

# The US Army War College Quarterly: Parameters

---

Volume 47  
Number 3 *Parameters Autumn 2017*

Article 6

---

Fall 9-1-2017

## Rethinking NATO Policy on the Protection of Civilians

Sten Rynning

Follow this and additional works at: <https://press.armywarcollege.edu/parameters>



Part of the [Defense and Security Studies Commons](#)

---

### Recommended Citation

Sten Rynning, "Rethinking NATO Policy on the Protection of Civilians," *Parameters* 47, no. 3 (2017), <https://press.armywarcollege.edu/parameters/vol47/iss3/6>

This Article is brought to you for free and open access by USAWC Press. It has been accepted for inclusion in The US Army War College Quarterly: Parameters by an authorized editor of USAWC Press.

## Rethinking NATO Policy on the Protection of Civilians

---

Sten Rynning

©2017 Sten Rynning

**ABSTRACT:** This article discusses the role of the North Atlantic Treaty Organization's policy of "Protection of Civilians" in directing international efforts to counter adversaries who blur the boundaries of war during armed conflict.

When the North Atlantic Treaty Organization commanded the International Security Assistance Force in Afghanistan from 2003 to 2014, NATO allies and partners learned that protecting civilians was a key parameter of both operational and strategic success. The allies continuously adapted their campaigns to focus on mitigating and tracking civilian casualties. Later, at the post-ISAF Warsaw summit in mid-2016, the allies agreed to a wider policy on "the protection of civilians" that was explicitly framed as a lesson learned from Afghanistan.<sup>1</sup>

Afghanistan was not the first time the allies used armed force in an operation that fell somewhere between war and peace. In Bosnia and Kosovo in the 1990s they discovered, in Commanding General Rupert Smith's laconic phrase, it was no longer "practical" for politicians and diplomats to expect the military to solve problems by force, just as it was no longer "practical" for the military to plan and execute purely military campaigns.<sup>2</sup> Today, security cooperation and stabilization are essential activities for Western armed forces.<sup>3</sup> Still, what was so different about the Afghanistan mission was the degree to which stabilization looked and felt like war in terms of its brutality, loss of life, and the level of ammunition expended. Thus, the Afghan lesson was that defense forces and allies need to prepare better to navigate the complex gray zone where war meets crisis management, where humanitarian law (the law of armed conflict) meets human rights law, and where power and principle intertwine. This lesson became NATO policy in mid-2016.

Moreover, no sooner had the allies adopted the "Protection of Civilians" policy than their intent to pursue it appeared questionable. This skepticism was certainly the case among the personnel interviewed for this article where the impression is that NATO allies are losing political interest in their collective policy: they appear content to have pushed an action plan to military authorities, to have decreased the International Staff that can otherwise help drive policy, and to turn

Dr. Sten Rynning is a professor of international relations and head of the Center for War Studies at the University of Southern Denmark. His books include *NATO in Afghanistan: The Liberal Disconnect* (Stanford Security Studies, 2012) and *South Asia and the Great Powers* (I. B. Tauris, 2017). He has served on several official commissions, including Norway's Afghanistan Commission 2015–2016.

---

1 "NATO Policy for the Protection of Civilians," North Atlantic Treaty Organization, July 9, 2016, [http://www.nato.int/cps/en/natohq/official\\_texts\\_133945.htm?selectedLocale=en](http://www.nato.int/cps/en/natohq/official_texts_133945.htm?selectedLocale=en).

