joint Chiefs of Staff, found that COMISAF McChrystal’s leadership had a “significant impact on civilian casualties and that success in minimizing civilian harm did not compromise the fighting force or the mission.”55 In the period following the directive, civilian casualties caused by ISAF actions decreased—even during the surge of personnel between 2009 and 2011.56 In 2009, for example, the United Nations Assistance Mission in Afghanistan (UNAMA) recorded a 28% reduction in the number of civilian casualties caused by “pro-Government forces” from the previous year, which it attributed to “measures taken by international military forces to reduce the risk posed by military operations on the civilian population.”57 UNAMA also recorded a 42% drop in civilian deaths and injuries from air strikes in 2012, following COMISAF Allen’s restriction on strikes on residential compounds.58

Rules of Engagement and National Caveats

ROE are directives issued by national militaries defining the conditions and manner in which the use of force may be applied. Though the multinational force often strives to create simple, coalition-wide ROE that reflect consensus, even in integrated command structures, states are likely to tailor ROE to their own national laws, policies, doctrine, sensitivities and preferences, including interpretations of IHL and the right to self-defense. A coalition-wide ROE therefore represents an agreed-upon baseline; while states may further restrict their ROE, they cannot make it more permissive.59 US forces utilize the Standing Rules of Engagement (SROE) approved by the Secretary of Defense, which may be further supplemented by theater-, mission-, or operation-specific ROE.60 When operating under a multinational coalition, the Secretary of Defense can authorize the application of multinational ROE; however, in all cases, US forces retain the right “to exercise unit self-defense in response to a hostile act or demonstrated hostile intent.”61 The US also has Combined ROE (CROE) with a number of nations.62

A nation’s ROE is in many ways a political decision. A nation lacking strategic interest in the mission or facing significant public opposition at home is more likely to have restrictive ROE that limit the involvement—and potential casualties—of its forces.63,64 Participating nations may also add “caveats” to ROE or to entire aspects of a mission itself. Such caveats may be formal and known to other coalition partners, or they may be informal and uncommunicated, only discovered as incidents arise.65 The phenomenon of national caveats is most closely associated with ISAF in Afghanistan, where caveats prohibited certain national forces from operating in specific areas, at specific times of day, and under specific circumstances.66,67 Other caveats required commanders to get approval from their national headquarters for certain operations or

59 Phone interview with former National Security Council official and Army infantry officer, April 11, 2018.
61 Ibid.
62 Ibid.
64 Phone interview with policy researcher at RAND Corporation, March 12, 2018.
67 ISAF also divided Afghanistan into five regional commands, each led by a different NATO partner largely on the basis of the amount of operational risk each nation was willing to take on: Italy, on the more risk averse end of the spectrum, led Regional Command West, assessed as a safer area; the UK, Netherlands, and Canada, who were less risk averse, led on a rotating basis Regional Command South, a much more dangerous operating environment; and the US led Regional Command East, assessed as the most lethal to fighting forces. Source: “ISAF Regional Command Structure,” NATO, https://www.nato.int/isaf/structure/regional_command/index.html and Interview with Karl Eikenberry, Director of the US-Asia Security Initiative at Stanford University and formerly the US Ambassador to Afghanistan (2009-2011) and Commander of the American-led Coalition forces (2005-2007), March 12, 2018 in Stanford, CA.
levels of risk, a process that sometimes took 24 hours or longer. Germany, for example, added “Special Remarks” to the NATO ROE specifying that “the use of lethal force is prohibited unless an attack is taking place or imminent” and thereby opting out of a large piece of the ISAF mission (though these restrictions were loosened in 2009). Multiple interviewees familiar with Afghanistan recalled enormous spreadsheets at ISAF’s coordination center detailing each nation’s known restrictions. OIR does not have a coalition-wide ROE; national commands accept or reject operations through the use of red card holders informed by their own ROE.

National caveats and additional restrictions on ROE are important tools for nations to ensure that their forces’ operations minimize civilian harm. Some caveats may serve to reduce civilian harm: for example, during the NATO campaign in Kosovo, one of Canada’s caveats stated that it would only strike certain targets at night to reduce the risk of civilian casualties. In the US, ROE also include the Non-Combatant Casualty Cutoff Value (NCV), which indicates the number of anticipated civilian casualties a military operation can sustain without seeking approval from senior leadership. The NCV in Afghanistan has been as low as zero, meaning that all strikes anticipated to incur civilian casualties must be approved by senior leadership.

At the same time, such differences among nations can be a source of significant confusion and frustration. When national caveats, differing ROEs, or other sensitivities are poorly communicated or misunderstood between members of a coalition, unanticipated force protection issues may arise, exacerbating risks for civilian harm. For example, a US Navy SEAL officer recounted an instance in which a French pilot was providing emergency close air support to US forces in Afghanistan. Under US doctrine, the ground force commander is the ultimate authority for the use of supporting fire. However, under French procedures, the pilot had discretion, and in this case, the pilot assessed that he required more information to take the requested strikes. Although no casualties, civilian or friendly, occurred, this incident illustrates the risks that can arise when differences in national ROE and procedures are poorly understood or communicated ahead of time. These risks are directly related to civilian harm: with troops under direct attack and faced with unanticipated complexities, force protection becomes the immediate priority and forces may react in self-defense, increasing the risk of civilian harm. US ROE – like that of most nations – allows the use of force against civilians in cases of self-defense.

Additionally, the majority of civilian casualties occur during dynamic strikes, when unanticipated complexities can have disastrous consequences. This can be particularly problematic for heavily caveated states operating under the assumption that their forces will not encounter heavy combat due to self-imposed restrictions. States such as these may be unlikely to

68 Ibid.

69 Ibid.


72 Phone interview with Larry Lewis, Director of the Center for Autonomy and Artificial Intelligence at the Center for Naval Analysis and Co-Author of the Joint Civilian Casualty Study, March 2, 2018.

73 Phone interview with Stephen Saideman, Paterson Chair in International Affairs at Carleton University and caveats researcher, May 22, 2018.


79 Interview with a US Navy SEAL officer, February 26, 2018.


82 Phone interview with Larry Lewis, Director of the Center for Autonomy and Artificial Intelligence at the Center for Naval Analysis and Co-Author of the Joint Civilian Casualty Study, March 2, 2018.
plan or train for the civilian harm mitigation practices demanded by riskier operations. When faced with an unanticipated combat situation due to enemy action, these states’ forces may respond reactively to minimize risk to their own troops in contact, potentially harming civilians in the process.

To better facilitate the prevention of civilian harm, coalitions should therefore communicate – and where possible, reconcile – differences in views on the legitimate use of force, ROE, procedures, and other sensitivities as early as possible. Differences that are communicated early can be accounted for during planning and more easily deconflicted during execution.

The Targeting Process

Both NATO’s Allied Joint Doctrine for Joint Targeting and US joint targeting doctrine (often followed in a US-led ad-hoc coalition, such as OIR) lay out the same basic phases to joint or combined targeting: 1) Commander’s objectives and guidance; 2) target development, including analysis of potential targets, intelligence vetting, alignment with IHL and ROE, nomination for the joint target list, and prioritization of nominated targets; 3) capabilities analysis, including weaponeering decisions and the collateral damage estimation (CDE) process; 4) Commander’s decision and force assignment, during which the joint force commander approves the prioritized target list and assigns targets to specific components; 5) mission planning and force execution, including final positive identification of targets and target engagement; and 6) assessment, including battle damage assessments and collateral damage assessment.83 In OIR, this process is managed by a Coalition targeting validation board.84 Under NATO’s joint targeting process, the NAC must additionally approve specific target sets, or lists of categories, that include all anticipated types of targets against which the military may be required to use lethal or non-lethal force. Upon approval, the NAC may include additional guidance or caveats. New target categories that arise over the course of a mission must also be submitted for approval.85

Joint targeting doctrine identifies two types of targeting: deliberate targeting, which acts on pre-planned targets that go through the entire process laid out above; and dynamic targeting, which takes place during current operations planning and acts on unplanned targets, unanticipated targets, or targets of opportunity. Because of this condensed time frame, dynamic targeting generally takes place solely in Phase 5, during which identification, intelligence vetting, weaponeering, and risk assessment must happen in real-time.87

In operations characterized by the heavy reliance on air power, such as OIR, airstrike targets are assigned through the US joint air tasking cycle, often at a Combined Air Operations Center (CAOC), a multinational headquarters that oversees the air campaign. The joint air tasking cycle generally reflects the overall targeting process laid out above, including commander guidance, target development, CDE, weaponeering, assignment through an air tasking order (ATO), execution, and assessment.88 Airstrikes are assigned to different coalition nations based on difficulty, capability, and any known caveats or restrictions.90 According to an official from CJTF-OIR, coalition targeting boards go through an “exhaustive process of discussion and review” prior to approving a target for a deliberate strike.91 In Iraq, coalition airstrikes also needed the approval of the Iraqi ground force commander.92

