Changing of the Guard: Civilian Protection for an Evolving Military

BY LARRY LEWIS AND SARAH HOLEWINSKI

Civilian casualties can risk the success of a combat mission. While not new, this is a lesson US defense forces have had to repeatedly relearn. Historically, civilian protection and efforts to address harm became priorities only when external pressures demanded attention. As the Pentagon reshapes its defenses and fighting force for the next decade, continuing this ad hoc pattern in the future is neither strategically smart nor ethically acceptable.

The budget submitted this year to Congress by Secretary of Defense Panetta charts a strategic shift toward smaller and more clandestine operations. Our forces will need to become leaner and more agile, able to take decisive action without the heavy footprint of recent wars. There are good political and economic reasons for this; certainly, maintaining a large military presence around the world is no longer feasible.

Yet, as America loses its military bulk, it cannot afford to lose its memory as well. General Dempsey, Chairman of the Joint Chiefs of Staff, called upon the military to "learn the lessons from the past decade of operations." One of those critical lessons is that strategic objectives and ethical leadership are undermined if civilian protection is not integrated into the military's overall approach. A growing body of research, including that conducted by this article's authors, shows that civilian casualties (CIVCAS) and the mishandling of the aftermath can compel more people to work against U.S. interests. Indeed, America's image has suffered for years under the weight of anger and dismay that a nation, which stands by the value of civilian protection in wartime, seemed indifferent to civilian suffering.

Over time, U.S. commanders in Iraq and Afghanistan began to understand this calculus and took action. They began publicly expressing regret for civilian losses and offering amends for civilian deaths, injuries, and property damage, first in Iraq and then in Afghanistan. Military leadership

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realized that they could lower their civilian casualty rates if they recorded casualty statistics as a basis for learning, so they created a tracking cell in Afghanistan to do just that. Pre-deployment training back home began to include seminars on the civilian as the "center of gravity" and consequence management protocols, on top of the basic Laws of Armed Conflict. U.S. commanders made themselves accessible to civil society and, instead of immediately denying incidents of civilian harm, told the media they would investigate and recognize any civilian loss.

These practices are marked progress in mitigating both civilian harm and its impact on the mission, and rise above the conduct of most warring parties in the world, helping to reestablish U.S. ethical authority in wartime. Yet not one of the practices above has been made into standing U.S. policy, despite how important they have proved to our combat strategy and ethos.

As Washington shifts its focus from counterinsurgency to counterterrorism, and from large-scale ground operations to more discrete and oftentimes-unmanned operations, the progress U.S. forces have made on preventing and mitigating civilian harm may soon be lost. Below, we analyze three of the Obama administration's new military priorities that have real implications for U.S. efforts to avoid civilian harm in future wars: increased reliance on special operations forces (SOF), new technologies including unmanned aircraft systems (UAS), and partnering with foreign allies to conduct combat operations. Applying hard-won lessons of civilian protection and harm response are critical to all three.

Special Operations Forces Out Front

The "smaller and leaner" fighting force of the future will emphasize special operations. SOF personnel are trained to be the best and most discriminate shooters in the world, due to the requirement to engage hostage-takers and terrorists in the midst of hostages or other civilians. However, some SOF actions in combat theaters can carry significant risk of civilian casualties. For example, network-based targeting of enemy networks in Iraq and Afghanistan, where SOF infiltrate villages nightly to capture or kill combatants hiding within the population, puts them in frequent and direct contact with civilians. Illustrating this, SOF in Afghanistan caused a significant number of the overall civilian casualties between 2007-2009, though they were only a small part of the total force. Battlespace owners and Provincial Reconstruction Team commanders complained about the negative effects of SOF-caused civilian casualties and uncoordinated actions in their areas of operation during this time period.

