



ALLIES, PARTNERS AND PROXIES

MANAGING SUPPORT RELATIONSHIPS
IN ARMED CONFLICT TO REDUCE
THE HUMAN COST OF WAR

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ABOUT THIS PUBLICATION

States, multinational coalitions, peace forces, non-State armed groups, private military and security companies and other private-sector entities that provide support to parties to armed conflicts have the potential to positively influence these parties in order to enhance the protection of civilians and others not fighting. This publication presents an analytical framework for tackling the complexity of such support relationships, highlights the risks and opportunities brought about by support relationships in terms of protecting civilians and others not fighting, and offers decision makers a wide array of practical questions that can help to guide them as they design and implement their support. The content of this publication is based on bilateral consultations held in several countries, the expertise of the International Committee of the Red Cross (ICRC) and existing literature on the subject.

ACKNOWLEDGEMENTS

The research underpinning this publication came out of the ICRC's Support Relationships in Armed Conflicts project. But this document would not have been conceptualized, drafted and published without the generous commitment of colleagues in various ICRC units, divisions and delegations. In addition to the lead author Clementine Rendle, we wish to thank Dominique Loye and Mary Wertz for their oversight and guidance, and Julien Chassany, Timothy French, Thomas Hallier, Patrick Hamilton, Snowy Lintern and Ruben Stewart for their contribution to the drafting process. We would also like to express our gratitude to numerous other individuals who drew on their respective fields of expertise to provide comments and input. This includes the members of the project's core group – Maya Brehm, Abbas Daiyar, Netta Goussac, Irénée Herbet, Carin Naïke Kohl, Elpida Papachatzí, Paul Peugnet, Guive Rafatian and Thomas de Saint Maurice – as well as the following headquarters and delegation colleagues: Vincent Ballon, Caroline Baudot, Alexander Breitegger, Francesco Bruscoli, Gilles Cerutti, Angela Cotroneo, Tristan Ferraro, Oran Finegan, Susanne Gentz, Pilar Gimeno Sarciada, Eirini Giorgou, Laurent Gisel, Pete Giugni, Gilles Hansoul, Georgia Hinds, Ken Hume, Trevor Keck, Namita Khatri, Joelle Kuhn, Geoff Loane, Louis Maresca, Daniel Messerli, Vanessa Murphy, Monique Nanchen, Jan Ninck Block, Andreas Notter, Helen Obregón Gieseken, Jelena Pejic, Christopher Poole, Tilman Rödenhauser, Filipa Schmitz Guinote, Guela Sekhniachvili, Shahrokh Shakerian, Michael Talhami, Cléa Thouin, Erik Tollefsen and Wen Zhou. We are also grateful to Ariadna Andreu Villasevil and Digvijay Rewatkar for their invaluable research.

This publication was largely informed by the perspectives, expertise and experience of a range of professionals, policymakers, academics, experts, military commanders and other weapon bearers, who are or were involved in designing and implementing support relationships in various conflict situations. We are grateful for the trust they extended to the ICRC during our consultations and focus groups, and we hope to deepen our dialogue with them on the basis of this publication. Our special thanks go to James Chiswell and Carsten Svensson for their detailed comments and guidance. Lastly, we are grateful to the committee of outside professionals and experts for their time in reviewing this publication and providing their feedback.

FOREWORD

War disrupts communities, tears families apart and crushes people in ways that no other type of crisis can. These are the reasons that led to the creation of the International Committee of the Red Cross (ICRC), inspired the development of international humanitarian law, and drive humanitarian efforts to prevent suffering and protect the lives and dignity of victims.

Armed conflicts and other situations of violence have evolved dramatically since the birth of the ICRC almost 160 years ago. Wars last much longer today than in the past, resulting in a devastating and long-lasting impact on essential infrastructure and services such as health care, water and education. Protracted conflicts affect societies for generations and undermine the stability of entire regions.

Wars have also become more complex. They involve an ever-growing number of actors organized in overlapping webs of alliances, proxies and other types of support relationships. This trend has consequences on today's conflict dynamics and presents clear risks to civilians. The greater the number of actors involved in a conflict, the more difficult it can be to achieve a political solution. And when armed actors fight alongside each other in loose coalitions with unclear coordination, this can lead to a diffusion of responsibility that heightens the vulnerability of civilians. Yet support relationships between armed actors also offer opportunities to strengthen the protection of civilians: actors can leverage their influence over each other to promote respect for international humanitarian law.

To address the challenges that arise in support relationships, the ICRC has launched a global initiative to work with a wide range of interested actors and identify measures that can improve civilian protection. This publication – *Allies, Partners and Proxies: Managing Support Relationships in Armed Conflict to Reduce the Human Cost of War* – is meant to serve as the basis for the ICRC to build a constructive dialogue with governments, armed forces and both multinational and non-State actors in order to find practical ways forward.

The ICRC aims to get decision-makers thinking about the risks inherent in providing support to a party to an armed conflict and, perhaps more fundamentally, about the opportunities that well-directed influence can create to reduce the human cost of war. Every time a partnership is signed and an alliance is formed in a war zone, a bond is created that has the potential to worsen – or lessen – human suffering. The point of this publication is to generate a fuller understanding of the stakes involved in support relationships and guide the decision-making process with a broad set of thought-provoking questions.

My hope is that this will result in a positive change for the women, men and children whose lives are disrupted by conflict. I invite all readers to share their experience in this area with the ICRC and thus contribute to the emergence of a global body of practical knowledge, best practices and recommendations aimed at preserving the life and dignity of victims of armed conflicts.



Peter Maurer
ICRC President

LIST OF ABBREVIATIONS

DDR	Disarmament, demobilization and reintegration
ERW	Explosive remnants of war
IAC	International armed conflict
IDP	Internally displaced person
IHL	International humanitarian law
NIAC	Non-international armed conflict
NSAG	Non-State armed group
PMO	Partnered military operation
PMSC	Private military and security company
PSSM	Physical security and stockpile management
TAAA	Train, advise, assist, accompany
WAM	Weapons and ammunition management

ICONS



The dead



Detention



Essential services



General



Health care



Internally displaced persons



Key questions



Landmines and explosive remnants of war



Missing persons



The natural environment

EXECUTIVE SUMMARY

The ICRC established the Support Relationships in Armed Conflict Initiative in response to the scale of human suffering resulting from armed conflicts in which parties to these conflicts receive external support.

A support relationship in armed conflict is defined here as one in which the support increases the capacity of a party to conduct armed conflict. The ICRC believes that support relationships have the potential, exercised or not, to positively influence the protection afforded to those not fighting. Recognizing the strength of long-term cooperation and the role of non-military stakeholders, the ICRC encourages actors in support relationships to take a broad view of their influence over how conflicts are fought and how their aftermath is managed.

Through continued engagement and sharing of experiences with actors in support relationships, the ICRC aims to facilitate an understanding of good practices to reduce the human cost of war. To that end, this document asks decision makers to consider pragmatic ways to mitigate the risk of negative humanitarian consequences and enhance the protection of those not fighting, including through better respect for international humanitarian law (IHL).

With this document, the ICRC seeks to continue its engagement with actors involved in support relationships with a focus on how to further improve practice so as to reduce the impact of war on people.

While war is never simple, the ICRC has seen three key interconnected trends emerge over the last 20 years that make conflicts even more complex. It has observed that conflicts:

- are increasingly non-international in nature
- involve an increasing number of parties and other actors
- increasingly feature support relationships between many actors and the parties themselves.

These complexities pose challenges for actors operating in these situations to ensure the protection of civilians and others not fighting, including for humanitarian actors such as the ICRC. The scale of the humanitarian consequences of those conflicts in which support relationships are a distinctive feature is impossible to ignore. Reducing the human cost of war is not only a humanitarian imperative: it can also shape the prospects for recovery and reconstruction – two key factors that contribute to long-term stability.

The ICRC is aware that conflict dynamics are ever-shifting and that important trends observed over the past 20 years may not last forever. Yet there is every reason to believe that support relationships will remain an enduring feature of armed conflict.

Support relationships present both risks and opportunities in terms of compliance with IHL and the humanitarian consequences of armed conflict more broadly.

The ICRC believes that actors should seek to manage their relationships responsibly, individually and collectively, in view of those risks and opportunities. This requires these actors to be coherent with each other when it comes to intent, leadership and capacity. They can take a range of practical measures to align themselves with, and positively influence, their partners. In contrast, a lack of coherence between actors in a support relationship results in a diffusion of responsibility, as the respective actors' roles and commanding authority are not clearly defined. In other words, gaps, reductions or a lack of clarity in the responsibilities assumed by actors in a support relationship can inadvertently or, worse, deliberately diminish the protection afforded to people affected by armed conflict and other violence.

The ICRC believes that actors preparing to provide or receive support should be doing more to factor the risks to affected people into their decision-making. However, the ICRC would also encourage them to explore opportunities to enhance the protection of civilians and others not fighting through their support relationships.

The ICRC asks actors involved in support relationships to:

1. integrate an analysis of the risks and consequences for civilians and others not fighting into how they manage their support relationships
2. take greater individual and collective responsibility for ensuring that civilians and others not fighting are protected
3. in the event of allegations of IHL violations or other problematic behaviour by a partner in a support relationship, take meaningful action to address the behaviour of concern.

In considering the range of risks and opportunities that may arise in a support relationship, decision makers should take into account the basic features of the relationship, namely the type of conflict, the actors involved, the military operations and associated activities to be undertaken by those actors, and the form of support to be provided. These factors have the potential to either aggravate or alleviate the humanitarian consequences of an armed conflict. This document provides some preliminary indications of the potential aggravating or alleviating impact of various risks and opportunities; these examples are not meant to limit the factors a decision maker may need to consider in a given context.

The ICRC encourages all actors to manage their support relationships responsibly, with a focus on the protection of those not fighting. This requires actors to place greater emphasis on the specific risks and opportunities the support relationship may present. This goal should guide decision makers as they weigh and implement various measures throughout the support relationship.

There are numerous practical steps that actors in support relationships can take to maximize the protection of civilians and others not fighting. Those steps should be considered and applied while preparing and implementing the support relationship and during the subsequent transition.

Based on its initial work on the topic, the ICRC has identified practical measures that can be taken internally or within a specific support relationship and grouped them in ten broad functional areas. Although those areas are notionally chronological, in practice they should be taken into consideration throughout the relationship.

The ICRC encourages actors to consider possible measures in each area from a legal, policy and operational perspective and at all levels of decision-making. This requires decision makers to look ahead and to take into account the specific risks or opportunities that may arise in the context of a given support relationship. That assessment will determine whether practical measures should be taken in any or all of those ten areas.

By exploring each of the ten areas, decision makers will identify key factors that will help them to manage their support relationships. Drawing on its operational experience, the ICRC provides some more specific lines of thinking in this document as examples, without prejudging the approach to be taken in any individual context.

Building on the above framework, the ICRC sets forth a range of questions that can help to guide decision makers in a given situation. The questions cover specific forms of support, activities or actors and touch on aspects of legal, policy and procedural issues. Decision makers can use these questions to factor the consequences for civilians and other protected people into their strategic and operational decisions at each stage of the support relationship.

This document represents a preliminary framework and is designed to prompt further reflection and engagement on issues related to support relationships in armed conflict. The ICRC looks forward to working with authorities in order to further refine its analysis and recommendations in this area.

PART A

PROBLEM ANALYSIS

1. INTRODUCTION

Over the past 20 years, the scale of human suffering resulting from armed conflicts has surged, challenging the ability of the ICRC – as well as that of the entire humanitarian sector – to address it. In that time, the provision of support to warring parties by external actors has emerged as a prominent feature of warfare. As such, it presents both risks and opportunities relative to respect for international humanitarian law (IHL) and the consequences of armed conflict more broadly.