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85 Email interview with subject-matter expert from CJTF-OIR, May 25, 2018.
86 NATO Standard APJ-3.9.
87 JP 3-60; NATO Standard APJ-3.9.
88 JP 3-60.
90 Phone interview with Larry Lewis, Director of the Center for Autonomy and Artificial Intelligence at the Center for Naval Analysis and Co-Author of the Joint Civilian Casualty Study, March 2, 2018.
91 Email interview with subject-matter expert from CJTF-OIR, May 25, 2018.
92 Email interview with Sahr Muhammedally, Director, MENA and South Asia at the Center for Civilians in Conflict, August 15, 2018.
Both NATO and US-led operations employ the US CDE methodology, which can only be accomplished by a certified CDE analyst.93,94,95 Because of the rigor of the US methodology, US personnel make up the majority of CDE analysts. Although US Central Command (CENTCOM) is set up to train partners and has certified UK targeteers, they report that the number of non-US personnel currently trained is low and that there is not a high demand to train partners with appropriate clearances.96 Some partners also run their own CDE courses modeled after US methodology, which may or may not be accredited by the US Joint Targeting School.97

In OIR, the CDE process is managed by a Coalition targeting validation board.98 Participation on OIR validation boards is open to Australia, Bahrain, Belgium, Canada, Denmark, France, Germany, Italy, Jordan, The Netherlands, New Zealand, Norway, Qatar, Saudi Arabia, Singapore, Spain, Turkey, the United Arab Emirates, the UK, and the US.99 From December 2017 to the present, CJTF-OIR reports that targets have been developed either completely or partially by ten of these countries.100

Under US methodology, CDE answers five questions:

1) Can I make a positive identification [i.e., that the target is a legitimate military target under IHL and ROE] of the object I want to affect?

2) Are there protected or collateral objects, civilian or noncombatant personnel, involuntary or unwitting human shields, or significant environmental concerns within the effects range of the weapon I would like to use to attack the target?

3) Can I mitigate damage to those collateral concerns by striking the target with a different weapon or with a different method of engagement, yet still accomplish the mission?

4) If not, how many civilians and noncombatants do I think will be injured or killed by this attack?

5) Are the collateral effects of my attack excessive in relation to the expected military advantage gained, and do I need to elevate this decision to the next level of command to attack the target based on the ROE in effect?101

The probability of harming civilians through a strike is often determined by drone footage indicating patterns
of civilian activity, referred to as pattern of life analysis. The greater the probability of civilian harm, the more mitigation measures the coalition takes— including adjusting weapons used, altering the time of day of the attack, or using warning shots. The CDE process is doctrinally the same for deliberate and dynamic targeting; however, the process is necessarily accelerated during dynamic targeting.

Once CDE is complete, each participating nation’s ROE identify the permissions and authorities required to approve strikes based on the anticipated level of civilian harm or collateral damage. For a given strike or operation, these approvals are driven by the nationality of the strike platform in question.

The majority of civilian casualties occur when prosecuting dynamic targets, as well as in support of host nation ground forces in the form of close air support or other efforts to allow them to advance. This is due to a number of factors, including reduced time available for CDE and weaponry, coordination issues among participating elements, and heightened perceptions of military necessity against high-value targets for which forces perceive only a small window of opportunity to strike. Insufficient intelligence on civilian presence in densely populated areas, a lack of understanding of enemy tactics impacting civilians, and unreliable information from partner forces on the ground also significantly contribute to civilian casualties from dynamic targets.

Most strikes prosecuted in OIR have been against dynamic targets. In some cases, this may mean that national commands (more specifically, the red card holders described below) do not get a chance to weigh in on the target, munitions used, or risk of civilian harm or collateral damage.

The final phase of the targeting cycle is an assessment to determine if the desired ends of the targeting process were realized. The assessment phase begins with those who conducted and/or witnessed the strike—such as the pilot or controller and forward observers—who provide an initial readout of the accuracy of the strike based on observation. This initial assessment is then confirmed with more detailed analysis of strike footage and other available information. The assessment phase produces a battle damage assessment (BDA), which assesses, among other things, whether the employed weapons impacted the target as planned; whether a restrike is necessary; and whether and to what extent the strike resulted in civilian casualties or collateral damage. BDA is primarily an intelligence responsibility and is conducted if intelligence, surveillance and reconnaissance (ISR) assets are available. BDA may feed into— but should not be confused with— assessments and investigations of civilian harm, discussed later in this report.

Red Card Holders: The Power of the Veto

As noted above, national caveats or restrictions can be formal and documented or unanticipated, only discovered as incidents arise. To address unanticipated restrictions, national commanders or other designated officers hold a metaphorical “red card,” which they can “play” when they cannot obey an order or accept a task from the multinational command due to national restrictions or sensitivities. In OIR, specific national...
officers at the CAOC are designated as “red-card holders.” These officers, often supported by legal advisors (LEGAD), review both deliberate and dynamic target packages assigned to their nation’s forces and can reject or accept the assigned target on the basis of national restrictions, ROE, and other sensitivities or concerns. The Canadian red-card holder at the OIR CAOC in Qatar, for example, is authorized to reject or accept an assigned target up to a specified level of anticipated collateral damage. Above that level, the decision is moved up the Canadian chain of command. According to an anonymous senior Canadian military officer in 2014, the Canadian red-card holder rejects all assigned targets that predict civilian casualties.116 The Australian red-card holder, always accompanied by an Australian Defense lawyer, similarly rejects targets “if there is any question that civilians could be hit,” according to a 2014 Australian news report.117 If the red-card holder accepts the target, the ultimate decision then lies with the pilot.118 As of July 2017, France had three red-card holders and two LEGAD at the CAOC. Vice Admiral Louis-Michel Guillaume, one of the three French red-card holders, described his role and CAOC dynamics in a French Armed Forces article:

I am stationed in the War Room as soon as French planes operate in the theater of operations. When a unit of the Daesh-fighting security forces needs air support, I analyze the situation, with the other French experts present by my side, in order to decide if the French planes are able to meet the demand. My mission is to authorize or not the fire action of the Rafale or ATL2 (Atlantique 2) according to the analysis of the situation. […] We confront intelligence combined with that provided by our services. We work in close collaboration with the Americans, between French on the spot, at CPCO (Center for Planning and Conduct of Operations) in Paris or with those of the operating staff of the Coalition in Kuwait.119

**Intelligence**

In formal alliances, intelligence sharing between members is determined by alliance protocols. In ad hoc coalitions, information sharing arrangements are determined upon the establishment of the coalition and by existing bilateral intelligence agreements. A multinational intelligence cell is typically responsible for merging and prioritizing intelligence requirements from participating nations.120 Among the Five Eyes – Australia, Canada, New Zealand, the UK, and the US – intelligence is generally shared widely and easily. Quoting a common refrain, a former US intelligence officer noted in an interview, “There’s no such thing as ‘No Foreign’ when you have a [Five Eye] coalition team.”121 (“No Foreign,” written “NOFORN,” is a US classification label indicating that information may not be released to any non-US citizen.)

Outside of the Five Eyes, however, nations including the US face strong incentives to withhold intelligence, particularly signals intelligence (SIGINT) and human intelligence (HUMINT) and information about intelligence sources and methods.122,123 Some countries have also “earmarked” their intelligence for specific purposes. For example, wary of potential Turkish use of German intelligence in operations against the Kurdish YPG, German intelligence products provided to OIR are labeled with “SECRET // RELEASABLE TO USA, IRKS [Inherent Resolve Kinetic Strike] For Anti DAESH Operation Only.”124 The US has also withheld intelligence from the Saudi-led coalition in Yemen out of concern for the high levels of civilian harm that have occurred as a result of the coalition’s operations.125

During target development and strike planning, every

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118 Ibid.


120 JP 3-16.

121 Phone interview with a former US intelligence officer with experience in multinational operations, May 1 2018.

122 JP 3-16.

123 Phone interview with a former US intelligence officer with experience in multinational operations, May 1 2018.


General Stanley McChrystal, commander of NATO’s International Security Assistance Force, and French and Afghan military meet with a local worker at the construction site of the new Nezamkhel bridge.