Adding insult to injury, in the case of clandestine special operations, civilians may have little recourse when harm is caused; the people who caused their losses are nowhere to be found. During operations where conventional military forces are in the same battlespace as SOF and maintain a practice of meeting with community and offering monetary payments to the family for its losses, the required close coordination of SOF and conventional forces does not always occur. As many examples of SOF-caused civilian casualties in Afghanistan show—such as incidents in Shinwar in March 2007, in Azizabad in August 2008, and in Bala Balouk in May 2009—ignoring civilian harm can exacerbate the negative second-order effects of casualties at both tactical and strategic levels, turning the local population away from U.S. and coalition interests. Ironically, it can also lead to increased pressure to restrict the use of force and thus limit overall freedom of action.

At the same time, the high level of professionalism and rapid adaptability of SOF make them uniquely suited to understand the mission risk associated with civilian casualties and

to figure out ways to better avoid causing civilian harm in new, complex environments. As one positive example, in early 2009 SOF in Afghanistan adopted specific tactics, techniques and procedures (TTP) that better protected civilians during their operations. Under this new approach, US SOF greatly reduced their rate of civilian casualties while being more effective in carrying out their mission. That shift in priorities and flexibility is a model for the rest of the force. The lessons learned from this evolving approach should be sustained beyond Afghanistan and applied to the broad range of SOF operations over the next decade and beyond.

Highlighting and institutionalizing lessons like these is even more important as SOF are increasingly both the pointy tip of the spear and also the hand guiding that spear, with growing influence over military strategy and execution. Civilian protection and harm mitigation must become an accepted and expected component in all aspects of SOF training, education, and future procurement.

Specifically, training for SOF should include a focus on minimizing civilian harm through the use of detailed intelligence, incorporation of trained indigenous forces with local knowledge when feasible, and detailed information on how to discriminate between irregular forces and non-combatants. SOF should also include TTP such as cordon operations to isolate target areas, discreet use of precision fire support, and discriminate use of force in and around objectives. Finally, training scenarios should include elevation of civilian casualties as go/no-go criteria for most missions along with empowerment of junior SOF leaders to abort missions if pre-determined CIVCAS conditions are unacceptable.

Lessons for mitigating civilian harm should also be incorporated in SOF doctrine and professional military education. This should include recent SOF best practices and lessons garnered from missteps in Afghanistan. The Army recently published a handbook on civilian harm reduction and mitigation—Afghanistan Civilian Casualty Prevention (No. 12-16)—that could serve as a template starting point for SOF doctrine with some adjustments to better account for SOF missions and the specific focus areas mentioned above.

SOF tend to have more resources than conventional forces for accelerated fielding of technology, which gives them a technical edge in their high-risk, critical missions. That edge should be used to ensure targets are identified accurately and with full consideration of collateral effects; both efforts can reduce civilian harm and make engagements with an irregular enemy more effective, particularly in wars of propaganda where garnering local support is vital. Additional technologies to aid in the discrimination of individuals or battle damage assessment would better enable SOF to avoid civilian harm and respond appropriately when it occurs. Technology developed for SOF—like Predator UAS and advanced intelligence capabilities—has already spread to conventional forces over time and, in a trickle-down effect, will continue to benefit the larger defense force overall if used in ways that minimize civilian suffering.

Reliance on Unmanned Aerial Systems (UAS)

America's use of force will increasing rely on new technologies, including air force capabilities to penetrate enemy defenses and strike over long distances. Unmanned Aerial Systems, sometimes referred to as "drones," saw major use in Iraq and Afghanistan, and are slated for a big leap in funding. The Pentagon called for a nearly one-third increase in its fleet in the years ahead.

The use of UAS can have military advantages for avoiding civilian casualties in armed conflict,

if used with that intent in mind. Their systems feature precision weapons, their sensors have increasingly high-resolution imagery to assess the ground situation, and back in the control room, trained imagery analysts scrutinize a target area prior to engaging, which isn't always possible in a full ground operation.