2 Rupert Smith, *The Utility of Force: The Art of War in the Modern World* (London: Penguin, 2006), 372.

3 Derek S. Reveron, *Exporting Security: International Engagement, Security Cooperation, and the Changing Face of the US Military* (Washington, DC: Georgetown University Press, 2016).

their gaze toward deterrence in Europe.<sup>4</sup> The root cause of this shift is political: Russian policies in Ukraine and along Europe's eastern rim have pushed collective defense to NATO's forefront. Following the straightforward rules of collective defense (i.e., the law of armed conflict or humanitarian law) is also comfortable. Political and military leaders know and understand these laws in detail: military forces can apply lethal force only in cases of military necessity, they must distinguish between combatants and noncombatants, and they can only use force proportional to the objective.<sup>5</sup>

Issues related to the protection of civilians are, in contrast, quite complex and politically challenging. If, in war, such protections are about the principle that harm to civilians must not be disproportionate to the military advantage sought, then in crisis management they are about something much broader, namely, upholding human rights law and good government. The protection of civilians, thus, blends naturally into a wide and often normative debate about *human security* and *human development* where limiting civilian casualties is just one piece of a bigger puzzle. The rest is about limiting violence against particularly vulnerable groups in society, especially women and children, and then securing access to food, clean water, and public services, and providing opportunities for economic and social development.

More broadly, the policy is about global governance, a framework in which NATO plays second fiddle or harmonizes with the UN Security Council. For armed forces trained for "duels," Clausewitz's definition of war, this human rights terrain, where there is no real enemy but a public order to build, is difficult. For the political masters of NATO governments, the policy is fraught with danger. Introducing human rights on the battlefield is to offer opponents—such as the Taliban and Russia—an opportunity to link the use of force to human rights abuse, which however tedious the claim, undermines the legitimacy of the campaign. Moreover, a tight operational partnership with the UN stokes normative debates on how outsiders critical of military action and militarization can best gain control of, or influence over, NATO. These debates are politically uncomfortable for NATO governments and unhelpful from the perspective of getting things done on the ground.

Thus, with a certain degree of relief, NATO allies have reduced their ground engagement in Afghanistan and turned their attention to the more straightforward challenge of deterring Russia.<sup>6</sup> They should, however, be mindful that a wide gap between *defense* at home and *crisis management policy* in distant and not-so-important theaters will put at risk their own strategic focus, organizational capability, partnership engagement, and political legitimacy.

---

4 Interviews with NATO staff, November–December 2016. With the adoption of the "Protection of Civilians" policy and an ensuing action plan, NATO replaced all International Staff with National Voluntary Contributions that rotate much more frequently and thus offer less continuity and policy-drive.

5 Customary international law and the Geneva Conventions are the sources of the law of armed conflict.

6 NATO is still in Afghanistan, running the Resolute Support Mission in support of Afghan authorities, and also the larger US security assistance mission, but NATO's force contribution has declined from 40,000 troops (not counting US troops) in 2010 to the current level of 5,000. In 2010, the US force level in ISAF in Afghanistan was 90,000 but in 2017 rose from a low of 8,000 troops to 12,000.

The allies and partners have an opportunity to stay clear of such risks, this article argues, if they pursue a pragmatic policy of bridging military defense and civilian protection where possible. The next section steps back to the Afghan campaign to expose the political issues that caused NATO problems regarding protection of civilians, and to explain, in part, why the Alliance focused on civilian casualties. The second section turns to the policy adopted in 2016 and explains how NATO managed to navigate underlying political tensions. The third and final section considers how the “Protection of Civilians,” in spite of its political baggage, offers NATO strategic, organizational, and diplomatic opportunities.

### Force in Afghanistan

By mid-2015, NATO’s lessons-learned unit concluded “ISAF did indeed successfully reduce ISAF-caused [civilian casualties] over the period 2008 to 2014, and that there is evidence that this reduction was a result of measures taken by ISAF to do so.”<sup>7</sup> The reduction, which NATO actively sought on the ground and which UN data confirm, was hard-won, though, and required political engagement with a number of fundamental problems.<sup>8</sup>

The first problem was defining the political purpose of the war and how to achieve it—the political and operational objectives—following Clausewitz.<sup>9</sup> The initial phase of the war had a clear objective of defeating the Afghan Taliban regime and the al-Qaeda terrorist organization it hosted, which amounted to a war of self-defense following the UN Charter’s article 51 and international humanitarian law. The fall of the Taliban regime in November 2001, however, complicated the justification for the continued use of armed force. During Operation Enduring Freedom, the US-led coalition justified its continued war against remnants of al-Qaeda on the grounds of self-defense and the consent of the new Afghan regime.