Actors are encouraged to reduce the human cost of conflicts in the short and long term by managing their support relationships in order to better protect those not fighting.

Support relationships are a way for actors to share the burden of the war effort. Yet these actors should remain attentive to the impact of the war on those not fighting. From the ICRC's observations, the degree to which IHL compliance and the protection of affected people are factored into such support relationships seems, all too frequently, insufficient. The ICRC sees a need for actors to take a critical look at themselves, in addition to working with their partners, in order to manage their support relationships more responsibly.

In the ICRC's view, a range of practical measures can be implemented within a support relationship to reduce the negative impact of armed conflict on affected people. In fact, many actors already put in place such measures, and the ICRC has begun consulting with some of them in order to learn from their experience. This publication therefore reflects the initial findings following several years of focused dialogue with a range of actors and experts involved in such support relationships. It is also based on a literature review of open sources and on archival content accumulated by the ICRC over the last two decades of bilateral and confidential dialogue with belligerents around the globe.

Far from being a definitive pronouncement, this publication presents an initial framework developed by the ICRC to address the phenomenon of support relationships in armed conflict and their potential humanitarian shortcomings. It alerts decision makers to some of the risks and opportunities of engaging in support relationships in armed conflict. In addition to identifying a range of practical measures, this document provides decision makers with a series of questions that can help to guide them as they develop their own practical measures to manage their support relationships responsibly.

Through continued engagement and the sharing of experiences, the ICRC aims to promote good practices in an attempt to improve the protection of civilians and others not fighting from adverse consequences in support relationships. In the hope that this publication will prompt further reflection and engagement on the topic, the ICRC looks forward to renewing and deepening its interactions with actors involved in support relationships, and to assisting them wherever possible in identifying measures that can be adapted to their specific situation.

1.1 NAVIGATING THIS DOCUMENT

This publication is designed as a reference tool for a diverse range of readers. In particular, it is meant for people and entities taking decisions that affect how a support relationship is managed. Given the breadth of support relationships (see [Section 1.2](#)), those decision makers may work at any of a number of levels in the hierarchy and across the spectrum of defence, diplomacy, national security and development bodies in States and their equivalents within other actors. Decision makers can use this document as a roadmap to address the complex interplay of risks, choices and opportunities that support relationships entail relative to affected people.

The farther along in the document, the more detailed the considerations. Similarly, the guiding questions raised throughout the document evolve from broad, overarching questions to more focused questions towards the end. The document also combines considerations relevant to a variety of circumstances, the relevance of which will depend on the context. For these reasons, different sections may interest different readers.

Part A of this document explains the ICRC's interest in support relationships in armed conflicts. [Section 1](#) defines support relationships and frames the role of IHL within broader efforts to protect affected people and reduce the humanitarian consequences of war. The section ends with a description of the place of support relationships in contemporary and future armed conflicts. [Section 2](#) outlines the ICRC's view of the risks and opportunities presented by support relationships in armed conflict in terms of the protection of civilians and others not fighting: on one hand, a dangerous risk of diffusion of responsibility, on the other hand, an opportunity for partners to positively influence each other.

Part B unpacks key elements that should inform decisions about how to manage support relationships in such a way as to improve the protection of civilians and others not fighting. [Section 3](#) identifies the main factors shaping support relationships as well as the related risks and opportunities, namely: the nature of the conflict (international or non-international), the actors involved (States, multinational coalitions, peace forces, non-State armed groups (NSAGs) and private military and security companies (PMSCs)), the activities involved (e.g. conduct of hostilities, arrest, capture and detention, law enforcement operations and weapons and ammunition management (WAM)), and the forms of support to be provided (e.g. political support, arms transfers and partnered military operations (PMO)). As the ICRC urges greater consideration of the humanitarian impact of support relationships, some key concerns in the protection of affected people are highlighted in [Section 4](#) (e.g. persons deprived of their liberty, the dead, internally displaced persons (IDPs), missing persons, access to medical care, essential services, the natural environment and landmines and explosive remnants of war (ERW)). Decision makers can adapt the general observations found in this part to their own circumstances.

Part C focuses on a range of practical measures that could be used to manage support relationships responsibly. [Section 5](#) gives an overview of the ICRC's framework of practical measures for decision makers to better prepare, implement and transition support relationships. [Section 6](#) describes the ten areas for decision makers to consider in managing their support relationships in order to enhance the protection of civilians and others not fighting. To help decision makers to contextualize the framework, [Section 7](#) contains a series of practical questions that they should ask themselves as part of their effort to engage in support relationships responsibly. These questions address legal, policy and procedural issues as well as a number of considerations specific to given forms of support, activities, actors or humanitarian concerns. The aim is to enable decision makers to integrate the risks to civilians and other people protected by IHL into their strategic and operational decisions at each stage.

Throughout this document, the reader will find references to legal provisions and other resources. These are not exhaustive and, upon request, the ICRC can provide decision makers with further support in their effort to adapt practical measures to their own circumstances.

A glossary of terms used by the ICRC to describe support relationships in armed conflict can be found at the end of this document (page 156). While many commonly used terms and concepts describe elements of support relationships, the ICRC does not adopt or endorse the language of any particular actor, doctrine or organizational scheme. It should therefore not be assumed that a term used here has the same meaning attributed to it by other actors.

1.2 DEFINING SUPPORT RELATIONSHIPS IN ARMED CONFLICT

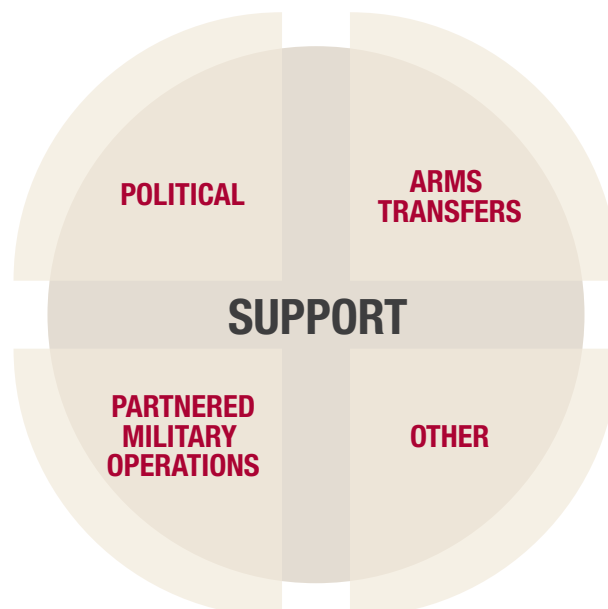
The ICRC defines a support relationship as one in which the support increases the capacity of a party to conduct armed conflict.

Support relationships have the potential, exercised or not, to positively influence the protection afforded to civilians and others not fighting in an armed conflict.

The concept of “support relationships in armed conflict” seeks to capture the breadth of relationships associated with risks to civilians and others not fighting.

The dynamics observed in recent years show that this concept includes support provided by or to States, international organizations and NSAGs. Those who support parties to armed conflicts may be bound by the IHL rules regulating such armed conflicts, notably when contributing to the collective conduct of hostilities by another party against an armed group or by exerting overall control over an armed group.¹ That is not a defining feature of a support relationship, however: in other cases, partners provide a type of support that increases the recipient’s capacity to engage in armed conflict without themselves becoming party to it.

With this definition, the realm of potential support relationships is vast and diverse. This publication is not meant to capture the diversity of all present and future iterations of support relationships, as actors and dynamics of relevance go beyond “proxy” and “surrogate” relationships. Some arrangements may directly heighten the humanitarian risk, while others have a more indirect impact. The aim here is to provide a lens through which both supporting and supported actors can better examine the humanitarian impact of their choices, whatever the circumstances.



¹ ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, ICRC, Geneva, 2019, p. 75: <https://shop.icrc.org/international-humanitarian-law-and-the-challenges-of-contemporary-armed-conflicts-recommitting-to-protection-in-armed-conflict-on-the-70th-anniversary-of-the-geneva-conventions-pdf-en>; ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, ICRC, Geneva, 2015, pp. 22–23: <https://www.icrc.org/en/document/international-humanitarian-law-and-challenges-contemporary-armed-conflicts>.

The support provided could be in the form of political support, PMOs or arms transfers, or take other forms such as institutional capacity support, financial support, or “hosting” (allowing an external military presence or transit rights). As trends in warfare shift, so too may the forms of support observed (see [Section 1.4.1](#)). For the purposes of the ICRC’s analysis, it is not the form of support that is key but rather its effect on the capacity of the supported party to engage in armed conflict. While not a defining feature, some relationships are mutual in that the supporting actor also receives some form of support back from its partner.

Two observations illustrate the importance of taking an expansive view of support relationships and their role in the conduct and humanitarian impact of armed conflict.

Firstly, many support relationships in armed conflict occur against the backdrop of broader ties between the partners. Among those ties are long-term security cooperation or assistance agreements that are not directly linked to the beginning or end of a specific conflict. Steps taken in the context of those relationships can nevertheless positively influence behaviour if conflicts later arise.

Secondly, the actions of parties and their partners have effects that continue to be felt long after the end of military operations, including for those who remain in detention, displaced from their homes or missing. IHL rules still apply to these groups and continue to protect them even after the conflict has ended. Importantly, managing the aftermath of conflict involves non-military stakeholders, from civilian authorities to external “stabilization” or development agencies.

Actors in support relationships should take a broad view of the role they can play in how a conflict is fought and its aftermath is managed.

1.3 INTERNATIONAL HUMANITARIAN LAW AND PROTECTION

IHL reflects the same principles that exist in many cultures and systems, namely the need to minimize the harm caused by armed conflict. Through treaties and custom, these rules have become increasingly detailed, constantly balancing between the principle of humanity and military necessity. The rules of IHL work together with other applicable domestic and international legal frameworks, including international criminal law, human rights law and rules on arms and ammunition.

As the guardian of IHL, the ICRC seeks to ensure that this body of law is faithfully applied, effectively disseminated and properly understood. The ICRC recognizes that changes in the nature of armed conflict over time give rise to new challenges in the interpretation and application of IHL. Indeed, it is part of the ICRC’s mandate to stimulate discussions of such challenges and possible solutions, including with belligerents that may contest the applicability or application of IHL to their actions. Some argue that IHL as a whole or specific rules or elements thereof do not apply to their conduct, in cases where the ICRC would argue that they do. Additionally, some actors disagree on the interpretation of IHL rules or their application to given circumstances, such as who is protected as a “civilian”. These arguments may be based on operational, legal, ideological or political considerations. A lack of clarity on the applicability and interpretation of IHL plays a role in the diffusion of responsibility in support relationships (see [Section 2.2.1](#)). The ICRC is concerned that such situations may lead to the weakening of protections owed to civilians and others not fighting, both in the case at hand and as a precedent for future cases.

In view of contemporary challenges, the ICRC’s work on support relationships is focused on pragmatic ways for partners in support relationships to secure greater protection for those not or no longer fighting in armed conflict. Parties to an armed conflict and those that support them must faithfully implement the IHL obligations incumbent upon them in order to reduce harm to civilians, those *hors de combat* and other people protected by IHL. This includes taking steps to increase the capacity of parties to uphold the letter and spirit of IHL.

In this publication, the ICRC asks decision makers to take a broad perspective in their support relationships and consider how they will mitigate the risk of negative humanitarian consequences and enhance the protection of those not fighting, including through better respect for IHL. A range of practical measures is suggested that can have a positive impact for affected people both during a conflict and in its aftermath, whether these measures are implemented as a matter of law or policy.