Such airstrikes appear to have been successful in targeting some senior leaders of enemy networks. For example, in Pakistan UAS strikes reportedly eliminated Abu Yahya, the number two leader of Al-Qaeda, as well as several successive leaders of the militant group Islamic Movement of Uzbekistan (IMU). But there are also good reasons to question the surgical nature and overall efficacy of these airstrikes outside of traditional combat theaters. Members of the British Parliament recently wrote to the editor of a national newspaper in the UK expressing concern that UAS strikes in Pakistan lead to many unaccounted-for civilian casualties, increase radicalization of the local population, and undermine the sovereignty of Pakistan.[1] Human rights organizations argue that the short-term benefits of UAS strikes may be outweighed by the negative impact of creating a war zone environment in local communities with no visible military presence.

The assumption that UAS strikes are surgical in nature is also belied by research on recent combat operations in Afghanistan. There, UAS operations were statistically more likely to cause civilian casualties than were operations conducted by manned air platforms. One reason was limited training for UAS operators and analysts in how to minimize civilian harm. Adding or improving training on civilian casualty prevention is a resource decision in direct tension with the increasing demand for more UAS and more operations, since additional training on civilian protection means time must be taken from somewhere else including the mission itself. Still, such an investment in improved training is a critical one, given recent lessons on the strategic impact of civilian casualties.

Clandestine use of UAS by the U.S. government raises significant concerns that civilian casualties will not be properly monitored or investigated, and thus calls into question U.S. accountability for the use of force. Identifying civilian casualties caused by air platforms in particular remains a major challenge no matter the improving resolution or ability to analyze video feeds. Afghanistan assessments are replete with examples of airstrikes followed by a battle damage assessment (BDA) concluding that there were no civilian casualties, and then evidence became available indicating the contrary. This situation had two negative ramifications: first, the U.S. was late in performing consequence management in response to real civilian casualties, thus limiting the effectiveness of any apologies or amends offered for losses and the ability to learn from the incident; and second, American credibility was compromised as it first stated emphatically that there were no civilian casualties until evidence proved otherwise.

This situation can easily describe UAS strikes in clandestine operating theaters, such as Pakistan, Yemen, and Somalia as well, and is compounded by the additional challenge of U.S. forces not being present on the scene. While the U.S. has repeatedly stressed how UAS strikes in Pakistan cause very few civilian deaths, this position runs counter to independent investigations. Below are three examples of strikes in Pakistan in which third parties claimed CIVCAS occurred during a time frame when the U.S. stated there was no credible evidence of a single civilian death:

- March 11, 2011: During a strike on a vehicle, a follow-up strike was reported to have killed rescuers that moved onto the scene.

Several reports stated there were civilian casualties, ranging from two to five individuals.

- March 17, 2011: During a strike of a suspected militant compound, Pakistani authorities and news reports stated that the gathering was a jirga (a tribal assembly of elders) intended to settle a dispute at a nearby chromite mine. Reported civilian casualties ranged from thirteen to forty-four. Despite U.S. denials of civilian harm, the government of Pakistan recognized and provided compensation to the families of thirty-nine individuals killed during that strike.
- May 6, 2011: During a strike on a vehicle, multiple organizations reported that six civilians were killed at a nearby religious school (possibly a militant compound) and a restaurant. The U.S. claimed that all casualties were combatant.[2]

Independent investigations are not always correct in their assessment of civilian deaths; however, the inability of the U.S. to adequately investigate the outcome of its clandestine UAS strikes calls into question official denials of civilian harm. The U.S. has stated that these strikes kill only combatants; however, operations in Afghanistan are replete with examples where all the engaged individuals were believed to be combatants, but a later investigation found many or all were civilians misidentified as combatants.

Even if the U.S. has credible evidence that all the individuals killed in strikes outside Afghanistan were combatants, it has thus far refused to share it to counter potentially false accusations. This, despite the lesson learned in Iraq and Afghanistan that some transparency with the media and allied governments could build credibility and trust, while informing a population wary of U.S. operations. For example, in Operation Unified Protector in Libya, NATO's continued insistence of having caused zero civilian casualties detracted from the credibility of the overall campaign, even though the air campaign was unprecedented in its discrimination and restraint with respect to civilian casualties.