Still, controversy arose in respect to whether the fairly straightforward laws of war applied to a conflict between states (the coalition) and a nonstate actor (al-Qaeda); as well as to how the parallel stabilization mission (ISAF, of which NATO took command in 2003), which decidedly was not about self-defense, could operate; and the ends the mission was ultimately to achieve.<sup>10</sup> ISAF’s defined objective was to build local security forces, which in principle was simple enough, but the degree to which this gave ISAF ownership of government capacity

---

7 Joint Analysis & Lessons Learned Centre (JALLC), *Protection of Civilians: How ISAF Reduced Civilian Casualties* (Lisbon, Portugal: JALLC, 2015), 1.

8 For NATO’s changing practice see Alon Margalit, “The Duty to Investigate Civilian Casualties during Armed Conflict and Its Implementation in Practice,” in *Yearbook of International Humanitarian Law*, ed. Terry D. Gill et al., vol. 15 (Hague: T.M.C. Asser Press, 2012), 155–186. Civilian deaths and injuries by aerial operations declined from 622 in 2009 to 162 in 2014. UN Assistance Mission in Afghanistan (UNAMA) and the UN Office of the High Commissioner for Human Rights (UNHCR), *Afghanistan: Annual Report 2014, Protection of Civilians in Armed Conflict* (Kabul, Afghanistan: UNAMA / UNHCR, 2015), 94.

9 Carl von Clausewitz, *On War* (London: Kegan Paul, Trench, Trübner, 1908) 579.

10 For an overview see Ashley S. Deeks, “Unwilling or Unable: Toward a Normative Framework for Extraterritorial Self-Defense,” *Virginia Journal of International Law* 52, no. 3 (2012): 483–552; and Jelena Pejic, “Extraterritorial Targeting by Means of Armed Drones: Some Legal Implications,” *International Review of the Red Cross* 96, no. 893 (March 2014): 67–106, doi:10.1017/S1816383114000447.

building was not clear, as was the case with the operational muscle—military power—ISAF could legitimately apply.

Government capacity building brought tensions with other actors in this domain, notably the Afghan political authorities and the UN Assistance Mission in Afghanistan, and operational conditions varied greatly depending on insurgent strength in the provinces. Gradually, it became clear the insurgency was both organized and durable, which defines a *noninternational armed conflict* under international humanitarian law that de facto allows greater use of force against lawful targets. However, broader human rights concerns, stemming from international human rights law, continued to be of great concern—the insurgency was unevenly spread, meaning parts of Afghanistan were at peace (operating under regular, Afghan criminal law) and human rights issues were at the heart of the political debate over the purpose of the war.<sup>11</sup>

The unsettled politics of political and operational purpose directly impacted the speed with which NATO military authorities could define and organize the proportional use of force, which happened slowly and was consistently a focal point of criticism. Initial efforts were made in 2006 and 2007 when ISAF's campaign had spread to the entire territory of Afghanistan and had encountered the full force of the insurgency. At this point, in mid-2007, the UN mission began tracking civilian casualties and issuing Protection of Civilians reports. General Dan K. McNeill, commander, ISAF, issued the first tactical directive to limit civilian casualties; yet, he earned the nickname Bomber McNeill due to the tendency of the campaign to fall back on excessive air power.<sup>12</sup>

In 2009, General Stanley A. McChrystal, as commander of ISAF, placed civilian protection at the heart of his tactical directive, only to ignite a debate on the appropriateness, or danger to troops, of “courageous restraint.” McChrystal's successor, General David H. Petraeus replaced “restraint” with the “disciplined use of force” as ISAF slowly, but surely, built a sophisticated framework for “tracking” and “mitigating” civilian casualties.<sup>13</sup> Petraeus's approach failed to resolve the problem, and civilian casualties actually increased from 2010 to 2011.<sup>14</sup> Thus, in mid-2012, General John R. Allen simply banned the bombing of civilian homes under any circumstance except self-defense.<sup>15</sup>