Key legal rules

Four Geneva Conventions of 1949

Additional Protocols of 1977

Customary international humanitarian law, as identified in the *ICRC Customary IHL Study*

For further information on IHL rules, see the [ICRC IHL databases](#)

Further reading

[International Humanitarian Law: A Comprehensive Introduction](#) (N. Melzer)

[IHL in Action: Respect for the law on the battlefield](#) (ICRC)

1.4 COMPLEX CONFLICT CHARACTERISTICS

While war is never simple in terms of the situations it creates and the decisions it requires, the ICRC has seen three key interconnected trends emerge over the last 20 years that make conflicts even more complex:

1. an increase in the number of armed conflicts, driven by the proliferation of non-international armed conflicts (NIACs)
2. a growing number of actors engaged in armed conflict
3. an increased prevalence of support relationships in armed conflict.

These factors of complexity pose challenges to actors – including humanitarian actors such as the ICRC – working to ensure civilians and others not fighting are protected in such situations.

Number and character of armed conflicts

The overall number of armed conflicts has been rising constantly since the late 1990s. This increase has been primarily driven by the more than doubling in the number of NIACs, in which at least one party is not a State.

The most common type of NIAC in the past two decades is between a State and one or more NSAGs, where there is an asymmetry in the military capacities of the parties. Owing to this asymmetry, both armed groups and traditional militaries have moved to develop new means and methods of combating the enemy.

Along with the growth in the number of NIACs, civilians increasingly find themselves at the centre of contemporary conflicts. Popular support is increasingly central to the perceived legitimacy and ongoing security of both the authorities and armed groups. When hostilities take place in populated areas, civilians and civilian objects are more likely to be harmed, and the effects will be felt long after the conflict has ended.

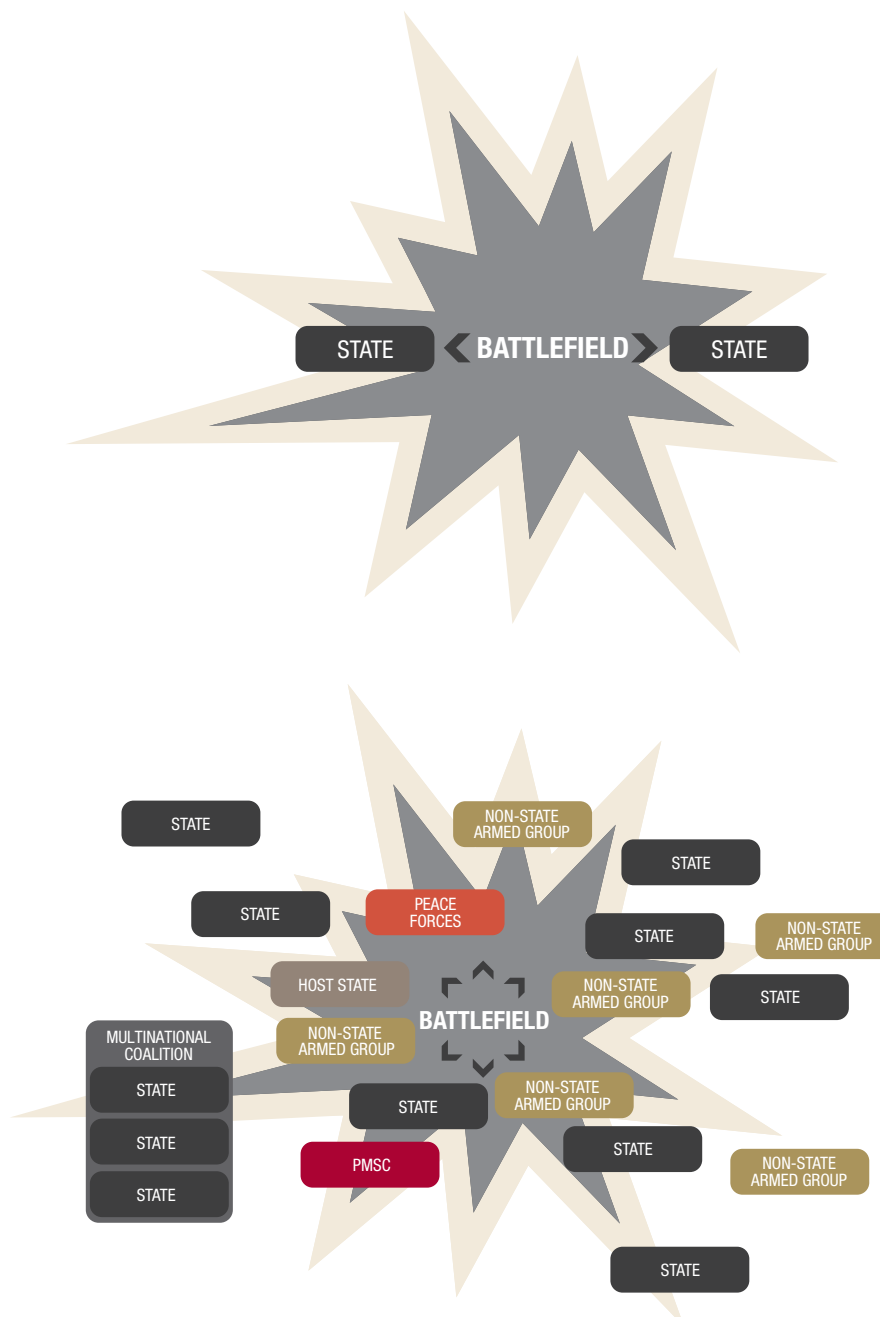
Further complexity comes when numerous armed conflicts take place at the same time in the same territory. Moreover, the lines separating conflict and other situations of violence are sometimes difficult to draw. As a result, responsibilities are often diffuse, and actors encounter practical challenges that undermine the ability to protect affected people.

Protracted conflict and instability are other factors contributing to the constant rise in the number of armed conflicts. Each wave of conflict and its aftermath create the conditions for the next conflict, which means comprehensive and lasting peace remains elusive. As an indication of this, the ICRC has been running its ten largest operations uninterrupted for an average of 42 years.

Multiplication of actors

The second trend of the last 20 years has been a multiplication of the number of parties to armed conflicts. ICRC data show that States experiencing NIACs are likely to have more than two NSAGs present on their territory, and many States experience multiple conflicts on their territory simultaneously. This trend is partly explained by the fragmentation and multiplication of groups in the same context. The other driving factor is the large number of States intervening in NIACs abroad.

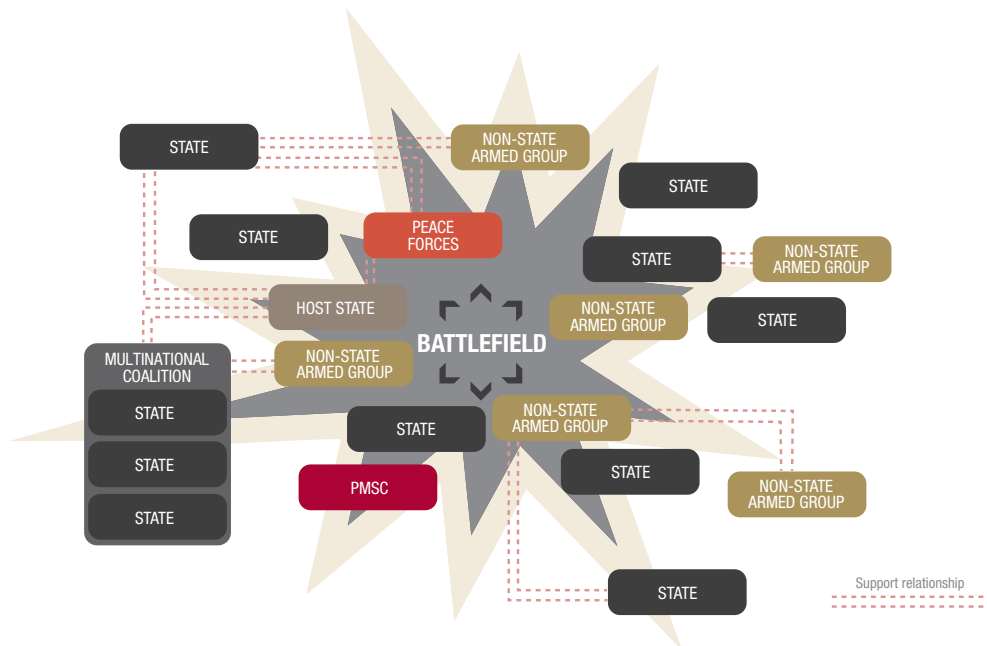
So, the image of war has progressively shifted from one of traditional confrontation between the militaries of two opposing States (see the figure below) to one where multiple actors are operating in the same battlespace (see the figure below):



Prevalence of support relationships

In the third trend, as the number of actors and conflicts has grown, it has become the norm for actors to work towards their strategic objectives in partnership with other actors. For example, as just a subset of the range of support relationships, more than one-third of NIACs today involve “coalitions” of States or NSAGs that are parties to the conflict.² These complex webs of support relationships have become increasingly prevalent and are a key feature of almost every major conflict in which the ICRC operates.³

Thus, contemporary armed conflicts are complex environments featuring multiple actors engaged in various relationships of support or confrontation:



Contemporary armed conflicts are fuelled by a steady supply of small arms, light weapons, major conventional arms and ammunition. Despite advances in regulating the international arms trade, weapons and ammunition continue to be supplied in large numbers to parties to armed conflicts – States and NSAGs alike – and to be diverted to unauthorized end users and end uses. The global trade in small arms and light weapons in particular consists of both newly produced weapons and surplus arms that are recycled from one conflict to the next over decades.⁴ The widespread availability of weapons following a conflict often contributes to continued tension and violence and jeopardizes efforts to establish lasting peace.⁵

While support relationships may reduce each partner’s individual cost and risk, the ICRC’s concern is that this reduction is not a zero-sum game and may lead to a diffusion of responsibility for which the price is ultimately paid by civilians and others not fighting. The specific risks and opportunities associated with support relationships are discussed further in [Sections 3](#) and [4](#).

² The term coalition is used here in its broadest sense, i.e. when an armed conflict involves, at least on one side, two or more parties fighting together.

³ See C. Droegge and D. Tuck, “Fighting together and international humanitarian law: Setting the legal framework”, 2017: <https://blogs.icrc.org/law-and-policy/2017/10/12/fighting-together-international-humanitarian-law-setting-legal-framework-1-2/>, all web addresses accessed December 2020.

⁴ See Small Arms Survey: <http://www.smallarmssurvey.org/weapons-and-markets/transfers.html>; ICRC, *Targeting the Weapons: Reducing the Human Cost of Unregulated Arms Availability*, ICRC, Geneva, 2005: <https://shop.icrc.org/targeting-the-weapons-reducing-the-human-cost-of-unregulated-arms-availability>.

⁵ *Targeting the Weapons* (see note 4 above).

1.4.1 PUTTING SUPPORT RELATIONSHIPS IN CONTEXT

Support relationships are a prevalent feature of armed conflicts and, based on the ICRC's observations, are associated with a significant scale of humanitarian consequences. The ICRC strongly suspects a positive correlation in this regard, although it does not seek to demonstrate direct causation in this publication.

Escalating and prolonging conflict

Support relationships increase the resources and capabilities available to supported parties to a conflict. They therefore risk escalating and/or prolonging these conflicts and the lack of security that follows. In some cases, the ICRC sees escalation spiral, as support by some external actors prompts an increase in external counter-support for the opposing party. The escalation and/or prolongation of armed conflict have important implications for affected people that continue long after the conflict has ended. Even where the support is seen as a means to shorten the conflict or as being in the interest of the civilian population, actors should still consider the potential humanitarian consequences.