US Navy photo/Petty Officer 1st Class Mark O’Donald/Released
country involved in an operation, including the country executing the strike, has a liaison officer or team present.\textsuperscript{126} Coalition targeting boards routinely meet with partners to discuss and review intelligence prior to approving a strike.\textsuperscript{127} In OIR, intelligence sharing and vetting is facilitated by the fact that everyone is located in one building at the CAOC.\textsuperscript{128} According to a former US intelligence officer, a target is never prosecuted based on a single piece of foreign intelligence.\textsuperscript{129}

However, an on-the-ground New York Times investigation on civilian casualties caused by OIR operations found that many of the strikes in question were based on poor or outdated intelligence, including faulty intelligence from foreign sources.\textsuperscript{130} Based on their findings, the authors concluded that "some [civilian] deaths could be prevented if the coalition recognizes its past failures and changes its operating assumptions accordingly. But in the case of our investigation, we found that it seldom did either."\textsuperscript{131} CIVIC's research on the ground in Iraq, which included visits to the area of operations and interviews with civilians, Iraqi Security Forces, and coalition members, also suggests that insufficient efforts were made to integrate ISIS TTPs, such as the use of civilians as human shields and the targeting of fleeing civilians, into trainings on civilian harm mitigation.\textsuperscript{132}

### Civilian Harm Assessment and Investigation

The process by which coalitions track, assess, and investigate alleged civilian harm is a relatively new phenomenon that varies depending on the coalition and conflict. Prior to 2007, ISAF did not systematically record internal or external allegations of civilian harm, as this was not standard practice for militaries.\textsuperscript{133} Instead, notification of suspected civilian casualties was passed up the chain of command in an ad-hoc manner, with varying detail regarding the time, place, who was involved, and how the suspected harm occurred.\textsuperscript{134}

In June 2008, following several high-profile incidents of civilian harm, ISAF leadership issued Fragmentary Order 221 (FRAGO 221), which required units to treat all allegations, regardless of source, as items for investigation, and mandated a reporting process for suspected civilian casualties.\textsuperscript{135} In August 2008, COMISAF General McKiernan ordered the creation of the Civilian Casualty Tracking Cell (CCTC), made up of civilian staff mandated to track data on alleged civilian harm.\textsuperscript{136} In July 2009, COMISAF General McChrystal further amplified reporting requirements, requiring BDAs for all incidents of air strikes and indirect fire.\textsuperscript{137} He also issued Standard Operating Procedure 307 (SOP 307), which institutionalized the CCTC as the "authoritative repository of civilian casualties taking place in the Afghanistan Theater of Operations."\textsuperscript{138}

In mid-2011, the CCTC evolved into the Civilian Casualty Mitigation Team (CCMT), expanding its mandate from purely data collection to preventing, mitigating, and addressing civilian harm, as well as liaising with the UN and civil society organizations and documenting and institutionalizing best practices.\textsuperscript{139} The CCMT led the working-level CIVCAS Mitigation Working Group (CCMWG), which fed into the higher-level CIVCAS Avoidance and Mitigation Board (CAMB). The CAMB met quarterly and was chaired by the Deputy-Commander of ISAF. The CCMWG and the CAMB “consider[ed] the full range of CIVCAS related issues and derivative tasks, provide[d] ISAF staff and subordinate commands with lessons learned and CIVCAS avoidance and mitigation methods that result in the implementation of tactical level techniques and procedures.”\textsuperscript{140} Upon ISAF’s transition to Resolute Support Mission (RS), responsibility for these functions

\begin{footnotes}

\item[126] Phone interview with a former US intelligence officer with experience in multinational operations, May 1, 2018.

\item[127] Email interview with subject-matter expert from CJTF-OIR, May 25, 2018.

\item[128] Phone interview with a former US intelligence officer with experience in multinational operations, May 1, 2018.

\item[129] Ibid.


\item[131] Ibid.

\item[132] Email interview with Sahr Muhammedally, Director, MENA and South Asia, at the Center for Civilians in Conflict, August 15, 2018.


\item[134] Ibid.

\item[135] Ibid.

\item[136] Ibid.

\item[137] Ibid.

\item[138] Ibid.

\item[139] Ibid.


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was transitioned to both RS and the government of Afghanistan. Importantly, ISAF’s and now RS’s CCMT is situated within the Combined Joint Operations (CJ3), indicating the operational value associated with civilian harm prevention and mitigation.143,144

ISAF also created Joint Incident Assessment Teams (JIATs) beginning in 2009, composed of Afghan and ISAF personnel and tasked to investigate specific civilian casualty incidents. These investigations took place on the ground and often involved physical site investigations and interviews with involved personnel and witnesses.145 However, these JIATs suffered from unsustainable staffing practices: rather than maintaining dedicated investigations staff, personnel were seconded to the JIAT in an ad-hoc manner for the duration of a specific investigation, and disbanded once the investigation was complete.145,146 This resulted in a lack of continuity and professional knowledge, including an understanding of the geographic area, history and culture. 146

The evolution of the CCMT in Afghanistan represents a significant step forward in civilian harm mitigation practices and should be considered a best practice for multinational operations. The CCMT was particularly noteworthy for its focus on preventing, mitigating, and addressing civilian harm — rather than simply performing a data collection function — as well as its role in liaising and sharing information with civil society and documenting best practices. Its evolution also provides further insight into the importance of command leadership regarding civilian casualty prevention, which proved essential to the CCMT’s creation and continued growth.

In OIR, alleged civilian harm may be reported via mandated self-reporting of military personnel involved in an operation or through external reporting by civilian witnesses, the media, or civil society groups.147 According to CJTF-OIR, when a command is made aware of a potential civilian harm incident, that command sends a report to civilian casualty investigators no later than 24 hours after awareness of the incident.148 Prior to December 2016, assessments of alleged civilian harm were conducted primarily by US CENTCOM personnel at its Tampa headquarters or at Coalition forward command centers.149 In December 2016, CENTCOM transferred the reporting of civilian casualties to the CJTF-OIR Civilian Casualty Cell (CIVCAS Cell). Civilian casualty tracking efforts remain largely US-led: the CIVCAS Cell is currently made up of a permanent staff of six US service members from each military branch.150 However, the permanent staff has included coalition members in the past.151 The CIVCAS Cell has primary responsibility for all actual or alleged civilian casualties in the combined joint operations area. After receiving an allegation of civilian harm, the cell conducts an Initial Assessment to determine whether additional inquiry into the credibility of the report is necessary. If additional inquiry is deemed necessary, the cell tasks out a credibility assessment (known as a Civilian Casualty Assessment Report, or CCAR152) to the unit that approved the strike (which may or may not be the unit that executed the strike), tracks the assessment, and routes it to the approval authority for a final determination.153 According to CJTF-OIR, the officer conducting the assessment “considers all reasonably available evidence and makes a determination based on a totality of the circumstances.”154 The cell is also responsible for providing the Public Affairs Officer with information for public release.155

While CJTF-OIR has a policy of investigating all received reports of civilian casualties “as thoroughly as possible,” investigations rarely involve on-the-ground-
As CENTCOM has noted in press releases:

Although we are unable to investigate all reports of possible civilian casualties using traditional investigative methods, such as interviewing witnesses and examining the site, the Coalition interviews pilots and other personnel involved in the targeting process, reviews strike and surveillance video if available, and analyzes information provided by government agencies, non-governmental organizations, partner forces, and traditional and social media. In addition, the Coalition considers new information when it becomes available in order to ensure a thorough and continuous review process.

The US Department of Defense similarly confirmed in a May 2017 letter that first-hand reviews and assessments are often impossible due to the “restrictive security environment.”

In OIR, even when potential incidents of civilian harm are flagged at the coalition level and assessed by the CIVCAS Cell, the final result may be deceiving. In the monthly civilian casualty reports that OIR releases to the public, incidents are either reported as “credible,” meaning “it is more likely than not a coalition strike resulted in a civilian casualty,” or “non-credible.” However, the category of “non-credible” actually encompasses multiple possible findings, from cases in which no coalition strikes were taken in the time period and area in question, to those in which the coalition does not have enough information to make a determination either way. Ryan Goodman, former special counsel to the general counsel of the Department of Defense, described in a recent New York Times op-ed the misleading way the US military – the lead nation on OIR civilian tracking efforts – screens possible cases of civilian casualties:

At the end of an investigation, the Pentagon determines whether a strike has resulted in a civilian death based on a standard of “preponderance of the evidence” — a determination that it is more likely than not (at least a 51 percent probability) that a civilian was killed. By way of analogy, a jury might ask in a criminal trial whether a suspect is guilty “beyond a reasonable doubt.” The Pentagon’s standard is not as high as the criminal standard, but it is high nonetheless and appropriately so for such a final confirmation of civilian deaths. But the same level of preponderance of the evidence — the 51 percent probability — is also the standard at the front end in assessing whether an investigation should even take place. That is the crucial, and stunning, systemic flaw. As an initial screening device, that standard is obviously going to miss a

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160 The 2018 and 2019 NDAs have included provisions requiring more detailed reporting of civilian casualties caused by US operations, including details for all engagements that are “reasonably suspected” to have resulted in civilian casualties and a description of the process by which the Department of Defense investigates allegations of civilian casualties resulting from United States military operations.
multitude of cases in which civilians were killed.\textsuperscript{161}