Political ownership of the international effort to assist the rebuilding of Afghanistan's government was likewise a point of contention. Formally, the United Nations hosted the Bonn Conference (2001)

11 Germany had a big footprint in Afghanistan but did not recognize a state of war (noninternational armed conflict) until November 2009. The United States argued from the outset that war in ungoverned spaces involved a mix of international humanitarian and international human rights law. Other allies, such as Canada, were attuned to human rights law but resisted including it in the stability operation. Christian Schaller, “Military Operations in Afghanistan and International Humanitarian Law,” SWP Comments 7 (Berlin: German Institute for International and Security Affairs, 2010), 1–7; and Stephen Pomper, “Human Right Obligations, Armed Conflict and Afghanistan,” 525–542 in *The War in Afghanistan: A Legal Analysis*, ed. Michael N. Schmitt (Newport, RI: Naval War College, 2009).

12 Center for Civilians in Conflict (CIVIC), *Civilian Harm Tracking: Analysis of ISAF Efforts in Afghanistan* (Washington, DC: CIVIC, 2014).

13 See CIVIC, *Civilian Harm Tracking*, and Joseph H. Felter and Jacob N. Sharpiro, “Limiting Civilian Casualties as Part of a Winning Strategy: The Case of Courageous Restraint,” *Daedalus* 146, no. 1 (Winter 2017): 44–58, doi:10.1162/DAED\_a\_00421.

14 UNAMA / UNHCR, *Annual Report 2014*.

15 Robert Perkins, *Air Power in Afghanistan: How NATO Changed the Rules, 2008–2014* (London: Action on Armed Violence, December 2014).

that resulted in Afghanistan's interim government and which invited the ISAF mission on a UN mandate.<sup>16</sup> Moreover, at the request of the Afghan government, in March 2002 the United Nations organized its local mission in Afghanistan to lead the international civilian effort to build Afghan sovereignty and leadership.<sup>17</sup> Such moves would seem to imply the UN would do most of the international stabilization while ISAF provided security.

As security became the key to the entire campaign, however, and as the UN mission, the Afghan government, and other civilian agencies struggled to cohere and to move forward, ISAF easily became the dominant player. All of the organizations embraced the same theory of victory—"unity of effort" or "comprehensive approach"—but, in fact, ISAF was first among equals. This influence caused resentment and discomfort everywhere: the Kabul government and the UN mission felt they should be in the lead, and NATO governments did not want to be responsible for governance and development. Hence, they surged a larger military force, but did so to achieve security and to manage the interface to governance and development as opposed to taking charge of governance and development, or inversely, letting the United Nations direct their considerable military forces.<sup>18</sup>

Some proponents of "new wars" theory have argued an alliance such as NATO was wholly misplaced in Afghanistan, in part militarizing the conflict, in part tying the hands of the most appropriate regulator of the conflict—the United Nations.<sup>19</sup> Arguments such as these exacerbate the unease political authorities have with embracing an agenda for protecting civilians, which inevitably cause the Alliance to question whether it is de facto buying into a normative agenda that will subordinate it to the United Nations—as in a tightly regulated "regional arrangement" under chapter VIII of the UN Charter.<sup>20</sup> Making NATO the handmaiden of UN doctrine would be devastating to the former's role as a regional self-defense alliance, offering both Russia and China a greater say in NATO affairs. It also would be seen as a self-abnegation of the political responsibility that comes with being the head of state of a NATO nation.

The tension between what the Alliance is willing to do and what one might normatively expect from it is apparent not only in Afghanistan but also in other theaters, such as Kosovo (1999) and Libya (2011), where NATO has used armed force to help solve crises and advance good governance. As in Afghanistan, these interventions have generated a debate on the legality and appropriateness of the Alliance's actions, and as in Afghanistan, the debate is rooted in, and fed by, contrasting interpretations of the primacy of collective defense vis-à-vis collective

16 United Nations, *Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions* (New York: UN, 2001) <http://www.un.org/News/dh/latest/afghan/afghan-agree.htm>.