Humanitarian consequences

As conflicts have become more complex and protracted, so too have the negative humanitarian consequences for affected people. In the same 20-year period where support relationships have become a common feature of armed conflict, the ICRC has witnessed devastating humanitarian consequences in conflict situations.

Engaging in relationships of support in armed conflict has consequences. While individual actors may see themselves as playing a relatively minor role in partnership with others, there is nonetheless a question as to whether the cumulative effect of their and their partner's actions exposes affected people to greater risk in the short and long term. The humanitarian consequences of war can, in turn, shape the prospects for recovery and reconstruction – two important contributing factors to stability.

Support relationships in armed conflict allow actors to share the financial, political and operational burden of pursuing their strategic objectives. This advantage is likely to remain relevant in the years ahead.

The aforementioned trends seen over the past 20 years have been significantly shaped by the confrontation between self-described jihadi groups and their adversaries. That confrontation affects roughly half of the States experiencing NIACs within their territory, and the vast majority of foreign interventions are directed against this category of armed groups. As comprehensive peace remains elusive in those situations, it seems likely that these trends will continue over the coming years.

The ICRC is aware of the resurgence of strategic competition between “great powers” as the primary security threat perceived by some States. In an increasingly complex global security environment, this shift in priorities is likely to have major consequences for the nature of warfare. The risk of international armed conflict (IAC) between “peer” States looms large and would have potentially devastating humanitarian consequences. Against that background, the use of support relationships to secure broader strategic objectives will likely continue, if not increase. Existing bilateral and multilateral support relationships will probably be deepened, and new support relationships will form. They may feature greater maritime and cyber, and potentially even space, components. Developments in weapons technology, including armed drones and autonomous weapons systems, influence how warfare is conducted and thus the dynamics of support relationships. Insofar as they raise unique challenges, the humanitarian consequences of such conflicts would be a matter for further consideration.

Support relationships will remain an enduring feature of armed conflict.

2. RISKS AND OPPORTUNITIES IN SUPPORT RELATIONSHIPS

This section looks in more detail at the risk of a diffusion of responsibility between actors in a support relationship, as well as at the opportunity for them to work together to enhance the protection of, and reduce the negative humanitarian consequences for, affected populations. The ICRC asks decision makers to consider how they will mitigate the risk of negative humanitarian consequences and enhance protection of those not fighting, including through better compliance with IHL. More specifically, actors are asked to integrate an analysis of the risks and consequences for civilians and others not fighting into how they manage their support relationships, to take greater responsibility for their protection, and to take meaningful action to address any behaviour of concern.

As explained in [Section 1.2](#), it is important to take a broad view of the role of actors in a support relationship with regard to the conduct of conflict and its consequences. In keeping with this approach, the notion of “responsibility” is not limited to legal responsibility but rather refers to a broader concept that also includes ethical, moral and political aspects of responsibility. Thus, unless otherwise stated, references to responsibility are not a statement of the international legal obligations an actor may have in a given situation.

While the considerations applicable to each may differ, both supporting and supported actors have a role to play in managing their relationship responsibly. They should seek to exercise responsibility individually and collectively for the protection of civilians and others not fighting.

2.1 THE NEED FOR COHERENCE BETWEEN PARTNERS

In the ICRC’s view, three factors are central to whether a support relationship will accentuate the risks of negative humanitarian consequences or opportunities to improve the situation:

1. intent
2. leadership
3. capacity.

Each actor should assess its own position and that of its partner with respect to these three factors. The degree of alignment between the actors across these factors is an indicator of the risks or opportunities associated with their support relationship. This understanding should inform how actors prepare for, implement and transition their support relationship.

These three factors are introduced briefly below and discussed further in [Section 6.1.3](#).

Intent

Intent is defined here as the sum total of the objectives or goals of each partner. This includes political or military goals as well as the priority placed on compliance with IHL and other international standards and the protection of civilians, others not fighting, and both civilian and specifically protected objects.

The strength of a prospective partner’s intention or willingness to comply with IHL and promote the protection of affected populations will be a key factor in the relationship achieving that outcome.

Two partners in a support relationship rarely share precisely the same intent because their strategic objectives and values diverge to some degree, particularly over time. Their commitment to IHL and other protective norms may well also diverge. Understanding these factors, and their underlying drivers, is key to assessing and managing the risks associated with the support relationship and the opportunities to positively influence the partner.

Leadership

Leadership refers to the organizational structure of an actor and its ability to ensure that the actor's intent and directions (instructions or guidance) are understood, respected, and faithfully executed throughout the chain of command. This indicates the partners' capacity to effect change and the likelihood that an intent to comply with IHL and protect affected people will be properly implemented at the operational level.

As roles are allocated in a support relationship, it is important for each actor to understand the extent to which it can rely on its partner's leadership at various levels, and any countervailing influences.

Capacity

Capacity refers to the material assets, human resources and skills available to an actor to achieve its objectives. It concerns both the scale and quality of those resources, as well as their suitability to the activities to be undertaken. A partner may have strong leadership but lack the resources to achieve its objectives.

In addition to ensuring that each partner has the capacity to perform its agreed role, it is important for the partners' capacities to be complementary. A support relationship in which both intent and leadership are strong may nevertheless present risks if the partners' resources are not appropriately aligned and interoperable.

2.2 RISKS TO CIVILIANS AND OTHERS NOT FIGHTING

Numerous factors in a support relationship have the potential to either aggravate or alleviate the specific risks to civilians and other people protected by IHL. Principal among them are the type of conflict, actors and activities involved, and the type of support provided. These issues are explored further in [Sections 3 and 4](#).

Decision makers within authorities engaging in support relationships should consider these specific risks and take practical measures to mitigate them when managing the support relationship.

However, the ICRC believes that the overarching risk is that of a diffusion of responsibility.

2.2.1 DIFFUSION OF RESPONSIBILITY

Support relationships present a risk of diffusion of responsibility between the actors involved. While acting in partnership with others, each actor's responsibilities can become unclear or minimized, whether intentionally or not. This diffusion is closely linked with the degree of alignment between the partners' intent, leadership and capacity (see [Section 2.1](#)).

The diffusion of responsibility weakens the protection of affected people and therefore represents the most significant risk associated with support relationships.

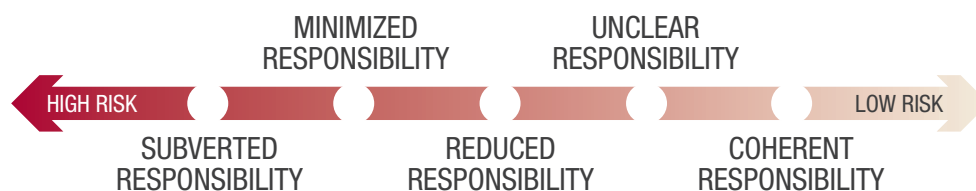
Practical indicators of the degree to which responsibilities are diffused include:

- **Ownership of the cumulative impact of the relationship**
While not inherently problematic, burden sharing through support relationships risks reducing one partner's understanding and sense of ownership of the consequences of the relationship for affected people. Responsibility for managing the cumulative effects of support relationships does not lie solely with the supported party to a conflict.
- **Common understanding of IHL obligations**
Clarity about each partner's obligations under IHL is a necessary condition for ensuring respect by its own forces and by its partner. Ambiguity as to the scope or meaning of a partner's obligations or the denial of responsibility can leave gaps that have knock-on effects on the other factors listed.
- **Clarity in roles and responsibilities**
In the absence of clearly delineated roles and responsibilities, support relationships are frequently marred by practical coordination-related challenges that increase the risk of harm to protected populations. Such challenges can result in direct or indirect harm. They can also create confusion among the local population, preventing people from reporting issues such as possible IHL violations.
- **Internal accountability and accountability between partners**
Accountability internally and within the relationship can range from diplomatic to legal measures, depending on the conduct. The indicators above (ownership, obligations, and clarity of roles and responsibilities) affect actors' accountability for their actions and the consequences in armed conflict. This can be due to factual circumstances being obscured, ambiguity about responsibility, or inadequate systems and processes. Additionally, actors are not always willing and able to hold themselves and their partners accountable for errors or misconduct. This prevents the actors from taking the necessary corrective steps to prevent those errors from recurring and may contribute to a culture of impunity.
- **The scale and severity of the humanitarian impact**
The nature and extent of negative humanitarian consequences may indicate a diffusion of responsibility. Those negative humanitarian consequences may be related to the intent of either or both actors, their capacity and leadership to secure compliance with IHL and other standards, or other practical challenges.

The above indicators may point to an increased severity of the humanitarian consequences of conflict, although they will not occur in every support relationship. The indicators are interdependent, meaning that weakness across numerous indicators multiplies the risks associated with the relationship.

2.2.2 A SPECTRUM OF RESPONSIBILITIES

The extent of any diffusion of responsibility depends on the interaction of numerous factors and cannot be measured in absolute terms. It is nonetheless useful to differentiate between some common scenarios:



The greatest diffusion of responsibility – and thus highest risk – occurs where responsibility (whether it derives from law, ethics or other sources) is subverted by either or both actors in the support relationship. Support relationships that present the lowest risk are those where responsibility is clearly established and coherent between the partners.

Subversion of responsibility

Some actors pursue support relationships to avoid legal or political responsibility for misconduct in armed conflict. When relationships are established to deliberately operate outside the bounds of the law, this often results in serious violations of IHL and human rights. The partners undermine IHL and weaken the protection of victims, not just in that relationship but also with respect to other parties and future conflicts.

In some cases, actors take advantage of an unequal support relationship to violate IHL in the knowledge that its partner cannot or will not hold it accountable. In other cases, they choose to engage with a partner knowing that the partner is not bound by the same legal obligations or will not comply with its legal obligations, or both. In more problematic situations, actors support the establishment of separate forces precisely for this purpose.

Some supporting actors may breach their own legal obligations by providing support (e.g. under Article 1 common to the Geneva Conventions, the law of State responsibility or arms control or disarmament treaties).

Minimized responsibility

Deliberate efforts by either or both partners to minimize their responsibilities are likely to result in problems of coordination, compliance and accountability.

One form of minimized responsibility is where responsibility is delegated from one actor to another. There is a delegation of responsibility in relationships where the supported party is effectively a proxy or surrogate for its sponsor. Although an actor may not intend to subvert the law, a problem arises when the party to which responsibility is delegated does not have the training, resources or willingness to fulfil its obligations under IHL and other international laws. Emboldened by the absence of oversight and accountability between partners, parties to the conflict may feel less restrained in their conduct or go beyond the agreed objectives of the support relationship. Thus, there may be a risk of the supported party committing violations of IHL, even though this was not the intent of the supporting actor.

Besides surrogate relationships, actors may seek to minimize their responsibilities in the way they frame their role in the relationship. For example, an actor may consciously choose to provide support that would keep its actions below the legal threshold of becoming a party to the armed conflict (see [Section 3.1](#)).

Minimizing responsibility in support relationships hampers the partners' combined capacity to protect those not fighting and to enhance compliance with IHL. The partners are often unable or unwilling to monitor and evaluate their partner's conduct, resulting in a lack of accountability and hindering learning cycles.

Reduced responsibility

While not deliberately seeking to minimize responsibility, partners that are effectively operating in parallel without having prepared and implemented the support relationship together to prevent harm to civilians and others may see gaps inadvertently emerge in their actual or perceived responsibility. The actors may have diverging intents or gaps between their capacity and leadership that have not been mitigated. Even if each actor has good oversight of its own actions, the absence of mechanisms to liaise with its partner means that neither has a full and accurate picture. This can result in coordination issues, a lack of oversight and accountability, and a limited understanding of the collective impact of the relationship on affected people.