A report by Airwars and the Oxford Research Group’s Remote Warfare Programme (formerly Remote Control Project), based on investigative reporting and briefings by CENTCOM, also found that the Coalition’s civilian casualty assessment process is significantly biased towards internal military reporting.\textsuperscript{162} One official cited from a CENTCOM briefing confirmed, “Our gathering method for allegations is not to seek out allegations. It is to receive allegations. We don’t have a team that’s dedicated to going out and looking for this.”\textsuperscript{163} Coupled with the lack of ground access inherent to air-only campaigns, this policy means that investigators have been relying primarily on post-strike aerial video analysis—a tool that, for many alleged cases of civilian harm, makes it almost impossible to credibly assess civilian harm one way or the other. The report also noted that most claims were dismissed within 24 to 48 hours based on little to no outside information.\textsuperscript{164} At the same time, the Coalition has noted that one of their greatest challenges has been “attempting to assess very general allegations with little amplifying details or supporting evidence,” noting that they take all allegations of civilian harm seriously and find it “disappointing that most allegations come in without sufficient detail to fully evaluate them.”\textsuperscript{165} Useful information includes greater specificity in time and location, photos or videos, and firsthand accounts.\textsuperscript{166}

Lastly, human rights organizations have repeatedly discovered discrepancies between the details of strikes observed on the ground and those recorded in OIR’s logs. In one instance described by the New York Times, the coalition deemed a civilian casualty allegation as “not credible” due to the fact that the nearest airstrike recorded at that time and location was more than a kilometer away; however, after Human Rights Watch dispatched researchers to the ground and found refuting evidence, the coalition acknowledged the strike.\textsuperscript{167} According to OIR, the coalition had conducted multiple strikes on various targets in the area within a one-hour period, and only one was included in the official log.\textsuperscript{168}

Perhaps as a result of these factors, coalition civilian casualty estimates are much lower than those of respected monitoring organizations. Airwars, the leading organization tracking civilian casualties in Iraq and Syria, conservatively estimates that a minimum of 6,321 to 9,712 civilians are likely to have died in coalition actions as of May 31, 2018. The coalition has confirmed 892 civilian fatalities as of the same date.\textsuperscript{169} Similarly, the New York Times found that one in five of the coalition strikes identified resulted in civilian death, a rate more than 31 times that acknowledged by the coalition at the time of publishing.\textsuperscript{170}

When asked about OIR’s lessons learned, a CJTF-OIR official pointed to the importance of “properly resourcing a robust CIVCAS cell and understanding its importance” as a key aspect to coalition military operations.\textsuperscript{171} Despite this important insight, the staffing and structure of civilian casualty mitigation teams across coalitions has been insufficient. These teams’ civilian counterparts are also significantly under-resourced: in the US State Department, only one person is explicitly assigned to tracking US-caused civilian casualties and engaging on related policies, in addition to other portfolios.\textsuperscript{172}

Transparency and Acknowledgment of Civilian Harm

Once a civilian casualty incident is assessed and confirmed, the coalition or its individual members may publicly acknowledge it. Recent experience suggests that coalition structures can disincentivize transparency by enabling states to attribute civilian casualties to

\begin{footnotesize}
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\item Ibid.
\item Ibid.
\item Email interview with subject-matter expert from CJTF-OIR, May 25, 2018.
\item Email interview with subject-matter expert from CJTF-OIR, June 5, 2018.
\item Ibid.
\item Ibid.
\item Email interview with subject-matter expert from CJTF-OIR, May 25, 2018.
\item Ibid.
\item The author served in this role until May 2017 alongside a Senior Advisor; upon both of their departure from the State Department, their single replacement was assigned the same role and additional portfolios.
\end{itemize}
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the coalition as a whole. In such cases, the premise of collective action obscures individual state responsibility and transparency.

In ISAF, an agreement to “promptly acknowledge combat-related cases of civilian casualties or damage to civilian property” was adopted by NATO nations as part of the NATO/ISAF Civilian Casualty Guidelines, approved in August 2010 and promulgated to the Chain of Command.173 Confirmed incidents of civilian harm were acknowledged through regular press releases identifying what happened, where and when the incident occurred, and how many civilians were killed or wounded. However, the press releases did not identify which ISAF nations were involved in specific incidents.174

Public acknowledgement of civilian casualties by NATO in Libya in 2011 was limited. While the commander of the mission did publicly acknowledge an incident on June 19, 2011 that killed two children and seven adults, it has not to date acknowledged or discredited NGO reports of another 72 civilians killed during the campaign.175,176 According to NATO’s new Policy for the Protection of Civilians, adopted in July 2016, “NATO will make every effort to communicate known civilian casualties to the host nation authorities, local population, and media.”177

The experience of OIR is especially illustrative of the transparency challenges associated with coalition dynamics. When OIR began operations, CENTCOM issued daily press releases summarizing airstrikes executed that day and which nations’ aircraft were involved. CENTCOM also issued monthly press releases identifying confirmed civilian casualties; incidents still under investigation, including those flagged through self-reporting and through social media and NGO reporting; and incidents that had been reviewed and deemed not credible or lacking sufficient information to assess credibility. These press releases also identified whether confirmed civilian casualties were caused by US aircraft or by other members of the coalition (though the specific country was not named).

Illustrating the tradeoffs that often accompany widening participation, these policies changed as new nations joined the fight. In October 2014, following the first Danish strikes in the conflict, CENTCOM’s daily summaries stopped identifying which nations were involved in strikes “out of respect for participating nations.”178 By March 2015, daily releases also stopped distinguishing between US actions and those of its partners, referring instead to strikes by “Coalition military forces.”179 In April 2017, an agreement among coalition partners further restricted US transparency, dictating that monthly reporting on civilian casualties – which had previously identified when US aircraft were responsible – would no longer identify specific countries.180,181 Despite CENTCOM’s confirmation to Foreign Policy and Airwars that 80 civilian casualties reported in April 2017 were attributed and communicated to non-US coalition partners, many of these partners continue to publicly boast zero civilian casualties.182,183 To date, Australia, the Netherlands, and the UK have joined the US as the only OIR participants to publicly acknowledge civilian casualties. Australia has confirmed three incidents – including one incident in which the country did not execute the strike but provided “flawed intelligence.”184 The Netherlands has

181 Phone interview with Chris Woods, head of Airwars, January 4, 2018.
182 Ibid.
confirmed three, although it has not released when or where these incidents took place.\textsuperscript{185,186} The UK confirmed one incident in May 2018.\textsuperscript{187}

While OIR’s practice of releasing civilian casualty reports is a positive step towards transparency, the coalition also provides an example of the ways in which any one state in a coalition can lower the standard of transparency and accountability for the whole. In OIR, the US was compelled to limit attribution for its own strikes at the request of its allies, causing CENTCOM to stop identifying specific nations in its daily summaries and monthly civilian casualty reports. Danish Colonel Søren W. Andersen confirmed Denmark’s intent to hide behind the coalition in a 2014 interview: “You shouldn’t be able to track one specific attack in one specific area back to a Danish plane. We prefer to hide in the crowd.”\textsuperscript{188}

A number of factors may contribute to this phenomenon. First, many troop contributing governments face considerable pressure from their citizens regarding civilian harm, and may feel that their participation is only sustainable so long as they maintain zero civilian casualties.\textsuperscript{189,190} According to a US official with direct knowledge of coalition dynamics, US officials had numerous conversations with their coalition partners attempting to assure them that transparency would be legitimacy-enhancing in the long-term.\textsuperscript{191} Second, participating militaries may lack a self-reporting culture. CIVIC interviews with NGOs and former military officials have noted that the US has a relatively healthy self-assessment environment, in which pilots and analysts feel encouraged to come forward with mistakes without fear of negative career impact.\textsuperscript{192} Certain allies’ alleged “perfect record,” on the other hand, may create a counterproductive expectation, disincentivizing internal reporting because “who wants to be the first to break the record?”\textsuperscript{193} Third, variations in members’ interpretations of the duty to investigate and acknowledge civilian harm incidents under various sources of public international law, and concerns about exposure to legal liability, may result in higher sensitivity with regard to reporting.

Regardless of the cause, a lack of transparency can have far reaching consequences, including challenges in providing amends or acknowledgements to harmed civilians, discussed further below; stifling public debate or misleading domestic constituencies in participating nations; and curbing accountability.

**Amends**

When civilians are incidentally harmed during conflict, armed actors may work with victims and survivors to offer appropriate amends to those injured and to the families of those killed. These may take the form of acknowledgment, apologies, or financial assistance. Making amends recognizes the dignity of victims and their families and supports community healing and rebuilding. Acknowledging and responding to harm may also reduce grievances against coalition

\textsuperscript{185} Airwars Staff, ”Netherlands admits civilian harm in Iraqi airstrikes – but won’t say where or when,” Airwars, April 13, 2018, https://airwars.org/news/netherlands-civilians/.