Incidents of potential civilian harm caused by airstrikes in Afghanistan, including UAS strikes, show that initial U.S. estimates tend to be too low and independent assessments tend to be too high, with the ground truth often found somewhere in-between. Commanders in Afghanistan learned the value—often, though not always—of collaborating with independent organizations that investigate civilian harm, engaging in open dialogue, to get at the truth of the incident.

This practice is not being employed in Pakistan, Yemen, or Somalia, signaling that these lessons from Afghanistan have not been learned. It appears that the use of UAS strikes as a new U.S. counterterrorism strategy is foregoing the prioritization of transparency, accountability, and responding to potential civilian harm caused by combat operations. Insurgents, local armed groups, and terrorists have all become adept at getting to the media fast with their own version of the truth, which is easy for local populations to believe in the absence of any U.S. evidence offered to the contrary. U.S. officials will have to be prepared to contend with more and more accusations of civilian harm—whether they are true or false.

Already criticism over U.S. clandestine UAS operations is putting the Administration on the defensive and growing louder as local populations, particularly in Pakistan, join in protesting the use of UAS. As the U.S. expands its UAS fleet and uses these assets in declared and non-declared theaters of armed conflict, U.S. defense leaders should be willing to objectively examine common assumptions regarding UAS strikes and civilian harm. The US government should undertake a review of the potentially negative impact of

U.S. Marine Corps photo by Cpl. Matthew Troyer

Navy Lt. Jessica Kazer, provides continuous medical care to two Afghan civilians while awaiting a casualty evacuation.

UAS strikes, both in counterterrorism efforts and with regard to civilian harm. The military portion of the review (there should also be a political cost-benefit analysis) would assess known or projected civilian casualty levels caused by UAS in current clandestine operations and identify lessons and best practices in other operations (e.g., Afghanistan) that could be transferrable. This needn't mean reinventing the wheel. After all, reviews like this are done constantly on other issues of military efficacy. But a key element of U.S. foreign policy such as UAS operations should be informed by available facts and lessons.

Partnering with Local Forces Towards Mutual Goals

Partnering with other nations to conduct combat operations offers many benefits—among them, an alternative to sustaining a large U.S. footprint on the ground and bolstering other nations so they can provide their own security and counter threats. For decades, U.S. forces have provided technical training, experience, and an overall model of war-fighting for partner nation forces to emulate. A good case in point is the capacity-building approach the U.S. is currently undertaking with Afghan National Security Forces (ANSF). When the ANSF can handle its own security and stability operations, the U.S. can reduce its investment in sustaining a large number of troops while, the plan says, providing a more sustainable, long-term solution for Afghanistan.

Host-nation forces have some advantages over their U.S. counterparts in reducing civilian harm thanks to their language and cultural fluency. Discriminating between combatants and civilians in indigenous situations is a big challenge for U.S. forces, but local forces are able to better discern actual hostile intent from behavior that is locally normative. In Afghanistan, operations where international forces partnered with

Afghan forces tended to cause fewer civilian casualties than those conducted independently.

The Philippines offers a positive example of the U.S. partnering with a host-nation. Over the past decade, U.S. forces focused on training and an "advise and assist" role to promote effectiveness of Philippine security forces against terrorist elements in the southern Philippines. While mitigating civilian harm during operations was not an explicit goal of this training, the U.S. ethos was transferred to Philippine forces during close partnering efforts. One Philippine General commented that US Special Forces "…taught us to take care of the people," laying the groundwork for Philippine security forces to adopt an approach that minimized civilian harm as they pursued terrorist elements. This population-centric approach led to increased cooperation from the population, including valuable intelligence, which contributed to the Philippines' longer-term and sustainable success in countering terror threats.

While the Philippines offers a positive example of the U.S. partnering with a host-nation, examples abound where partnering efforts have not been as productive. The risk, and often reality, is that local forces will cause civilian harm, thus risking the success of the mission and, in turn, the image of U.S. interventions.