17 United Nations Security Council, Resolution 1401, United Nations Assistance Mission in Afghanistan, S/RES/1401 (New York: UN, 2002).

18 Sten Rynning, *NATO in Afghanistan: The Liberal Disconnect* (Stanford, CA: Stanford Security Studies, 2012).

19 Mary Kaldor, *Human Security: Reflections on Globalization and Intervention* (Cambridge: Polity, 2007); Mary Kaldor, *New and Old Wars: Organized Violence in a Global Era* (Cambridge: Polity, 2012); and Astri Suhrke, *When More Is Less: The International Project in Afghanistan* (New York: Columbia University Press, 2011).

20 Lawrence S. Kaplan, *NATO and the UN: A Peculiar Relationship* (Columbia: University of Missouri Press, 2010).

security.<sup>21</sup> The Alliance can and does accommodate the imperative to use force proportionally—seeking to reduce civilian casualties—but its discomfort with this underlying debate on broad collective security and responsibilities is inherent.

### NATO Policy

In spite of this level of operational tension and normative friction, in July 2016 NATO members managed to agree on a policy to protect civilians. The question is, on what terms did this consensus become possible?

First, the policy is anchored in the need to institutionalize a virtuous cycle of “prevention, mitigation, and learning” in regards to civilian casualties, restricting legitimate targets, establishing a culture and an organization of reporting and investigating incidents, and building the capacity to send out investigative teams (preferably on the ground or alternatively via air surveillance). This necessity was NATO’s lesson number one from Afghanistan, and it meant the Alliance had to be trained and ready to guide civilian casualty work going forward. NATO had improvised to protect civilians in Afghanistan and is institutionalizing the capacity to avoid new pains of improvising such protections in future situations.

From a political perspective, three aspects of NATO’s policy stand out. First, the document remains narrowly focused on civilian casualty mitigation. Reducing such losses was the key ISAF focus in Afghanistan, and the NATO policy continues the ambition to protect civilians from physical violence. The Alliance could have gone much further, as far as human security and securing access to clean water, education, and so on, but perhaps a more intuitive emphasis on slightly broader issues of detention, restitution for damaged property or casualties, or unexploded ordnance clearance would have been more appropriate. NATO chose to stick to protection from physical violence but, in a nod to previous considerations, did agree to include the protection of civilians from “others’ actions” and to support “humanitarian action.”<sup>22</sup> The expanded interest gives the Alliance a stake in a broader context, where the organization is but a node in a larger humanitarian-focused network, but retains the group’s focus on the core business of applying military force for political purpose.

Secondly, the policy is inherently pragmatic. The “Protection of Civilians” opens with a broad commitment to “legal, moral, and political imperatives,” which could imply some sort of legal or normative doctrinal drive, but the ensuing text makes clear that the pragmatic political imperative is the one that really matters. NATO’s highest authority—the North Atlantic Council—is emphasized as the source of NATO mandates; the policy does not prejudice force protection or collective defense obligations; and the Alliance eschews the tricky balance of international humanitarian and human rights law where human rights

---

21 Compare Ivo H. Daalder and James G. Stavridis, “NATO’s Victory in Libya: The Right Way to Run an Intervention,” *Foreign Affairs* 91, no. 2 (March/April 2012): 2–7 and Alan J. Kuperman, “A Model Humanitarian Intervention? Reassessing NATO’s Libya Campaign,” *International Security* 38, no. 1 (Summer 2013): 105–36.

22 “Protection of Civilians,” NATO, paras. 16–17.

by nature are more restrictive on the use of force.<sup>23</sup> In one instance, the policy makes an apparently bold statement: “NATO recognizes that all feasible measures must be taken to avoid, minimize and mitigate harm to civilians.”<sup>24</sup> But, the key here is the term *feasible*, which is an implicit reference to the authority of the North Atlantic Council to define for itself how much it can actually do.