\textsuperscript{186} Dutch Ministry of Foreign Affairs, ”Progress Report on Dutch contribution to the fight against ISIS” (translated from Dutch), April 13, 2018, https://www.tweedekamer.nl/downloads/document?id=0ca62e3-55505-4212-8e3-5ce88e4cf466&title=Voortgangsrapportage%20Nederlandse%20bijdrage%20in%20strijd%20tegen%20Daesh.docx.


\textsuperscript{189} Phone interview with Sarah Holewinski, Senior Fellow at the Center for a New American Security, April 18, 2018.

\textsuperscript{190} Interview with US official with direct knowledge of coalition operations, April 27, 2018.

\textsuperscript{191} Ibid.

\textsuperscript{192} Phone interview with Chris Woods, head of Airwars, January 4, 2018.

\textsuperscript{193} Ibid.
actors, a strategic imperative for counterterrorism and counterinsurgency operations.\(^{194}\) However, recognition of the importance of amends for incidental harm has not been standardized across coalitions or even within standing alliances.

In the US military, condolence payments, also referred to as solatia or ex gratia payments, are monetary payments made to civilians who are killed, injured, or incur property damage as a result of coalition forces’ actions during combat. Under US policy, these payments are considered “expressions of sympathy or remorse based on local culture and customs, but not an admission of legal liability or fault.”\(^{195}\) Monetary payments by the US for civilian harm have been authorized and expanded in consecutive National Defense Authorization Acts (NDAA) and funded by annual appropriations.\(^{196}\) However, the implementation and disbursement of these payments is subject to the discretion of the combatant commander. Amends for incidental harm, the topic of this section, are not mandated by international law and are thus considered a policy decision at the country level. As such, the use of condolence payments is not standardized across coalitions or conflicts, nor across members within a coalition. In contrast, full compensation for violations of the laws of war are recognized as a form of remedy under IHL.\(^{197}\)

At the beginning of NATO operations in Afghanistan, several troop contributing countries made payments to civilian families harmed in their operations; however, these practices were not standardized and resulted in confusion and anger among civilians who encountered different policies depending on which nation was responsible for harm.\(^{198}\) In August 2010, NATO nations approved the non-binding Civilian Casualty Guidelines, which agreed to promptly acknowledge civilian casualties and damage to civilian property and proactively offer payments or in-kind assistance for such cases. The guidelines also specified that such assistance should account for varying local norms and customs, and be coordinated through local governance structures and civilian actors on the ground.\(^{199}\)

Despite alliance-wide guidance, condolence payments remained the purview of individual nations, as did the mechanisms by which each nation provided such payments. In the US, the decision to authorize solatia payments must be made anew with each new conflict. If authorized, payments can come from unit operations and maintenance accounts or from the Commander’s Emergency Response Program (CERP), funded by Congress.\(^{200}\) Pub. L. No. 108-106 (2003) requires DOD to provide quarterly reports on the source, allocation, and use of CERP funds.\(^{201}\) The US did not authorize payments in Afghanistan until 2005.\(^{202}\) After this authorization, the practice of monetary payments by US forces became common. Citing the importance of maintaining local support, one former US marine officer who served in Afghanistan recalled frequent use of the saying, “when in doubt, pay it out.”\(^{203}\)

However, despite the laudable development of NATO’s Non-binding Guidelines in Afghanistan, these guidelines have yet to be enshrined in NATO’s Protection of Civilians Policy.\(^{204,205}\) Civilian harm that occurred as a result of NATO’s campaign in Libya in


\(^{196}\) See the NDAA for Fiscal Year 2016, Section 1211, which expanded ex gratia payments to include Iraq in addition to Afghanistan; and the NDAA for Fiscal Year 2017, Section 1211, which expanded the authority to also include payments for harm resulting from US operations in Syria.


\(^{198}\) Ibid.


\(^{202}\) Ibid.

\(^{203}\) Phone interview with former US Marine Officer, March 21, 2018.

\(^{204}\) Phone interview with former US Marine Officer, March 21, 2018.

2011 went unacknowledged and uncompensated. Payments in Iraq and Syria under OIR have also been rare, despite legislative authorization and the standardization of guidance on condolence payments in a 2016 US Executive Order. According to a CJTF-OIR spokesperson, the coalition had offered condolence payments in just two cases of civilian harm as of November 2017, and “there is currently no formal system in place” for victims to request such payments. Despite the two offers mentioned above, a November 2017 *New York Times* investigation found that no payments had actually been made since the war began in 2014. The US Department of Defense similarly confirmed in a May 2017 letter that it had not made any payments in Syria and had not made any payments in Iraq since 2011, citing “practical limitations” — including identifying victims and next of kin, and making payments in contested areas — and “considerations that arise when US military operations are conducted in partnership with another sovereign nation.”

There are no reports of condolence payments from other coalition partners in Iraq or Syria. In fact, when a coalition-wide SOP on civilian harm mitigation was being discussed in 2015, other members of OIR did not sign on to consequence management provisions in the SOP, which included acknowledgement and condolence payments.

Coalition structures play a key role in the absence of amends. This is because the ultimate responsibility for amends – both verbal and financial – generally falls to the nation to whom a strike is attributed. However, as concluded above, coalition structures may reduce transparency by allowing one nation to hide behind the many. When nations refuse to step forward and take responsibility for civilian harm, amends are by definition impossible. This is the current state of affairs within OIR. Even if the coalition were to assume responsibility as a unit, reflecting its current disclosure policy, no mechanism exists for the dispersal of monetary payments from the coalition itself.

The process of soliciting monetary payments from coalitions also places an undue burden on civilians already suffering the loss of loved ones, their homes, and their livelihoods. First, civilians must identify which nation harmed them in order to seek monetary payments, a difficult journey that may take them through multiple time-consuming processes at the embassies and headquarters of multiple different nations. Because each participating nation has its own poorly-communicated standards, policies, and domestic legislation regarding monetary payments, civilians also find themselves treated differently depending on which nation harmed them – perhaps even finding that no amends policy exists at all – causing further confusion, anger, and hurt. Processes may also vary within a single nation. In Afghanistan, for example, payouts for civilian death ranged from as little as $124.13 to $15,000. A *New York Times* investigation in Iraq observed that such variance “[makes] the whole process seem arbitrary, mystifying or downright cruel to recipients.”

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212 Email interview with Sahr Muhammedally, Director, MENA and South Asia, at the Center for Civilians in Conflict, August 15, 2018.


215 Phone interview with Marc Garlasco, former senior civilian protection officer at UNAMA, January 15, 2018.

216 Phone interview with former US Marine Officer, March 21, 2018.


Finally, a lack of capacity or resources on the part of the host nation to provide its own amends mechanism can create additional complexities. Coalition policies on amends should be carefully calibrated to ensure that they do not undermine the legitimacy of the host nation in the eyes of the population. Notably, the governments of Afghanistan and Iraq now have their own policies to provide some monetary assistance to conflict victims irrespective of who caused the harm.  

Transitioning Away from the Coalition

When coalition operations come to a close, responsibility for its operations – including the capacity for civilian harm mitigation and tracking – may be transferred to a local partner or new mission. In Afghanistan, for example, responsibility for civilian casualty mitigation functions was transferred from ISAF to its successor RS and to the government of Afghanistan. The CCMT itself was transferred to RS and currently has three staff who are responsible for tracking all civilian casualties across Afghanistan and coordinating investigations for allegations made against coalition forces, including RS and US Forces Afghanistan.

From 2015-2016, efforts were made to build the capacity of the Afghan government’s civilian casualty tracking and mitigation capacity. In 2015, CIVIC undertook an assessment of Afghan security force policies on tracking and assessing civilian harm and made recommendations to improve reporting, analysis, investigations and trainings on civilian casualty mitigation for Afghan security forces, the Ministry of Defense, the Ministry of Interior, and the Tawhid Center, Afghanistan’s version of the CCMT based at the Presidential Palace. In late 2015, RS’s quarterly CAMB was transferred to the government of Afghanistan. The Afghan-led CAMB, which began its work in 2016, is a strategic-level meeting chaired by a government minister or high-ranking general officer (three or four star) and attended by high-ranking military and civilian representatives from various Afghan agencies, including the Ministries of Defense, Interior, Health, and Education. Organizations such as UNAMA, the ICRC, and the Afghan Independent Human Rights Commission also attend the CAMB as independent observers. The CAMB serves as a venue to discuss strategic-level CIVCAS mitigation issues and provide policy guidance to ministries. According to RS personnel, the CAMB has convened quarterly since its transfer to the government of Afghanistan, and its effectiveness has steadily improved.