Unclear responsibility

Even between partners that are well aligned, a diffusion of responsibility can occur where their respective roles and responsibilities are not clearly defined or there is ambiguity about how they apply IHL. Similarly, having parallel rather than joint reporting mechanisms may hamper accountability and learning. These structural factors can result in coordination problems.

Coherent responsibility

The risks that support relationships pose for people protected by IHL are significantly lower when the partners clearly identify their respective roles and take individual and joint responsibility for ensuring compliance with IHL by their personnel and for the protection of people not, or no longer, participating in hostilities. This is the optimal state for a support relationship, in which there is limited or no diffusion of responsibility.

2.2.3 INTERCONNECTED SUPPORT RELATIONSHIPS

Where a relationship is composed of several partners, or there is a chain of support relationships, the risk of a diffusion of responsibility is multiplied across those relationships.

If the same party to a conflict receives support from multiple external actors, there is likely to be difficulty coordinating those support relationships. The supporting actors will each have diverging intents, capacities and leadership features that will shape their relationship with the party. The greater the divergences, the more significant the barriers to coordinated action, including efforts to minimize civilian harm. This can be the case even where the support is intended to be complementary.

Providing support to multiple parties in the same conflict runs a high risk of inconsistent outcomes, which may result in unnecessary destruction and harm. Supporting actors may also need to consider the risk that support provided in one conflict will have a knock-on effect in another, for example through the movement of fighters or weapons. Decisions to provide support should therefore be taken at a whole-of-government level, taking into consideration the possible long-term consequences.

A supporting actor may provide parallel lines of support, under separate management, to a single party to a conflict. It may do so for several reasons: where it needs to distinguish between different types of support, where the agencies providing or receiving the support differ, or where it is acting in conjunction with other supporting actors for one component of the support. Additionally, formal and practical barriers to communication between personnel acting under separate mandates create a risk of leaders taking decisions based on imperfect or incomplete information.

2.3 THE OPPORTUNITY FOR SUPPORT RELATIONSHIPS TO IMPROVE THE PROTECTION OF CIVILIANS AND OTHERS NOT FIGHTING

In striving for coherent responsibility within a support relationship, actors should be aware of the opportunities to manage their relationships in such a way as to improve the protection of civilians and those no longer fighting.

Actors in a support relationship are in a unique position to influence their partners' behaviour. Investing in the relationship with a partner to prevent IHL violations, operationalize the law and reduce the dangers faced by those not fighting can contribute to reducing the negative humanitarian consequences of conflict. Steps can and should be taken to this end by both supporting actors and supported parties to a conflict.

Legal reminder

Actors shall, to the extent feasible, exercise their influence with their partners to promote compliance with IHL and the protection of civilians, those *hors de combat* and other people protected by IHL.

The ICRC believes that actors can achieve this by seeking to identify and proactively address gaps in alignment between their respective intent, leadership and capacity. The ICRC has identified ten broad categories of measures for achieving this and fostering compliance with IHL and the protection of civilians and others not fighting. These are explored in the chapters that follow.

Below, this document looks at how support relationships create an opportunity to have a positive influence on partners in pursuit of better protection of those not fighting.

2.3.1 INFLUENCING PARTNER BEHAVIOUR

Partners in a support relationship typically have the potential to influence each other. The scale of that potential will be determined by several factors, including the quantity and quality of support, the degree of dependency each actor has on the relationship, and the strength of any other ties between the actors. Owing to its mandate, the ICRC is focused on the influence related to the support relationship in armed conflict, even though an actor's total influence will be affected by those other ties.

An actor's potential influence will vary between partners and support relationships, based on a combination of the above factors. As those factors change over time – particularly in response to the evolution of the conflict and the relationship – so will each actor's influence. Importantly, even support relationships that may seem relatively minor hold some potential influence. There may also be a gap between an actor's potential and actual influence, depending on its willingness to exercise it and the effectiveness of the measures employed to do so.

Whatever the balance between the partners, there is still a degree to which each can influence the other by virtue of what they bring to the relationship. Both supporting and supported actors can exercise their influence by adapting their contribution to the relationship to foster better protection of civilians and others not fighting.

The need to exercise this influence becomes all the more acute where there are specific problems with a partner's behaviour, such as possible violations of IHL or systemic issues that may lead to IHL violations in future. However, choosing how to exercise that influence may well represent a challenge.

If an actor in a support relationship becomes aware of problematic behaviour by its partner, it faces a choice: to limit or halt its engagement until the problem is appropriately addressed, or to increase its engagement to foster better protection.

Although a long-term reduction in support may alter the actor's potential influence, short-term measures to halt or withdraw support can be an important way to exercise influence or prevent humanitarian problems from occurring. Moreover, choosing not to adjust the relationship may be seen as tacit acceptance of the problematic behaviour, possibly reinforcing it. Yet, increased support could either enhance the potential influence or directly improve the overall capacity to protect affected people and comply with IHL.

Paradoxically, some of the steps taken by an actor to positively influence a partner's compliance with its legal obligations may also increase the actor's own legal responsibility. However, not all practical measures will have this result. Moreover, actors should also consider their broader responsibility to exercise their influence, within the limits of international law.

Legal reminder

Under IHL:

- all parties to an armed conflict must respect IHL
- all States must ensure respect for IHL in all circumstances
- all States must do everything reasonably in their power to prevent violations of IHL by the parties to an armed conflict and bring such violations to an end⁶
- all States must refrain from encouraging, aiding or assisting in violations of IHL
- all States have a duty to investigate and, where appropriate, prosecute serious violations of IHL.⁷

⁶ See ICRC, *Commentary on the First Geneva Convention*, 2016, paras. 164–173: <https://ihl-databases.icrc.org/ihl/full/GCI-commentary>; *IHL Challenges Report 2019*, pp. 75–76 (see note 1 above): <https://shop.icrc.org/international-humanitarian-law-and-the-challenges-of-contemporary-armed-conflicts-recommitting-to-protection-in-armed-conflict-on-the-70th-anniversary-of-the-geneva-conventions-pdf-en>.

⁷ See J.-M. Henckaerts and L. Doswald-Beck (eds), *Customary International Humanitarian Law, Volume I: Rules* (hereafter *ICRC Customary IHL Study*), ICRC, Cambridge University Press, Cambridge, 2005, reprinted 2009, Rule 156 and explanation, pp. 568–603: <https://ihl-databases.icrc.org/customary-ihl>.

Actors have a wide range of measures available to positively influence their partners in support relationships. Depending on the issue, decisions about which measures to take will be made across agencies and at every level. It will be for decision makers to determine what approach will be most effective at securing the protection of civilians and others not fighting in the circumstances. The ICRC stands ready to assist actors in applying this document to their own situation within the bounds of its longstanding confidential, bilateral approach.

2.3.2 TOWARDS COHERENTLY RESPONSIBLE SUPPORT RELATIONSHIPS

Managing support relationships is a complex topic in which the choice of how to positively influence partners might not be obvious. The practical measures and questions detailed in [Sections 6](#) and [7](#) set out some key considerations that will help guide decision makers towards the most pertinent practical measures in their respective circumstances.

In addition to any legal obligations they may have, the ICRC asks actors involved in support relationships to:

- 1) integrate an analysis of the risks and consequences for civilians and others not fighting into how they manage their support relationships*
- 2) take greater individual and collective responsibility for ensuring that civilians and others not fighting are protected*
- 3) in the event of allegations of IHL violations or other problematic behaviour by a partner in a support relationship, take meaningful action to address the behaviour of concern.*

Part C of this document looks at how these goals may be achieved.

PART B

SPECIFIC FACTORS IN SUPPORT RELATIONSHIPS

3. UNDERSTANDING SUPPORT RELATIONSHIPS

This section explains the key factors in a support relationship that can present specific risks and opportunities for affected people, namely:

1. the type of conflict
2. the actors involved
3. the associated operations or activities that the supported party will undertake
4. the type of support provided.

Each of the above factors is relevant to understanding a support relationship in armed conflict and, therefore, how it can be managed so as to improve protection and reduce harm to affected people (see [Section 5.1](#)). Below are some of the considerations relevant to each of the above factors. However, actors engaging in support relationships should undertake their own comprehensive assessment of the risks and opportunities without limiting themselves to the issues detailed below.

3.1 TYPE OF CONFLICT

International law recognizes only two types of armed conflict: international armed conflict (IAC) and non-international armed conflict (NIAC). Amongst other criteria, situations of violence may be classified as either IAC or NIAC depending on the nature of the actors involved. As described in [Section 1.4](#), the ICRC has observed a marked rise in the number of conflicts, driven by an increase in the number of NIACs. It has also observed a growing number of parties to conflicts, either to the same conflict or to parallel conflicts taking place in the same territory.

Depending on which actors become involved in support relationships ([Section 3.2](#)), the type of support they provide ([Section 3.4](#)) and their degree of control over the supported party to a conflict, a supporting actor may become a party to an IAC and/or a NIAC.⁸ Although support provided to parties does not always reach this threshold,⁹ it may nevertheless increase or reduce the human suffering resulting from the conflict.

It is also to be noted that other situations of violence not rising to the level of IAC or NIAC can take place before, after or alongside a conflict. These other situations of violence normally involve law enforcement personnel rather than the military, although such distinctions can prove challenging in complex environments.

Further reading

[“The ICRC’s legal position on the notion of armed conflict involving foreign intervention and on determining the IHL applicable to this type of conflict”](#) (T. Ferraro)

3.1.1 INTERNATIONAL ARMED CONFLICT

An IAC occurs when one or more States have recourse to armed force against another State, regardless of the reasons or the intensity of this confrontation. No formal declaration of war or recognition of the situation is required. The existence of an IAC and, consequently, the applicability of IHL to this situation depend on factual conditions on the ground.

⁸ *IHL Challenges Report 2015*, pp. 22–23 (see note 1 above).

⁹ Other forms of support may nonetheless have implications in terms of the law of international responsibility.

Key legal rules

Geneva Conventions of 1949

Additional Protocol I of 1977

Customary international humanitarian law

3.1.2 NON-INTERNATIONAL ARMED CONFLICT

NIACs are armed conflicts between governmental armed forces and NSAGs or between such groups only.

Two requirements are necessary for such situations to be classified as NIACs. First, the fighting must reach a certain level of intensity, amounting to hostilities. Second, an NSAG involved in the conflict must possess a sufficient degree of organization, so as to be considered a “party” to the conflict. This means for example that its forces must be under a command structure and have the capacity to sustain military operations and respect IHL.

Key legal rules

Article 3 common to the Geneva Conventions of 1949

Additional Protocol II of 1977

Customary international humanitarian law

Further reading

[*Increasing Respect for International Humanitarian Law in Non-International Armed Conflicts*](#) (M. Mack)

3.1.3 PARALLEL ARMED CONFLICTS

Many States experience two or more simultaneous conflicts on their territory. This, together with the growing number of parties to a conflict, is a key factor in the diffusion of responsibility and heightened humanitarian consequences (see [Section 1.4](#)).

Support relationships in such complex situations may be particularly affected by challenges in practical coordination. The presence of other actors operating on the territory may also impede traditional approaches to monitoring, evaluation and oversight, for which alternative solutions will need to be found (see [Section 6.2.4](#)).

In considering the risks and opportunities associated with their activities (see [Section 2](#)), actors should consider whether the effects of their activities combined with the effects of other actors’ activities could harm the affected population more than if the effects of their activities occurred in isolation.

Notwithstanding the factual complexity of the situation on the ground, the applicable rules of IHL remain clear. Actors shall, to the extent feasible, exercise their influence with their partners to promote compliance with IHL and the protection of civilians and others not fighting.