There are two factors that can lead to increased civilian harm in partnered operations. The first is a matter of timing. The U.S. doesn't always have control over how quickly an operation will move forward with local national forces, which can often translate into poor training for those forces and little to no training on civilian harm mitigation during crunch-time. The second factor is that civilian harm—and its ramifications—often aren't prioritized in the transactions between the U.S. and local national forces, including in the agreement to conduct joint operations, in commanders' guidance, accountability processes (or lack thereof) or in the aforementioned training. For example, the U.S. typically does not track instances of civilian harm caused by the partner nation. This means that any negative ramifications caused by local forces cannot be immediately accounted for or corrected. The U.S. has also overlooked specific instruction to host-nation forces concerning civilian harm, beyond the basic requirements of the Law of Armed Conflict (LOAC). LOAC education is critical, but it does not instill such important practices as how to track civilian harm, how to analyze it for lessons learned, how to conduct proper investigations and what to do with the information, or how to respond to an angry public suffering losses. Moreover, the US regularly provides training and instruction only on LOAC as the fundamental framework for operations even when the host-nation security forces should or will be applying more restrictive domestic law as the basis of its operations.

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Given the strategic costs of not instilling civilian protection and harm response lessons into military partnerships, it is a wonder this remains an overlooked issue. When local forces don't have a civilian protection mindset or ignore losses the population incurs from their conduct, the U.S. suffers equally, if not more, from the public anger and mistrust of the mission. Aside from incidental civilian harm that can occur during an operation, human rights violations by local national forces can trigger legislative restrictions on U.S. programs and bring ongoing partnering efforts to a grinding halt, potentially harming strategic partnerships and

killing the momentum of efforts at the tactical level. To protect the legitimacy of U.S. efforts and promote effectiveness, partnering efforts between the U.S. and local forces should prioritize strategies and tactics to mitigate civilian harm during an operation.

Conclusions

Reducing civilian harm and properly responding to civilian losses in armed conflict is a win-win for America's shifting strategy. What's more, these objectives are entirely possible with leadership, attention, and focus from U.S. government officials.

The Defense Department is rightly concerned about funding, and is thus becoming increasingly resistant to investing in anything beyond what is seen as necessary for America's security. The good news is that measures to integrate civilian protection into the heart and soul of America's military operations—and, importantly, the new security strategy—are as inexpensive as they are critical. Many simply entail putting someone at the Department of Defense in charge of this issue, giving the troops proper training on civilian protection, and establishing policies for responding to harm when it happens—all efforts that can provide a big gain at minimal cost.

Specific attention should be focused on SOF, UAS operations, and operations that use partnered forces. SOF have in some circumstances had a larger propensity to cause civilian harm, but can also better adapt to complicated environments, making them potentially even better at reducing unintended casualties. SOF need training that emphasizes how and why minimizing civilian harm is a strategic imperative. Planned operations should take into account the need to respond to civilian harm when it happens.

Unmanned Aerial Systems are becoming synonymous with U.S. counterterrorism strategy, but they may not be as surgical an instrument as they have been claimed to be with regard to civilian harm. When used in clandestine scenarios, where there are few boots on the ground, the challenges to civilian protection and harm response are compounded, particularly as thorough investigations and any amends for losses are nearly impossible. Some Pakistani, Yemeni and Somali communities are directing anger toward the U.S., which may be crippling counterterrorism efforts in the longer term. Before fully committing to increased UAS use, the U.S. Government should conduct a thorough examination of the potential and actual negative ramifications of UAS use, specifically analyzing the impact on local civilian populations.

Partnerships with local national forces should be carefully crafted to ensure civilian harm reduction and mitigation is a top priority, including in training, equipping, joint guidance or rules of engagement, and response when civilian harm is caused. These commitments should be noted at the outset of any partnership.