In early 2017, RS also started a “Train the Trainer” program aimed at improving the government of Afghanistan’s capability for civilian harm prevention and mitigation during the planning and execution of operations, as well as post-harm measures such as reporting, investigations, and victim support. RS reports that they have now trained 450 trainers, who have since moved on to train at the unit level. According to RS, the government now maintains a database of civilian casualty incidents and has significantly improved its reporting. The Afghan Air Force also now utilizes as a key metric of success the number of times they do not drop a munition, indicating that forces have internalized the importance of tactical restraint and civilian protection. Because the RS and the government of Afghanistan share information about civilian harm, improvements in the government of Afghanistan’s reporting has also resulted in improvements for RS. According to RS personnel,
RS receives daily reports from the government of Afghanistan. When reports indicate civilian harm by RS forces, they then investigate that allegation.\(^{229}\)

The successful transition of civilian tracking and mitigation capabilities from ISAF to the Afghan government during the transition to RS represents a significant achievement and lesson learned. According to Danielle Bell, UNAMA Human Rights Chief and OHCHR Representative for Afghanistan, the regular interaction between UNAMA, RS, and the Afghan government through the CAMB and through direct meetings with parties should be considered a best practice. During these regular interactions, UNAMA, government and international military forces share information concerning incidents involving civilian casualties.\(^{230}\) According to Bell, “we may not always agree, but everybody acknowledges the importance of this work and conversations, and it improves both sides’ ability to come to an understanding of the harm caused.”\(^{231}\)

Although these are positive steps, the Afghan government’s civilian harm mitigation efforts require additional mentoring and training to identify the causes of civilian harm and specific lessons learned that can feed into future trainings and new guidance.\(^{232}\) The lack of onsite visits to the locations of alleged incidents to inform RS civilian harm assessments is also a continuing gap.\(^{233}\) CIVIC continues to incorporate these best practices into their work in Afghanistan by advocating to the Afghan government to institutionalize civilian harm mitigation policies and trainings. In addition, CIVIC has plans to work with local forces, such as the newly created Afghan Territorial Army (ATA), to educate officers on protection of civilians and civilian harm mitigation curricula.

**Generating Lessons Learned**

Multinational coalitions vary in the ways they identify, document and disseminate lessons learned. Within NATO, the Joint Analysis and Lessons Learned Center (JALLC) manages and disseminates the lessons learned process by providing analysis support, performing lessons learned training, and maintaining the Lessons Learned Portal.\(^{234}\) Lessons learned from US-led operations may be documented by the US Joint Lessons Learned Division (JLLD), which aims to enhance joint force readiness and effectiveness by contributing to improvements in doctrine, organization, training, materiel, leadership and education, personnel, facilities, and policy (DOTMLPF-P).\(^{235}\)

The first comprehensive assessment of lessons learned in civilian harm mitigation took place in Afghanistan in 2010. The Joint Civilian Casualty Study (JCCS), undertaken through the JLLD, identified distinct elements of civilian casualty prevention and mitigation and offered more than 70 operational and institutional recommendations.\(^{236,237}\) Prior to the JCCS, ISAF Commanders adapted in an ad-hoc manner, learning after years of counterinsurgency operations that civilian casualties posed a significant operational risk.\(^{238}\) In 2015, JALLC also completed a study on ISAF’s civilian casualty mitigation efforts over the course of

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229 Phone interview with Yam Khatri, CIVCAS Mitigation Officer at NATO/RS, and Major Vincent Valdes, NATO/RS, June 19, 2018.
230 Email interview with Danielle Bell, UNAMA Human Rights Chief and OHCHR Representative for Afghanistan, July 15, 2018.
231 Ibid.
232 Email interview with Sahr Muhammedally, Director, MENA and South Asia, at the Center for Civilians in Conflict, August 15, 2018.
233 Ibid.
operations, which analyzed civilian casualty incidents in relation to the intensity of ISAF operations and issued recommendations to changes in NATO policy.\textsuperscript{239} In 2016, NATO adopted an unprecedented alliance-wide Protection of Civilians Policy.\textsuperscript{240} However, this high-level political commitment has not been fully institutionalized at the strategic and operational level, including through doctrine and planning, nor have additional resources been allocated for its implementation.\textsuperscript{241}

Within OIR, the CJTF Chief of Staff is briefed on the results of every allegation and assessment of civilian harm. According to an official from CJTF-OIR, through this process the Chief of Staff is able to “identify trends and issues within the CJOA [Combined Joint Operations Area] and implement appropriate action for future operations.”\textsuperscript{242} However, it is unclear to what extent such lessons were operationalized during the campaigns in Raqqa and Mosul, where a high operational tempo in densely populated areas and ISIS’s tactics of attacking from civilian areas created significant civilian harm challenges.\textsuperscript{243} OIR’s CIVCAS cell also appeared to be inadequately resourced to assess civilian harm given the number of daily strikes that took place during the nine-month campaign in Mosul and the eleven-month campaign in Raqqa. As of July 2018, the CIVCAS cell is still reviewing incidents from 2017.\textsuperscript{244}

Despite the efforts described above, formal lessons learned processes may be underutilized due to perceived reputational risks. Heidi Hardt, author of \textit{NATO’s Lessons in Crisis}, found through a survey experiment and interviews with 120 NATO elites that “reporting strategic errors can jeopardize one’s job as well as political relations among allies.”\textsuperscript{245} Instead, NATO members often choose to pass along lessons learned in civilian harm mitigation efforts\textsuperscript{250} – and have done so successfully in specific theaters, as they did in Afghanistan – these efforts have not been consistent, systematic, rigorous, or carried across theaters.\textsuperscript{251} As a result, reliable and actionable information about the

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{241} Email interview with Beatrice Godefroy, Director, Europe, at the Center for Civilians in Conflict, September 4, 2018.
\item \textsuperscript{242} Email interview with subject-matter expert from CJTF-OIR, May 25, 2018.
\item \textsuperscript{243} Email interview with Sahr Muhammedally, Director, MENA and South Asia, at the Center for Civilians in Conflict, August 15, 2018.
\item \textsuperscript{244} Ibid.
\item \textsuperscript{246} Ibid.
\item \textsuperscript{247} Ibid.
\item \textsuperscript{248} Ibid.
\item \textsuperscript{251} Phone interview with Larry Lewis, Director of the Center for Autonomy and Artificial Intelligence at the Center for Naval Analysis and Co-Author of the Joint Civilian Casualty Study, March 2, 2018.
\end{itemize}
\end{footnotesize}
IV. RECOMMENDATIONS

Recommendations for Current and Future Coalitions and their Member States

Based on this analysis, the following steps are recommended to prevent and mitigate civilian harm in the context of multinational operations. While many of these recommendations are tailored to US policies and procedures due to this report’s focus on coalitions which the US leads or is involved in, they represent best practices that should be adopted by all coalitions and their member states.

1. Include civilian harm mitigation practices and procedures in combined exercises, peacetime training, and pre-deployment training. Long before a multinational coalition is formed or an alliance activated, civilian harm mitigation practices and procedures should be trained and practiced during combined training exercises. Enemy tactics, techniques, and procedures impacting civilians should also be trained on and planned for during combined exercises and other training. Just as with other aspects of combined operations, this will allow partners to standardize practices and identify and proactively fill potential interoperability gaps in civilian harm ahead of – rather than reactively during – operations. Even nations whose forces do not anticipate engaging directly in combat should participate in such training to prevent civilian harm under unanticipated circumstances. Concepts and standards for civilian harm mitigation, including lessons learned from previous conflicts, should also be thoroughly integrated into US Professional Military Education (PME) at tactical through strategic levels, as well as into US security assistance programs aimed at improving the PME of partner nations.

2. Civilian harm mitigation should be repeatedly emphasized at the highest levels of command and throughout coalition policies and practices. Sustained leadership demonstrating the importance of the prevention of even incidental civilian harm is an essential ingredient for successful civilian harm mitigation. Coalition leadership should emphasize the prevention and mitigation of civilian harm through command guidance and treat civilian harm as a benchmark of success, among other strategic metrics. The tactical directives and messaging from COMISAF and civilian leadership to ISAF forces is one model to draw from. Because the majority of civilian casualties occur when prosecuting dynamic targets, these directives should emphasize the importance of tactical
patience and ensure that the target value is carefully weighed against the risks to civilians.

3. Standardize ROE as much as possible from the outset of operations and ensure regular training on ROE concepts. Upon forming or activating a coalition, participants should engage in high-level conversations about mission purpose, the role of use of force, and what constitute legitimate targets so that all parties are on the same page regarding appropriate levels of risk, including risk of harm to civilians. This should be reflected in as-standardized-as-possible ROE to prevent the formation of parallel chains of command and parallel tasking cycles. Training and briefings on ROE concepts such as escalation of force, hostile intent, and positive identification should also occur regularly, both pre-deployment and in theater.