SPECIFIC RISKS

- Difficulty distinguishing between fighters and civilians
- Militarization of law enforcement

SPECIFIC OPPORTUNITIES

- Leverage industrial and technological capacity in order to reduce the negative effects of conflict

3.2 ACTORS INVOLVED

One of the key factors for decision makers to consider is who is involved in a support relationship. The type and number of actors involved will have some bearing on the risks and opportunities arising from the relationship. Arguably, the more actors, the higher the risk of a diffusion of responsibility between those actors.

A support relationship may be bilateral, with support being provided by one actor to another, or consist of constellations of actors and relationships that are significantly more complex. Support relationships can involve States, multinational coalitions or alliances, PMSCs and NSAGs, or peace forces (see [Section 1.2](#)). Some considerations specific to each type of actor are detailed below. However, there is great variance between individual actors and relationships, hence the importance of assessing the intent, leadership and capacity of each actor in a given situation (see [Section 6.1.3](#)).

3.2.1 STATES

As a supporting actor, a State may provide support to another State or to an NSAG. A State might also join a multinational coalition, contribute troops to a peace operation, or hire a PMSC to provide support to another actor. Depending on the type of support they provide, these States may become parties to the conflict – notably by contributing to the collective conduct of hostilities by another party against an armed group or by exerting overall control over an armed group.¹⁰

A State may also receive support as a party to an armed conflict. The most common scenario is when one State (the host or territorial State) engages in a NIAC on its territory against one or more NSAGs and receives support to do so from one or more other States individually or in coalition.

Where States conduct PMOs (see [Section 3.4.3](#)), it can become unclear which of them, if any, is a party to the conflict. It is less likely that a supporting State will be a party to the conflict when providing other forms of support, but it will still have legal obligations.

States have a particular status and legal obligations under international law. Ensuring respect for IHL includes an obligation not to encourage, aid or assist in violations of IHL, as well as a due diligence obligation to take proactive steps to influence parties to conflict and bring them to an attitude of respect for IHL.¹¹ The obligation to ensure respect for IHL is an obligation of means and not of result, and States have very broad discretion in choosing measures with which to exercise influence (see [Section 2.3](#)).

Legal reminder

Under IHL, States must:

- respect IHL
- refrain from providing any support that would encourage, aid or assist in violations of IHL
- do everything reasonably in their power to prevent violations of IHL by the parties to an armed conflict and bring such violations to an end.¹²

In addition, supporting States may have obligations under other provisions of international law. For instance, parties to the Arms Trade Treaty must refrain from authorizing weapons transfers if there is a clear or substantial risk of the arms being used to commit or facilitate serious violations of IHL (see [Section 3.4.2](#)).

¹⁰ *IHL Challenges Report 2015*, pp. 22–23 (see note 1 above).

¹¹ *IHL Challenges Report 2019*, pp. 75–76 (see note 1 above); *Commentary on the First Geneva Convention*, [paras. 164–173](#) (see note 6 above).

¹² Article 1 common to the Geneva Conventions; Additional Protocol I to the Geneva Conventions; *ICRC Customary IHL Study*, Rules 139 and 144 (see note 7 above). See also *Commentary on the First Geneva Convention*, [paras. 164–173](#) (see note 6 above); *IHL Challenges Report 2019*, pp. 75–76 (see note 1 above).

A territorial (host) State receiving external support for an IAC or NIAC will need to manage its support relationships. Issues that may arise include defining the scope of authority for foreign armed forces to operate on its territory (see [Section 6.1.3](#)), ensuring compliance with domestic law, and monitoring and accountability for the conduct of supporting actors (see [Section 6.2.4](#)).

How a State chooses to frame the contest with its adversary and how it labels its adversary affect its decisions and practices relative to the use of force, for example in applying the principle of distinction in attack, or in the treatment of persons deprived of their liberty (see [Sections 3.3.3](#) and [4.1](#)).

Inadvertently or deliberately imprecise terms used to categorize the adversary are likely to increase civilians' exposure to the use of force. This has proven to be an important issue over the last 20 years with the prevalence of NIACs between States and NSAGs, where the State controls domestic legal frameworks.

Stigmatizing entire communities as an extension of the adversary may legitimize permissive attitudes towards the use of force or otherwise negatively affect how civilians are treated. Such treatment may then reinforce the sentiments of exclusion, injustice and disenfranchisement that contributed to the conflict in the first place.

While the increased military capacity provided by external support may be an advantage in the conflict, an over-reliance on that kinetic advantage may result in increased or even disproportionate civilian harm. This is particularly true where external support is provided to a territorial State against an NSAG if there is already an asymmetry of means between the parties. Alternatively, a supporting State might provide weapons that are not suited for the terrain or the situation, such as explosive weapons with wide area effects that are ill-adapted for use in populated areas.

By harnessing cross-governmental, military, security and civilian institutional capacity, support relationships may present an opportunity to achieve a more integrated approach to protecting civilians and others not fighting during hostilities and in their aftermath.

Additionally, there may be an opportunity to leverage States' industrial and technological capacities to reduce the negative overall effects of conflict.

SPECIFIC RISKS

- Inadequate/imprecise distinction between fighters and civilians
- Militarization of law enforcement
- Choice of means and methods not adapted to military necessity

SPECIFIC OPPORTUNITIES

- Harness cross-governmental capacity to integrate the protection of civilians and others not fighting throughout the relationship
- Leverage industrial and technological capacity to reduce the negative effects of conflict

3.2.2 MULTINATIONAL COALITIONS

The concerns that apply to single States as supporting actors are multiplied when the situation includes a coalition or alliance of States.

Typically, each State in the coalition maintains command and control of its own armed forces, which then need to be coordinated. Each State will be responsible for the conduct of its armed forces and will also be obligated to ensure its partners respect for IHL.

When an international organization has command and control over the operation conducted by State armed forces, the international organization will be party to the conflict, either in addition to or instead of the States. In that case, the international organization would also have *mutatis mutandis* obligations under IHL similar to those of States.

From one perspective, States in a multinational coalition may be seen as collectively providing support to another State (usually the territorial State). In such cases, the coalition members will need to work together to ensure that the support relationship is managed in a way that fosters compliance with IHL and protection for those not fighting. Although the contributions of individual coalition members may differ, each member will have obligations under international law and the capacity to influence the support relationship in a way that will minimize the negative humanitarian consequences of the conflict (see [Section 2.3](#)).

From another perspective, there may be relationships of support within a coalition, i.e. between coalition members. This is applicable where one or more of the coalition members is a party to the conflict and receives support from others for this purpose. On this view, States also have responsibilities with respect to their support for other coalition partners.

Legal reminder

Under IHL, States and international organizations must:

- respect IHL
- refrain from providing any support that would encourage, aid or assist in violations of IHL
- do everything reasonably in their power to prevent the parties to an armed conflict from violating IHL and to bring such violations to an end.

In addition to the factors relevant to States' bilateral support relationships (see [Section 3.2.1](#)), some risks and opportunities arise in coalition situations.

Key considerations include how the mandate of a coalition is established (if any) and how the coalition frames the adversary as distinct from civilians. Mandates are generally negotiated amongst numerous coalition partners with varying interests and varying degrees of knowledge and understanding of the situation. The risk is that, in negotiating the coalition, the actors lose sight of the interests of the affected people. Attention may be focused on reaching agreement rather than optimizing the management of the relationship to reduce harm. Moreover, the process of negotiating may lead the coalition to adopt the "lowest common denominator" in standards and practices relating to the protection of affected people.

While the combination of States with differing commitments allows those States to share the burden of the engagement, they risk having divergent interests and approaches that result in diffused responsibility. At an operational level, they will face challenges of coordination requiring specific measures to improve interoperability (see [Section 2.2.3](#)). Therefore, coalitions need to be carefully managed to ensure coherent responsibility throughout the relationship.

A coalition that is under-resourced or to which some of its contributors are insufficiently committed may find itself unable to dedicate the resources needed to adopt good practices to improve humanitarian protection, such as in relation to training, monitoring and evaluation. Similarly, significantly varying capabilities within a coalition may also present challenges in alignment and coordination.

It is important that the local context – including the culture, values, demographics and politics – be considered by the coalition in the preparation phase. As with bilateral support relationships, coalition alignment against a particular party to a conflict may inflate local stigmatization rhetoric and practices with significant consequences for civilians, the wounded and detainees during and after hostilities. Steps could be taken by coalition members to avoid this, for example by reinforcing norms of restraint and ensuring equitable access to any humanitarian assistance.

Multinational coalitions have an opportunity to optimize not only the collective capacity for military activity, but also measures to enhance the protection of civilians and others not fighting by pooling collective expertise and resources.

SPECIFIC RISKS

- Confusion of roles and responsibilities
- Mandates not aligned with the needs of the affected people
- Lack of alignment in reporting procedures, hindering oversight, accountability and learning processes
- Accountability gaps
- Lack of alignment of capacity between partners, resulting in a diffusion of responsibility and practical challenges of coordination

SPECIFIC OPPORTUNITIES

- Promote highest standards, e.g. through normative engagement, institutional capacity building and IHL training
- Increased availability of expertise and resources to reduce the impact on affected people
- Collective improvement through learning processes

Further reading

[“Multinational Operations and the Law”](#) (IRRC)

See also:

- [Section 3.2.3](#) Peace forces
- [Section 3.4.3](#) Partnered military operations

3.2.3 PEACE FORCES¹³

The scale of peace operations has increased in the past 20 years, although deployments have declined slightly in recent years.¹⁴ These operations are made up mostly of military personnel but also include some police and other civilian staff. United Nations peace operations account for nearly two-thirds of all personnel deployed in peace operations.¹⁵

It is the facts on the ground that determine whether peace forces become a party to a conflict, irrespective of the mandate assigned to them by the UN Security Council and the term used for their potential opponents. As noted in [Section 3.2.2](#), where armed forces are operating under the command and control of a multilateral or international organization with international legal personality, the organization itself will generally be considered a party to the conflict, not the troop-contributing countries.

Regardless whether the peace forces become a party to the conflict, they will often be in a relationship of support with the territorial State. As with multinational coalitions, one might also characterize the relationship between the international organization and troop-contributing countries, or amongst those troop-contributing countries, as relationships of support. The considerations specific to peacekeeping forces are therefore similar to those of multinational coalitions (see [Section 3.2.2](#)).

¹³ The term “peace forces” is used generically to describe military and civilian personnel deployed on multilateral operations by the United Nations or otherwise authorized by the United Nations Security Council for peace-enforcement or peacekeeping purposes.

¹⁴ For various estimates, see: SIPRI, “Global developments in armed conflicts, peace processes and peace operations”, *SIPRI Yearbook 2020*, Oxford University Press, Oxford, 2020: <https://www.sipri.org/yearbook/2020/02>; Institute for Economics & Peace, *The Economic Value of Peace 2018: Measuring the Global Economic Impact of Violence and Conflict*, IEP, Sydney, October 2018, p. 10: <https://www.economicsandpeace.org/wp-content/uploads/2020/08/Economic-Value-of-Peace-2018.pdf>.

¹⁵ “Global developments in armed conflicts” (see note 14 above).

Legal reminder

Under IHL, States and international organizations must:

- respect IHL
- refrain from providing any support that would encourage, aid or assist in violations of IHL
- do everything reasonably in their power to prevent the parties to an armed conflict from violating IHL and to bring such violations to an end.

As the decision to establish a peace operation is separate from the process for resourcing that operation, there risks being a disconnect between the aims of the operation and the capacity (personnel, material assets and expertise) placed at the disposal of the international organization.