As part of an overarching solution, the Pentagon has an important role to play in ensuring the lessons of Iraq and Afghanistan, and other previous and current operations, do not need to be relearned in the future, to the detriment of U.S. goals and interests. There remains no single person, team, or office within the Department of Defense focused solely on civilian protection and harm response. For such an important strategic issue, it is startling to realize that there remains this vacuum in coordinated understanding and action. This vacuum has repeatedly led to missteps and Band-Aid-like corrective action.

For example, in the early days of the Iraq War, while the U.S. Air Force avoided use of cluster munitions in populated areas, the U.S. Army deployed to Iraq with only one effective counter-battery artillery piece, an MLRS system that fired cluster munitions and caused significant civilian

casualties. Throughout the early days of the Iraq and Afghanistan wars, the military did not keep formal data on civilian casualties caused by its own operations until 2008, when a tracking cell was created by ISAF in Afghanistan. For years into the Iraq War, many troops didn't have the necessary gear to safely administer checkpoints. As a result, these troops could not adequately warn approaching drivers to stop, and often had limited recourse to stop them if they did not respond to those warnings. This deficiency, is illustrated in the shooting of the rescue car of the Italian reporter Giuliana Sgrena: when the speeding car, rushing to the airport after recovering the reporter who had been in captivity for a month, approached a U.S. check point, the car failed to heed warnings to stop and as a result gunfire was used to stop the car. The shooting wounded the rescued reporter and killed an Italian intelligence agent also in the car. Similar incidents with Iraqi citizens resulted in thousands of civilian casualties; the same deficiency was seen with checkpoints in Afghanistan.

The Joint and Coalition Operational Analysis (JCOA) Division of the Joint Staff J7 has conducted multiple in-depth studies of civilian casualties in Afghanistan, but these studies have primarily informed ISAF and pre-deployment training for forces going to Afghanistan. The lessons have not been made required reading for the next generation of military commanders headed to the next conflict. Similarly, training, doctrine, materiel solutions, and policies have not taken these lessons into account for the next conflict. Although training at some bases now incorporates civilian protection principles, this is an ad hoc effort that depends largely on the personality of the commander and not on a standard policy priority. And while it is true that commanders in Iraq and Afghanistan have been able to offer amends via monetary payments to some civilians suffering losses, this is not a standing policy and will need to be recreated for the next conflict, if the strategic importance of the practice is remembered at all.

To avoid re-learning these lessons in the future, an arduous process detrimental of the mission and our troops, the issue of civilian casualties requires an institutional proponent: a focal point at the Pentagon to advocate progress and coordinate civilian protection best practices and policies across silos, sectors, offices, and branches. Specifically, that focal point would study the lessons of past and current engagements and encourage development and deployment of new weapons and tactics designed to diminish civilian harm once the fighting starts; ensure proper civilian damage estimates are conducted in targeting and combat damage assessments are made after kinetic operations so that tactics can continue to improve; maintain proper investigative and statistical data on civilian casualties; and ensure efficient compensation procedures are in place for unintentional civilian harm—along with whatever new challenges arise regarding civilian harm mitigation in future conflicts.

America's new military must, by design, include a focus on civilians. None of these recommendations is a silver bullet to successfully operate oversees while also minimizing civilian harm, but leadership from top policymakers to inculcate all we've learned over ten years is critical. It would be a shame—and strategically detrimental—to waste such hard-won lessons. PRISM

Notes

[1] "Drone Attacks Lead to Terrorism" *Letter to the Editor, The Times, July 26, 2012*, accessed at < http://www.thetimes.co.uk/tto/opinion/letters/article3486743.ece>.

[2] "The Civilian Impact of Drones: Unexamined Costs, Unanswered Questions," *Center for Civilians in Conflict*, September 29, 2012, available at http://civiliansinconflict.org/resources/pub/the-civilian-impact-of-drones.

Staff Sgt. Edward Braly, USAF

Soldiers from the 1st Battalion, 10th Special Forces Group (Airborne) teach mounted infantry tactics to soldiers from the Malian Army in Timbuktu, Mali, as part of the Pan Sahel Initiative.