4. Account for gaps in civilian harm mitigation capabilities when allocating roles and responsibilities. States that are unwilling or unable to meet certain civilian harm mitigation standards should contribute to coalition efforts in roles that pose less risk for civilian harm, potentially to include non-kinetic contributions. Such standards should include legitimate, precise, and accurate targeting as well as commitments to the investigation and acknowledgement of civilian harm when it occurs.

5. Ensure that caveats and other national sensitivities are communicated early and effectively, and consider reducing caveats where appropriate. Some caveats may exist to reduce the risk of civilian harm and are important tools for coalition members to reduce the risk of civilian harm by their forces. However, in some cases, caveats can also reduce unity of effort and may lead to unanticipated force protection threats, which may make civilian harm more likely, especially for heavily caveated forces that did not anticipate exposure to combat. Other caveats may even hinder proactive civilian protection efforts. Where possible, early discussions about mission achievement and the role of the use of force — including civilian harm mitigation standards — should be used to unify efforts, standardize ROE and reduce caveats as much as possible. When standardization is not possible or desirable, planners should assess the associated risks caveats pose to both civilians and coalition forces, and consider re-assigning heavily caveated units where the risk to civilians is high.

6. Centralize civilian harm investigating and reporting in a multinational Civilian Casualty Mitigation Cell responsible for assessing all reports of civilian harm and identifying lessons learned. Like ISAF’s CCMT and OIR’s CIVCAS Cell, future coalitions should employ a centralized civilian harm mitigation cell that investigates reports of civilian harm from all participants. Nations should not have an option to opt-out of coalition investigation in favor of their own internal mechanisms. The cell should be staffed with dedicated full-time personnel with sufficient seniority to get the commander’s attention on mitigation efforts, and should have full-time, fully-resourced counterparts in civilian agencies. The cell’s work must go beyond data collection and individual investigations to include identifying trends and disseminating lessons learned. The cell should also be responsible for civil-military coordination and information sharing efforts (see #7) and ensure that information from NGOs, civilian agencies, and the public are considered in investigations. The cell should also provide feedback to civil society about what information is most useful, how information is used, and the results of investigations.

7. Ensure that any multinational operation includes effective civil-military coordination on issues pertaining to civilian harm. The coalition should have dedicated resources and processes for the exchange of information about civilian harm between the coalition and humanitarian community, ideally housed within the Civilian Casualty Mitigation Cell (see #6) to avoid unnecessary duplication, confusion, or lack of coordination. This should include an accessible mechanism for civilians, civil society, and humanitarian actors to submit details regarding civilian harm, as well as a means for the coalition to provide detailed feedback about alleged incidents to claimants and information about the coalition’s amends policy and processes (see #10,16). In addition to engagement on specific incidents, the coalition should also convene regular civil society working groups — as the CCMT did in Afghanistan — to hear feedback from civilians on the ground and together identify gaps and lessons learned in civilian harm mitigation.

8. Standard operating procedures for assessing third party reports of civilian casualty incidents should ensure that the assessment team takes steps to identify and interview witnesses who can substantiate claims with first-hand knowledge. Where security conditions permit, this should include on-the-ground assessments, as with the deployment of JIATs in Afghanistan. For much of OIR’s operations, security conditions did not permit on-the-ground access. However, following the liberation of areas previously under the control of ISIS, investigation teams should be dispatched to assess unconfirmed incidents of civilian harm. Where ground access by forces is not feasible or authorized, assessment teams should attempt to work through third parties (such as NGOs on the ground or those that record, investigate, or document civilian casualties) to gather information. In addition to
gathering information for the credibility assessment process, teams should collect any information that may be used in potential amends processes.

9. OIR and future coalitions should publicly clarify the steps they take to evaluate and determine the credibility of external reports. Public reports of civilian casualty figures should be placed in three categories: “confirmed,” “non-credible” (i.e., those that can be impeached with contradictory evidence), and “unconfirmed” (i.e., those for which there is insufficient information upon which to make a conclusive determination). The coalition should avoid classifying “unconfirmed” cases as “non-credible” in order to more accurately and transparently convey the level of uncertainty surrounding official figures. The coalition should also incorporate periodic “red-team” exercises to challenge findings and figures, and to provide alternative analysis for overall trends. A thorough assessment process that leads to more accurate estimates and candid acknowledgements of responsibility will more closely align a coalition’s public narrative with realities on the ground and can enhance public perceptions of coalition legitimacy and accountability. Accurate credibility ratings can also inform the military commander’s understanding of the battlefield to ensure that assumptions about the presence of civilians for target selection and engagement are valid – also important for compliance with IHL.

10. Establish a coalition-wide civilian harm disclosure policy. From the onset of coalition operations, the civilian casualty mitigation cell should regularly publish the results of civilian casualty investigations, including disaggregated information about what nations executed the strikes, how many civilians were killed or injured, where and when the incidents occurred, what the target was, and why civilian harm occurred. Such reports should also provide the status of outstanding investigations. When reports are deemed not credible or assessed to contain insufficient information, press releases should indicate how that assessment was reached and what additional information is required. In cases where reports can be neither independently substantiated nor dismissed, the coalition should err on the side of uncertainty in public communications, rather than listing these reports as “not credible.” (See #9).

11. Establish a coalition-wide amends fund. Disparate amends and transparency policies among coalition members render the amends process difficult to impossible for civilians. A coalition-wide amends fund allows the coalition to standardize amends policies and provide ex-gratia payments for civilian casualties even when the individual nation responsible remains unidentified – the current state of affairs within OIR. Contributing to the fund should also provide a way for risk-averse or heavily-caveated nations interested in non-kinetic forms of support to participate in the coalition. Payments through the fund should be administered through the Civilian Casualty Mitigation Cell in partnership with appropriate local actors. Coalition amends policies should also take into account the capacity of the host nation to provide its own amends mechanism, and be carefully calibrated to ensure that they do not undermine the legitimacy of the host nation in the eyes of the population.

12. Transfer civilian harm mitigation capabilities and processes to the host nation and/or transitional mission as appropriate for the conflict. At a minimum, civil-military coordination mechanisms should be preserved and transferred to the host nation for use in both peacetime and conflict settings in order to facilitate continued exchange between civilians and the military. Where conflict continues after transition from a coalition mission, civilian harm mitigation procedures – including investigation, disclosure, and amends disbursement – should be transferred to the host nation with appropriate capacity building, advising, and other support from coalition leadership and donors. For example, the coalition should train host nation forces to conduct battle damage assessments that account for civilian harm, track and assess incidents of civilian harm, establish appropriate amends processes, and conduct lessons learned activities.

13. Resolve outstanding civilian casualty assessments and provide a mechanism for civilians to continue to report civilian harm incidents. After the completion of OIR, for example, many civilian casualty assessments are likely to remain pending or unresolved. New civilian casualty incidents may also come to light. The coalition should ensure that civilian casualty mitigation cells remain staffed and resourced until outstanding investigations are completed, and that a clear reporting mechanism remains.

14. Undertake a rigorous lessons-learned process utilizing data from civilian casualty investigations, culminating in a public lessons learned report. Using civilian casualty investigation results, public and internal reporting, and interviews with coalition

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253 At present, CJTF-OIR’s Monthly Civilian Casualty Reports sometimes identify when a civilian enters the blast area after a weapon is fired. Such reports should also identify other categories of cause, such as faulty intelligence or weapon malfunctions.
staff, planners, and operators, coalition leadership should identify trends, gaps, and lessons learned regarding civilian harm mitigation. Staff should be trained on their role in contributing to formal lessons learned mechanisms, and opportunities for anonymous contribution to lessons learned processes should be facilitated. This process should identify leading causes of civilian harm during the operations in question and recommended mitigation measures to adopt in future operations. The results of this process should be disseminated to all member nations, including all services and geographic areas of operation, to ensure that lessons can be applied as relevant to a variety of future conflicts.

**Recommendations Specific to NATO**

In addition to the above recommendations, which are applicable to all current and future coalitions and alliances, the following are specifically addressed to NATO:

15. Signal NATO’s commitment to the 2016 Protection of Civilians policy through renewed high-level messaging on the importance of civilian harm, integration of the policy into all levels of doctrine, planning, and exercises and training, and the allocation of resources towards implementation. NATO should also ensure that civilian protection practices, including specific elements related to civilian harm mitigation, are institutionalized across the alliance through Standardization Agreements and other interoperability efforts, as well as integrated into Allied Joint Doctrine updates wherever relevant. Increased transparency on these efforts would also allow external observers to more holistically evaluate the success of these efforts and the extent to which lessons learned in previous missions have been applied across the institution. These efforts would not only serve the civilian protection efforts of NATO and its member nations, but also provide a blueprint for non-NATO countries and armed forces seeking to standardize best practices.