The risk that a mandate represents the “lowest common denominator” of negotiations is more significant for an international organization, given the need for consensus, than for a coalition into which States expressly choose to enter. Thus, the negotiated mandate may not be well-tailored to the ground reality awaiting the peace forces. This might mean that a given peace force deploys into an active conflict in which it may not have a mandate enabling it to protect civilians from attack. Or it may mean that the support it provides to a State increasingly draws it into hostilities itself, or that the support provided is ill-tailored to the supported State.

Having decision-making powers spread across multiple actors and agencies may pose challenges for practical coordination and coherent responsibility. There is a further possibility of confusion around mandates and the blurring of lines when peace forces are operating in situations in which there are other actors. These issues can translate into concrete risks for civilians, detainees and others.

In theory, both the international organization and the troop-contributing countries have legal, ethical and moral responsibilities for the peace forces.¹⁶ In reality, a diffusion of responsibility between international organizations and troop-contributing countries may create conditions in which ownership of those forces’ performance is weakened, with resultant risks for the people affected by their activities. Accountability for the behaviour of those forces may also fall uneasily between the organizational headquarters and the individual State, with the possibility of impunity for IHL violations and other misconduct (see [Sections 2.2](#) and [6.2.4](#)).

That being said, the protection of civilians is increasingly an explicit goal of peace forces. This gives them increased latitude to consider and implement measures to decrease civilian harm. There is also an opportunity for the forces to come into broad alignment on a clear mandate that considers the protection of civilians to the conflict in a realistic, contextualized way, taking into account the support provided to a party to the conflict. The mandate can be secured by the investment needed to meaningfully ensure the protection of civilians and others not fighting. Ideally, there are a sense of ownership in both the international organization and troop-contributing countries, clarity over reporting and accountability responsibilities, and meaningful action taken to ensure respect for IHL and reduce the potential negative humanitarian consequences of the conflict.

SPECIFIC RISKS

- Unclear responsibility
- Mandates not aligned with the needs of the affected people
- Leadership not harmonized
- Lack of alignment in reporting procedures, hindering oversight, accountability and learning processes
- Accountability gaps
- Lack of capacity alignment between troop-contributing countries, resulting in a diffusion of responsibility and practical challenges of coordination

¹⁶ For peace forces operating under the auspices of the United Nations, see UN Secretary-General (UNSG), *UN Human Rights Due Diligence Policy on Support for Non-United Nations Security Forces (“HRDDP”)*, 5 March 2013, A/67/775-S/2013/110: <https://www.refworld.org/docid/537dd4a4.html>.

SPECIFIC OPPORTUNITIES

- Adopt the protection of civilians and others not fighting as a strategic priority
- Cross-fertilization of IHL training, frameworks, systems and processes
- Normative engagement, including the sharing of good practices
- Collective improvement through learning processes
- Meaningful ownership of responsibilities in the community and individual troop-contributing countries
- Comprehensive plan for structured disengagement

Further reading

[Kigali Principles on the Protection of Civilians in Peacekeeping Operations](#)

3.2.4 NON-STATE ARMED GROUPS

NSAGs are organized armed groups that qualify as a party to a NIAC and are therefore bound by IHL.¹⁷ In the ICRC's estimate, 66 million people live under the State-like governance of an NSAG. Reaching these people and responding to their needs are a massive challenge in today's conflict environment.

Support relationships involving NSAGs are not unlike support relationships between States, where major powers support their allies with capacity (i.e. material assets, human resources and skills).¹⁸ Studies show that NSAGs with support relationships survive longer, recover from a loss of leadership more easily and acquire better capabilities than those without.¹⁹

Like States, NSAGs may find themselves simultaneously in supporting and supported roles. The main examples of support relationships involving NSAGs are support relationships between NSAGs, State support to NSAGs, NSAG support to States, and PMSC and NSAG relationships.

Support relationships between non-State armed groups

Although commonly perceived and portrayed as a single united fighting force, many of today's NSAGs are, in fact, shifting alliances of distinct groups²⁰ ranging from integrated coalitions to opportunistic schemes pooling resources for a limited objective. Clusters of NSAGs making local decisions based on their own strategic assessment can remain responsive to a central leadership in pursuing a common geopolitical agenda. This trend has emerged as a dominant feature of the post-Cold War conflict landscape. The larger networks comprise between a dozen and several dozen constituent entities spanning multiple regions and continents. Despite common features or close variations of the same name, these groups can be organized quite differently. In such movements, there is a centralized core with a varying level of authority over a number of smaller, decentralized groups. They may operate as a movement of loosely connected nodes with a common identity and ideology but demonstrate significant variation in their patterns of violence and orientation to external entities.

Support between States and non-State armed groups

In addition to the support relationships between NSAGs, there are also numerous instances of support provided by States to NSAGs. According to the results of the ICRC's 2020 mapping exercise, approximately 37% (230) of armed groups receive support from a State or from another NSAG.²¹ Support from NSAGs for States is less prevalent, but does occur.

¹⁷ NSAGs are among the broad range of armed groups – with varying goals, structures, doctrines, funding sources, military capacity and degree of territorial control – that are not recognized as States but have the capacity to cause violence that is of humanitarian concern.

¹⁸ K. Oots, *A Political Organization Approach to Transnational Terrorism*, Greenwood Press, Westport, 1986.

¹⁹ T. Bacon, "Is the Enemy of My Enemy My Friend?", *Security Studies*, Vol. 27, January 2018, pp. 345–379.

²⁰ ICRC, *The Roots of Restraint in War*, ICRC, Geneva, 2018, p. 24: <https://shop.icrc.org/the-roots-of-restraint-in-war-pdf-en>.

²¹ This statistic comes from the ICRC's annual mapping of armed groups, a category defined as groups causing humanitarian consequences that are of concern for the ICRC. Within this broad definition, NSAGs are groups that are considered parties to an armed conflict.

Support from or for NSAGs, which at times takes place outside of established domestic and other legal frameworks, can raise very different considerations to those applicable to support from or for States. For example, States may seek to engage with NSAGs in order to subvert or delegate responsibility (see [Section 2.2](#)). Conversely, a State may exert overall control over the NSAG (which will make the State responsible for its actions). As the group's organizational structure, culture and personnel may differ from those of the State's armed forces, so too may the practical measures implemented to promote better compliance with IHL and the protection of civilians and others not fighting.

Legal reminder

All parties to armed conflict, including NSAGs, must respect IHL in accordance with their obligations.²²

Leadership, intent and capacity of non-State armed groups

An armed group's organizational structure is an important determinant of its behaviour. It influences military capability, the type of control exercised by leaders, and how combatants learn to practice honourable behaviour.

This structure is shaped by several internal factors, including ideology and doctrine; leadership preferences; recruitment strategies; funding sources; group history, including internecine competition; and pre-existing social networks. Structure is also shaped by external factors, such as the opposing force's strength and effectiveness, the topography of the group's operating terrain and – most importantly – external political or military support. For example, armed groups hosted in a neighbouring country can organize completely differently from those operating entirely on the territory of the State it opposes (see [Section 3.4.4](#)).

Access to resources strongly influences the group's recruitment strategy and, therefore, relations between fighters and the community.²³ At both an individual and group level, the availability of external resources diminishes reliance on community support and thus affects their propensity for violence or restraint towards the local population.²⁴ The revenue streams available to sustain an armed group also affect the type of control leaders exert.

The group's structure determines how leadership is exercised. For decentralized groups, shared combat experience is the main glue uniting group members. They do not always have written codes of conduct, drawing instead on shared values and traditions. Centralized military structures foster loyalty by forging an identity based on group narratives and collective rituals, such as nationalist ideals or ideology which are translated into practices. They rely on clearly established rules and values, which are likely to be imparted to the rank and file through indoctrination and training.

Some specific risks can be associated with NSAGs as parties to a conflict and in support relationships. The asymmetry often found in NIACs between a State and an NSAG may prompt the group to resort to means and methods that have a greater impact on civilians. There is a risk of the group not fulfilling its duty to protect civilians as it conducts hostilities (see [Section 3.3.2](#)), whether for tactical reasons or on the basis of rhetoric that frames civilians as their adversary. This can manifest in attacks that are directed against civilians and civilian objects or are indiscriminate and in the use of a civilian presence to shield themselves from attack. Another significant risk is that the NSAG does not detain and treat captured detainees appropriately, whether due to a lack of intent, capacity, or leadership (see [Sections 3.3.3](#) and [4.1](#)).

²² ICRC Customary IHL Study, Rule 139 (see note 7 above).

²³ J. Weinstein, *Inside Rebellion: The Politics of Insurgent Violence*, Cambridge University Press, Cambridge, 2007, as cited in *Roots of Restraint*, p. 22 (see note 20 above).

²⁴ A. Wennmann, "Grasping the financing and mobilization cost of armed groups: A new perspective on conflict dynamics", *Contemporary Security Policy*, Vol. 30, No. 2, 2009, pp. 265–280, as cited in *Roots of Restraint*, p. 22 (see note 20 above).

Furthermore, NSAGs may have little, if any, awareness of IHL, and some may reject its applicability as part of a broader rejection of the prevailing international order. Complex situations featuring numerous NSAGs competing for resources, local and global constituencies or external supporters may also fuel a “race to the bottom”, where the NSAGs try to prove their relevance by out-doing each other in terms of spectacular attacks.

When an NSAG has emerged or grown rapidly, it may not have had sufficient opportunity to implement robust frameworks, systems and processes capable of promoting the protection of civilians and others not fighting. For example, it may build up its forces without individually vetting them. It may deploy those forces without providing robust IHL training, such as in the choice and use of means and methods so as to reduce risks for civilians, or in the administration of places of detention. These concerns would also extend to how the dead and displaced are dealt with by NSAGs.

The guidance provided in this document is without prejudice to the prudence or legality of support to NSAGs in any specific context. The aim with NSAGs is to leverage the three key areas of concern identified above – resources, recruitment and control – in order to positively influence their behaviour towards civilians and others not fighting.

SPECIFIC RISKS

- Lack of alignment between actors’ leadership, resulting in a diffusion of responsibility
- Capacity not aligned, resulting in coordination issues and diffusion of responsibility
- Limited willingness, resources or expertise to operationalize IHL in hostilities (e.g. principles of precautions, distinction and proportionality) and other activities (e.g. detention, managing displacement, managing the dead and clarifying the fate and whereabouts of missing persons)
- Group becomes predatory on the community

SPECIFIC OPPORTUNITIES

- Have a positive impact on NSAGs by leveraging their needs in terms of resources, recruitment and control
- Engage on cultural and other IHL-compatible norms

Key legal rules

Common Article 3 to the Geneva Conventions of 1949

Additional Protocol II of 1977

Further reading

[The Roots of Restraint in War](#) (ICRC)

[Increasing Respect for International Humanitarian Law in Non-International Armed Conflicts](#) (M. Mack)

3.2.5 PRIVATE MILITARY AND SECURITY COMPANIES

PMSCs have become an important part of the landscape in conflict-affected situations.

PMSCs may become involved in support relationships in any of at least three ways. Firstly, they may be contracted to provide specialized services to a supported party, such as military training and education or maintaining and operating technologically advanced weapon systems. Secondly, in practice, PMSCs may take a more active role in military operations on behalf of a party to a conflict. In some cases, their tasks include directly participating in hostilities. In other cases, working near military objectives may put them at greater risk of exchanging fire with a party to a conflict, whether in self-defence or for other reasons. Thirdly, a PMSC might in fact become a party to a conflict as an NSAG that provides or receives support (see [Section 3.2.4](#)).

In all cases, the questions to be answered are the extent to which compliance with IHL and other bodies of applicable law are incorporated into the PMSC's activities, and the degree of control and oversight that are exercised over its operations. The State directly contracting a PMSC (contracting State), the State in which it operates (territorial State) and the State in which the PMSC is registered (home State) may each have responsibilities with respect to a PMSC, notably to ensure respect for IHL.