Thirdly, the policy is very much an invitation for the Alliance to partner with individual partner nations and international organizations. The policy was published, which is a sign of public diplomacy and partnership. Moreover, the policy is framed in paragraphs one and two with references to wider humanitarian doctrine (on children and armed conflict, women and peace, and sexual and gender-based violence as defined by UN Security Council resolutions), NATO operational partners, and the need for overarching policy. The presence of these elements is the Alliance nodding to the greater human security and human development context. Moreover, NATO partners were actively involved throughout the drafting of the policy, so much so that NATO allies and officials debated at one point on how far non-Alliance actors should be allowed to shape the organization’s policy.<sup>25</sup>

The sum of these political facets is a policy that systematically offers the Alliance input from a wider range of international community actors into efforts to protect civilians, takes note of the legal and normative principles for doing so, and identifies what the Alliance can do at a practical level to reduce the threat of physical violence against civilians. It is, however, also a policy of an alliance that has its own political *raison d’être* and is not willing to submerge itself fully into a global, humanitarian network. It is a policy characterized more by expediency than by legal or moral doctrine, and as such, a policy that underscores the responsibility of the North Atlantic Council—and no one else—to define what is both necessary and feasible.

The pragmatics are also clear in regard to the instructions for NATO military authorities inherent in the policy. The policy ends with a 10-point plan for delivering on the “Protection of Civilians” ambition, and most of the items describe what International Staff, but especially what military authorities, must now plan to do about strategic communications, exercises, training personnel as well as local forces, capacity building with “requesting nations,” and interoperability with partnership nations.<sup>26</sup> The Alliance’s international staff and military authorities began work on an action plan for the policy following the Warsaw summit, and defense ministers approved it in early 2017.

NATO’s “Protection of Civilians” policy leaves the Alliance in the fairly comfortable position of being politically open and organizationally ready to engage the international community in broader humanitarian operations, while retaining its right to define the scope of its ambitions and its actions. Strong proponents of humanitarian action, however, will find this insufficient and a validation of the criticism leveled against

---

23 The policy simply states that humanitarian law and human rights law may be included in NATO’s mandate “as applicable.” “Protection of Civilians,” NATO, paras. 5–7.

24 “Protection of Civilians,” para. 7.

25 Author’s interview with NATO Protection of Civilians official, December 2016.

26 “Protection of Civilians,” NATO, paras. 15–24.



NATO in the Afghan context of the Alliance being inherently focused on its own political and military needs and an inadequate partner in the wider normative drive for human security.

Such criticism will stoke the temptation inside NATO to narrow protection-of-civilian issues to one of managing the proportional use of armed force in war, which essentially would be back to the business of war, not that of managing crises and stabilizing other societies. Thus, Alliance policy is crafted with considerable political and diplomatic skill but is nonetheless marked by an underlying clash of philosophies or visions—is NATO a spoke in the great wheel of UN governance, or is it a political entity that can, at its own discretion, contribute to humanitarian work? If NATO decision-makers choose simply to steer clear of the issue, which could be politically tempting, the unintended consequence would be the erosion of the Alliance's support for the "Protection of Civilians" policy. As we are about see, there are several operational and political reasons why Alliance authorities should consider the current policy a precautionary measure that merits their continued engagement.

### **Benefits of Pragmatism**

The parameters of NATO's protection-of-civilians engagement are quite clear: the Alliance wants to retain political decision-making power and to remain focused primarily on the slice of the humanitarian agenda that is primarily related to civilian casualties. Moreover, NATO's approach to the protection of civilians is inherently operational and pragmatic: the Alliance has a culture and tradition of "doing things"—missions and operations—and rigid legal or moral doctrine cannot be allowed to erode this capacity for action. Still, within these parameters, there is nothing to prevent the Alliance from aligning the protection of civilians and collective defense principles to strengthen its international legitimacy, its command of collective self-defense operations, and its ability to shape partner policy, including partners participating in Alliance-related coalition operations. As a pragmatic alliance, NATO should get on with the task of realizing these benefits.