16. Adopt the Non-Binding Civilian Casualty Guidelines, utilized in Afghanistan, as standing NATO policy. This would help demonstrate the alliance’s commitment to proactively addressing civilian harm, clarify the alliance’s position on post-harm amends across nations, and alleviate one source of confusion for civilian victims and survivors. In line with NATO’s Policy for the Protection of Civilians, clear communication on measures related to civilian harm helps NATO to counter false information, demonstrate transparency, and strengthen its credibility. Ad-hoc coalitions should also consider replicating such language as a best practice.

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SUMMARY: LEGAL FRAMEWORK

States that participate in coalition operations are subject to obligations under international treaty and customary law. In general, a state may be liable for any internationally wrongful act, to include violations of international human rights law as well as the laws of war, if the act can be attributed to them and constitutes a violation of a state’s own legal obligations. With few rare exceptions, states participating in coalition operations bear responsibility for the conduct of their own armed forces. Even where forces are placed under the command of a “lead” nation, wrongdoing can still be attributed to the troop-contributing state.

States may also bear shared responsibility for conduct (both acts of omission and commission) that can be attributed to some or all of the other members of a coalition. Under customary rules of state responsibility, a coalition member could share responsibility for the acts of another state when it intentionally or knowingly aids or assists in the commission of an internationally wrongful act; when it participates as a part of a multinational command that orders or oversees an internationally wrongful act; when it exercises authority over the forces of another state; or if it directs and controls the actions of another state in the commission of an internationally wrongful act. The nature of involvement and level of participation of each state in any conduct that leads to or fails to prevent an international wrongful act is important to establishing the degree of responsibility attributable to each.

Common Article 1 of the 1949 Geneva Conventions, to which the US is a party, obliges states to “undertake to respect and to ensure respect for the present Convention in all circumstances.” The International Committee of the Red Cross (ICRC) argues that Common Article 1 “has an external dimension related to ensuring respect for the Conventions by others that are Party to a conflict,” a duty that applies to the “entire body of international humanitarian law binding upon a particular State.” Depending on their level of influence, states are therefore under the obligation to take all possible steps to safeguard respect for IHL rules by all other States.

Additional legal responsibilities can be established through bilateral or multilateral agreements. For example, Status of Forces Agreement (SOFA) are used to prescribe reciprocal rights, powers, duties, privileges, and immunities of forces, including civilians and contractor personnel. These agreements can be vital sources when determining the potential state responsibility in the protection of civilians; however, States cannot make agreements that subvert the responsibilities established by customary international law or treaty law.

1 The author has elected not to use this report to examine the many legal issues and controversies surrounding coalition operations, which are detailed in many fine reports. As an alternative, we recommend reading in full the reports and sources cited in the footnotes.
2 Such as where individuals are placed under the exclusive authority and control of another state, in which case that state will be responsible for that individual.
7 International Committee of the Red Cross, Commentary to Geneva Convention I for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field, (2nd ed 2016), paras 125-126 and 153.
8 Historically, the United States government has viewed the ICRC’s interpretation of Common Article 1 as “expansive”, but as a matter of policy, “always seek[s] to promote adherence to the law of armed conflict generally and encourage other States to do the same.” Brian Egan, Legal Advisor, U.S. Department of State, Address at the Annual Meeting of the American Society of International Law, Washington, DC; International Law, Legal Diplomacy, and the Counter-ISIL Campaign (Apr. 1, 2016), 92 INTERNATIONAL LAW STUDIES 235, 245 (2016), http://stockton.usnwc.edu/cgi/viewcontent.cgi?article=1668&context=ils.
11 Ibid.
# ANNEX A: GLOSSARY OF TERMS AND ACRONYMS

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>ATO</td>
<td>Air Tasking Order</td>
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<td>BDA</td>
<td>Battle Damage Assessment</td>
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<td>C2</td>
<td>Command and Control</td>
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<td>CAMB</td>
<td>CIVCAS Avoidance and Mitigation Board</td>
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<td>CAOC</td>
<td>Combined Air Operations Center</td>
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<td>CCAR</td>
<td>Civilian Casualty Assessment Report</td>
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<td>CCMT</td>
<td>Civilian Casualty Mitigation Team</td>
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<td>CCMWG</td>
<td>CIVCAS Mitigation Working Group</td>
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<td>CCTC</td>
<td>Civilian Casualty Tracking Cell</td>
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<td>CENTCOM</td>
<td>US Central Command</td>
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<td>CERP</td>
<td>Commander’s Emergency Response Program</td>
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<td>CDE</td>
<td>Collateral Damage Estimation</td>
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<tr>
<td>CIVCAS Cell</td>
<td>Civilian Casualty Cell within Operation Inherent Resolve</td>
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<td>CIVIC</td>
<td>The Center for Civilians in Conflict</td>
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<td>CJOA</td>
<td>Combined Joint Operations Area</td>
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<td>COMISAF</td>
<td>Commander of International Security Assistance Force</td>
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<tr>
<td>CROE</td>
<td>Combined Rules of Engagement</td>
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<tr>
<td>DOTMLPF-P</td>
<td>Framework used by the US military that considers Doctrine, Operations, Training, Materiel, Leadership, Personnel, Facilities, and Policy</td>
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<td>FRAGO</td>
<td>Fragmentary Order</td>
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<td>HUMINT</td>
<td>Human Intelligence</td>
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<td>ICRC</td>
<td>International Committee of the Red Cross</td>
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<td>IHL</td>
<td>International Humanitarian Law</td>
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<td>ISAF</td>
<td>International Security Assistance Force, NATO security forces in Afghanistan</td>
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<tr>
<td>ISIS</td>
<td>The Islamic State, also known as the Islamic State of Iraq and Syria, the Islamic State of Iraq and the Levant, or Daesh</td>
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<tr>
<td>ISR</td>
<td>Intelligence, Surveillance and Reconnaissance</td>
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<td>JALLC</td>
<td>NATO’s Joint Analysis and Lessons Learned Center</td>
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<td>JIAT</td>
<td>Joint Incident Assessment Team</td>
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<td>JCCS</td>
<td>Joint Civilian Casualty Study</td>
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<td>JLLD</td>
<td>US Joint Lessons Learned Division</td>
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<td>JOC</td>
<td>Joint Operations Center</td>
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<td>LEGAD</td>
<td>Legal Advisor</td>
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<td>NAC</td>
<td>North Atlantic Council</td>
</tr>
<tr>
<td>NATO</td>
<td>North Atlantic Treaty Organization</td>
</tr>
<tr>
<td>NCV</td>
<td>Non-Combatant Casualty Cutoff Value</td>
</tr>
<tr>
<td>NDAA</td>
<td>National Defense Authorization Act</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
</tr>
<tr>
<td>OHCHR</td>
<td>Office of the United Nations High Commissioner for Human Rights</td>
</tr>
<tr>
<td>OIR</td>
<td>Operation Inherent Resolve, US-led coalition operations against ISIS in Iraq and Syria; also referred to as Combined Joint Task Force Operation Inherent Resolve (CJTF-OIR)</td>
</tr>
<tr>
<td>OPCON</td>
<td>Operational Control</td>
</tr>
<tr>
<td>PME</td>
<td>Professional Military Education</td>
</tr>
<tr>
<td>ROE</td>
<td>Rules of Engagement</td>
</tr>
<tr>
<td>RS</td>
<td>Resolute Support Mission, successor to ISAF in Afghanistan</td>
</tr>
<tr>
<td>SIGINT</td>
<td>Signals Intelligence</td>
</tr>
<tr>
<td>SOP</td>
<td>Standard Operating Procedure</td>
</tr>
<tr>
<td>SROE</td>
<td>Standing Rules of Engagement</td>
</tr>
<tr>
<td>TACON</td>
<td>Tactical Control</td>
</tr>
<tr>
<td>TTP</td>
<td>Tactics, Techniques, and Procedures</td>
</tr>
<tr>
<td>UNAMA</td>
<td>United Nations Assistance Mission in Afghanistan</td>
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ABOUT THIS REPORT

The Sum of All Parts: Reducing Civilian Harm in Multinational Operations is a product of the Center for Civilians in Conflict. This report provides an overview of various multinational coalition processes relevant to civilian harm, and examines the challenges and opportunities they present for civilian harm mitigation. The report also identifies and issues meaningful recommendations for civilian and military leaders to mitigate challenges and seize opportunities to prevent and address civilian harm in future coalition operations. The report is based on desk research and interviews conducted with current and former US military and government personnel, civilian analysts, and representatives of international organizations and non-governmental organizations. The authors are particularly grateful to Alex Moorehead, Sarah Holewinski, Maria Keenan, Emily Knowles, and Abigail Watson for sharing their views.
An Australian trainer (Left), assigned to the 4th Regiment, Royal Australian Artillery, waits for an Iraqi soldier to finish plotting points on his map before calling in air support during forward air control training at the Besmaya Range Complex, Iraq.”

US Army/Spc. Cole Erickson