To gain international legitimacy, the Alliance needs to consider how to move its dialogue with the United Nations forward, which for all its complexity in terms of agencies and organizations remains the focal point for humanitarian debates. The United Nations is in some ways the antithesis to the Alliance—doctrinal where NATO is pragmatic, legalistic where NATO is political. It only complicates matters when, from within the UN Security Council, Russia and China view NATO with suspicion and resist a wider partnership with the Alliance.

For all of these reasons, NATO's formal relationship with the United Nations is strictly limited, in fact confined, to interaction between representatives of the two secretariats along lines defined by the 2008 Joint Declaration signed not by Alliance and UN member nations but by NATO and UN secretary generals. Today, the Alliance knows something the UN needs to know—in particular, how to train and certify forces

for operations and how to run intelligence-led operations.<sup>27</sup> In the UN system, there is recognition of these needs, just as there is recognition that it needs to clarify how its doctrine on “the responsibility to protect” is compatible with the use of military force.<sup>28</sup> To prepare for a sustained and enhanced dialogue with the United Nations on these issues, all of which will reflect positively on NATO’s political and operational legitimacy, the Alliance should not let the “Protection of Civilians” policy abate but engage it as a diplomatic lever.

In terms of collective defense, the traditional argument is that such action is inherently legitimate according to the UN Charter, and NATO can therefore make such plans along tried and tested lines—the proportional and discriminatory use of force as defined by humanitarian law. This argument is also precisely what the Alliance is applying in its plans to anticipate and to deter Russian aggression. Still, there is a case for reform. When planning, military authorities calculate collateral damage estimates containing some sort of noncombatant casualty cutoff value that determines the level and intensity of strikes.<sup>29</sup> The military method for doing so may be tried and tested, but as the authors of an insightful study suggest, Afghanistan and other recent conflicts clearly indicate the underlying algorithms “can benefit from a wider range of inputs.”<sup>30</sup> This logic applies irrespective of whether the forces are preparing for war (collective defense) or crisis management (protection-of-civilians missions). The logic should lead decision-makers to reform and to modernize the command organization and culture in terms of its inherent readiness to monitor, to track, and to analyze civilian harm on the battlefield. This challenge of reform applies at the collective NATO level and at the state level for national command organizations.

Finally, there are clear benefits in terms of the Alliance’s partner policy. In part, the policy applies to those partners that experience hybrid threats, such as Ukraine, where Russia is exerting a variety of threats from direct physical assault (i.e., the annexation of Crimea) to support for insurgents and political and social destabilization. NATO’s main support to Ukraine has hitherto consisted of trust funds that channel voluntary financial contributions for building specific nonlethal capabilities such as command and control, logistics, and cybersecurity. The Alliance and Ukraine are putting a brave face on this support, upgrading it to a so-called comprehensive assistance package, but it remains diverse, limited, and indirect.<sup>31</sup> Should the Alliance garner the political desire to go one step further—for instance, by offering lethal assistance (i.e., arms supplies)—the stakes would increase. In this instance, solid policies and procedures for guaranteeing, to the greatest extent possible, Ukraine

---

27 The United Nations traditionally does not certify forces for its operations; however, NATO always does. The United Nations runs missions simply by mandate, but recent experience, especially in Mali, calls for a more active, intelligence-based approach to certain operations, which NATO has plenty of experience in doing.

28 Dan Kuwali, “‘Humanitarian Rights’: Bridging the Doctrinal Gap between the Protection of Civilians and the Responsibility to Protect,” *International Humanitarian Legal Studies* 4, no. 1 (2013): 5–46, doi:10.1163/18781527-00401004; and John Karlsrud, “The UN at War: Examining the Consequences of Peace-Enforcement Mandates for the UN Peacekeeping Operations in the CAR, the DRC, and Mali,” *Third World Quarterly* 36, no. 1 (2015): 40–54, doi:10.1080/01436597.2015.976016.

29 Christopher D. Kolenda et al., *The Strategic Costs of Civilian Harm: Applying Lessons from Afghanistan to Current and Future Conflicts* (New York: Open Society Foundations, 2016), 62.

30 Ibid.

31 NATO, *Comprehensive Assistance Package for Ukraine* (Brussels: NATO, 2016).

would employ its arms in line with a clear and ambitious protection-of-civilians policy would be critical to have in place. Otherwise, the mission's "legal, moral, and political imperatives"—to borrow from NATO's own policy—would be jeopardy.

Partners can also be operational, of course. Irrespective of whether the Alliance is commanding an operation such as Operation Unified Protector in Libya (2011) or supporting efforts such as the Global Coalition against Da'esh in Syria and Iraq, the core of NATO nations, including the United States, find themselves cooperating with a network of diverse partners. Using its partnership toolbox and regional cooperation initiatives to standardize military procedures, enable joint training, and maintain political channels, the Alliance has, in fact, become a hub for developing and maintaining such coalitions, in effect, serving as a multilateral framework of support for US grand strategy in the Middle East and North Africa. The Alliance's tools and procedures can ensure NATO allies and their operational partners, wherever they come from, see eye-to-eye on the need to restrain the use of force in coalition operations.

The Global Coalition is a case in point. Strictly speaking, the coalition states are fighting a war of self-defense (at the request of the Iraqi government) against a widely unpopular enemy (the Islamic State, or Da'esh), but the usual rules of war need not apply because the human suffering that allows Da'esh to take root is at the heart of the campaign. In addition, the enemy easily conceals itself among civilians in this theater, and the Coalition tracks casualties mainly by air surveillance, as the ground footprint is much lighter than in Afghanistan. The Coalition, thus, faces a hybrid protection of civilians-focused self-defense mission that is exceptionally challenging in its own way but still similar to efforts in Afghanistan. The need for precautionary policy in this regard has not diminished, and NATO can help partners prepare their political-military command chain for it.

## **Conclusion**

The Alliance was driven via ISAF to develop a civilian casualty doctrine and tracking and mitigation organization that promised to maintain the link between the use of force and political purpose, just as it sought to build links to development and governance via a comprehensive approach. After Afghanistan, NATO allies drew lessons for a protection-of-civilians policy, promising *de facto* not to forget but rather to improve; however, this promise is now at risk. Russia has pushed collective defense back to the top of the agenda. To introduce human rights law on a battlefield is to expose oneself to both real and manipulated criticism intended to undermine the legitimacy of and support for the operation, and the Alliance and the United Nations are tied into a clash of political visions that tempt NATO and UN policymakers respectively to pull back and to get on with their business. NATO's "Protection of Civilians" policy remains an invitation to cooperate but also contains this bottom line: the Alliance will support the wider human and collective security agenda but not in any measure that infringes on its ability to function as a collective defense alliance.

Without question NATO's "Protection of Civilians" policy will not appease all critics of the role collective defense organizations get to play within the global community of security management—of NATO's role in the UN system. These critics can be found in the wider debate as well as within UN agencies and in the UN Security Council. To the extent they gain voice, these detractors will reinforce the impression in NATO that the Alliance did right in demarcating itself from the politics of global organization. The heart of the matter is, therefore, not bureaucratic complications but political and normative differences—can and should a collective defense alliance such as NATO shape global humanitarian action? This article has argued that the stakes—in terms of diplomatic legitimacy, command organization and culture, and partnership policy—are too high for the Alliance to pull back from humanitarian action to focus on its regional defense and deterrence role.

NATO can take concrete steps to bridge the gap: to counter the tendency to make this a defense ministerial item of low priority, it can ensure that the North Atlantic Council, in foreign minister format, regularly reviews the "Protection of Civilians" policy, just as it regularly addresses NATO-UN relations at summits of heads of state and government. The council may also counter the current plan to make actions protecting civilians merely one of many activities for the military chain of command. The Alliance can ensure that its International Staff retains the capacity to develop overarching policy ideas, a capacity it is currently losing. The Alliance is right to steer clear of the normative pitfalls in the underlying human security debate that would rob the Alliance of its ability to act, to actually do things. But, as outlined in this article, there is ample reason to get on with the pragmatics of bringing to life key crisis management lessons of NATO's campaigns.