The contracting of PMSCs without appropriate vetting procedures, robust contracts, and control and oversight could lead to a diffusion of responsibility, potentially resulting in violations of IHL either by the PMSCs or by those with whom they work.

The Montreux Document recalls the international legal obligations of States in their relations with PMSCs and presents a series of good practices to help States implement these obligations.²⁵

SPECIFIC RISKS

- Diffusion of responsibility between PMSCs and actors in the support relationship
- Confusion between regulatory approaches
- Absence of robust vetting
- Rules of engagement do not adequately delimit the use of force
- Inability to monitor conduct and evaluate results
- Lack of oversight and accountability

SPECIFIC OPPORTUNITIES

- Potential to integrate IHL into the professionally customized service-delivery approach
- Potential to build in one or more termination clauses in the event of IHL violations by the PMSC and/or the supported party to the conflict

Further reading

[*Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict*](#) (ICRC and Swiss Federal Department of Foreign Affairs)

[*Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law*](#) (ICRC)

See also:

- [Section 3.4.4](#) Other forms of support

3.3 MILITARY OPERATIONS AND ASSOCIATED ACTIVITIES

Civilians and others not fighting are at risk of harm during an armed conflict and in its aftermath. Those risks are generated directly and indirectly by the activities of the parties to the armed conflict, including as a result of the cumulative effects of the parties' actions. For example, damage or destruction to critical civilian infrastructure in populated areas can have important reverberating effects on the civilian population, such as illness and displacement. As the conflict continues, multiple attacks and/or other factors degrade essential services over time, posing a grave risk to public health and prompting further displacement. Moreover, the failure of actors to anticipate and manage the aftermath of conflicts long after hostilities have ceased can also

²⁵ See ICRC and Swiss Federal Department of Foreign Affairs, *Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict*, ICRC and Swiss Federal Department of Foreign Affairs, Geneva, 2008: <https://shop.icrc.org/the-montreux-document-on-private-military-and-security-companies-pdf-en>.

present important risks to civilians. For example, people deprived of their liberty for reasons related to the conflict remain entitled to humane treatment after the conflict has ended and will still need to be managed.

The rules of IHL are designed to increase the protection of civilians and others not fighting. In addition to ensuring that these rules are respected, actors in a support relationship should consider both the risks that their activities pose for affected people and any opportunities they might have to reduce harm.

Below are some considerations specific to the activities that actors should integrate into their decision-making throughout the preparation, implementation and transition phases.

3.3.1 WEAPONS AND AMMUNITION MANAGEMENT

Before or during an armed conflict, parties will acquire and stockpile the means to conduct military operations. The use of arms, ammunition and other means of warfare comes with a risk of harm to civilians and civilian objects, among others. The risk applies every time the means are used, and especially when they are used in violation of IHL. Steps should be taken at every stage to minimize or avoid that harm.

Proper weapons and ammunition management (WAM) is an important factor in preventing the diversion and illicit use of weapons. Weak ammunition stockpile management increases the risks of unauthorized use, theft, loss or an accidental or deliberate catastrophic explosion of the stockpile. It can hamper disarmament efforts at the end of an engagement, raising the risk that arms will continue to be used in the community or will be used in other conflicts in the region.

Whether or not strict control is maintained over stocks of arms and ammunition is an important indicator of the risk that these items would be used to commit or facilitate violations of IHL or otherwise in violation of international law (see [Section 3.4.2](#)).

International standards and guidelines, endorsed through the United Nations and other international bodies, have been developed to support best practice in the physical security and stockpile management (PSSM) of ammunition, explosives and weapons in storage facilities and in the management of arms and associated materiel when being shipped, transferred or disposed of. Actors should be encouraged to apply these standards and guidelines in order to reduce the hazards of mismanagement, which can result in harm to affected people.

An actor that is considering providing weapons to another actor should consider the risk that they may be misused due to inadequate stockpile management. Conversely, actors in a support relationship can help their partner strengthen their WAM processes through the development of policies or doctrines (see [Section 6.2.1](#)) and training (see [Section 6.2.2](#)).

SPECIFIC RISKS

- Diversion of weapons or ammunition to unauthorized end users and end uses, including through reselling, theft or loss
- Unsafe storage
- Continued availability of weapons and ammunition after a conflict, fuelling armed violence and conflicts and undermining peace and security in the long term

SPECIFIC OPPORTUNITIES

- Support the establishment of frameworks, systems and processes to strengthen weapons and ammunition management
- Train partner personnel

Key legal rules

Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (Firearms Protocol), 2001

Further reading

[International Ammunition Technical Guidelines](#) (UN)

[International Mine Action Standards](#)

[Modular Small Arms Control Implementation Compendium \(MOSAIC\)](#) (UN)

International Small Arms Control Standards (UN)

See also:

- [Section 3.4.2](#) Arms transfers
- [Section 4.8](#) Landmines and explosive remnants of war
- [Section 6.3.1.C](#) Responsible resource disengagement

3.3.2 THE CONDUCT OF HOSTILITIES

Hostilities are the activity most readily associated with armed conflict. Whether or not a supporting actor itself participates in hostilities (see [Section 1.2](#)), both actors in a support relationship should prepare for the likelihood that hostilities will occur and will have humanitarian consequences.

When preparing, implementing and transitioning a support relationship, actors need to consider the risk that the support provided would encourage, aid or assist in violations of IHL or otherwise create humanitarian consequences for the people affected by the conflict. This concern is especially pertinent in relation to the rules governing the conduct of hostilities. Measures should be taken throughout the support relationship to mitigate these risks.

Legal reminder

IHL prohibits attacks against civilians and civilian objects, indiscriminate or disproportionate attacks, indiscriminate weapons, and the use of civilians as human shields, among other things. It requires parties to take all feasible precautions to avoid and, in any event, minimize incidental civilian harm.

It is imperative that partners in a support relationship make minimizing civilian harm a strategic priority when planning and conducting their military operations. This can be achieved through an agreement between the partners and elaborated in a doctrine or policy (see [Section 6.1.3](#)).

Measures designed to promote institutional capacity building or training between partners could improve systems and processes to minimize civilian harm. These include methodologies for collateral damage estimation, targeting procedures and battle damage assessments that include collateral damage assessments. Actors can also share good practices and encourage respect for applicable IHL rules (see [Section 6.1.2](#)).

Partners could provide technical assistance while operations are being planned, for example by sharing information about the human terrain; geography and structures; the location, interdependency and functioning of critical civilian infrastructure; and patterns of life. They should strengthen the collection and sharing of data on civilian harm, including the reverberating effects from the damage or destruction of civilian objects. By virtue of this information and their expertise, actors may provide advice on the selection of targets and on how to verify that they are not civilians, civilian objects or subject to special protection; they may also provide input on means or methods or on precautionary and mitigation measures to reduce incidental civilian harm.

Steps should be taken to monitor and evaluate partner conduct (as well as that of the actor's own forces) during hostilities (see [Sections 6.2.4](#) and [6.2.5](#)). It is also important to establish mechanisms to investigate harm to civilians, ensure accountability and draw lessons to inform future operations or relationships (see [Section 6.3.2](#)).

Partners may also be in a position to provide assistance that alleviates the consequences of hostilities, for example by dedicating resources or expertise to support essential services such as health-care facilities, to evacuate the sick and wounded or to provide humanitarian assistance.

The role of supporting actors and supported parties in ensuring respect for the rules on the conduct of hostilities is even more critical when armed conflict is waged in populated environments – where military targets and civilians and civilian structures are commingled, placing civilians at great risk of harm. Civilians' inherent vulnerability in populated areas makes it imperative for States and all parties to a conflict to reassess and adapt their choice of weapons and tactics so as to reduce civilian harm, including by avoiding the use of explosive weapons with a wide impact area in populated areas and to adequately prepare, train and equip their armed forces for this purpose. States must also exercise influence over their partners and other parties to this end. All parties to armed conflicts should, whenever possible, employ strategies and tactics that take combat outside populated areas in an effort to reduce urban fighting altogether.

SPECIFIC RISKS

- Death of and injury to civilians and others not fighting
- Damage to or destruction of civilian objects and specially protected objects (e.g. cultural property and medical facilities)
- Civilian harm resulting from the indirect (reverberating) effects of the damage to or destruction of civilian objects
- Displacement

SPECIFIC OPPORTUNITIES

- Make minimizing civilian harm a strategic priority in all operations conducted by or with partners
- Prevent or minimize civilian harm by improving targeting procedures through institutional capacity building and training
- Improve the selection and use of means and methods, ensuring through training that they are a good fit for the environment
- Make available to partners equipment or information that could help avoid or minimize civilian harm, e.g. intelligence, surveillance and reconnaissance equipment
- Ensure civilians and external observers have appropriate channels to file complaints
- Improve practices through learning processes

See also:

- [Section 3.4.3](#) Partnered military operations
- [Section 4](#) The protection of civilians and others not fighting

Key legal rules

Additional Protocol I of 1977

Additional Protocol II of 1977

Customary international humanitarian law

For a full list of relevant treaties, see the [ICRC treaty database](#)

Further reading

[International Humanitarian Law and the Challenges of Contemporary Armed Conflicts](#) (2019), pp. 15–25 (ICRC)

[International Humanitarian Law: A Comprehensive Introduction](#), pp. 77–129 (N. Melzer)

[Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas](#) (ICRC, forthcoming)

[Urban services during protracted armed conflict: A call for a better approach to assisting affected people](#) (ICRC)

[Displaced in Cities: Experiencing and Responding to Urban Internal Displacement Outside Camps](#) (ICRC)

[I saw my city die: Voices from the front lines of urban conflict in Iraq, Syria and Yemen](#) (ICRC)

[When War Moves to Cities: Protection of Civilians in Urban Areas](#) (ICRC and InterAction)

3.3.3 CAPTURE, ARREST AND DETENTION

The deprivation of liberty is a regular occurrence in armed conflict. Any party to an armed conflict – and actors that support them – must prepare for this eventuality. The main principle applicable to those deprived of their liberty is humane treatment.

Those involved in support relationships should take measures to ensure, to the extent possible, that any deprivation of liberty is undertaken in conformity with international law and humanitarian considerations.

Detainees are in a vulnerable situation because they depend completely on the detaining authority (see [Section 4.1](#)). The risks of harm for persons deprived of their liberty can be exacerbated in the context of an armed conflict. There are four common underlying problems: the detaining authorities lack the capacity to ensure detainees are treated humanely and that detention conditions are humane, detainees are held in temporary or mobile detention facilities, detainees are transferred to another authority that does not respect the fundamental rights of the detainees, or detainees are held incommunicado in undisclosed places of detention.

Regardless of whether they are directly involved in detention operations, actors can take a range of practical measures to ensure that capture, arrest and detention operations by either or both actors in a support relationship are conducted in conformity with international law and standards both in the short and long term. Those measures may include agreeing during the preparation phase on responsibilities and standards for detention operations (see [Section 6.1.3](#)); engaging with partners on applicable law and good practices (see [Section 6.1.2](#)); strengthening the capacities of partner institutions, such as through mechanisms to systematically register persons deprived of their liberty and notify their families, and reviewing the lawfulness of detention (see [Section 6.2.1](#)); training partner personnel in the practical aspects and legal implications of detention, including how to manage groups with special needs (see [Section 6.2.2](#)); and providing resources or expertise to improve detainee treatment and detention conditions, including access to food and water, shelter, medical care and family contact (see [Section 6.2.3](#)).

SPECIFIC RISKS

- Extrajudicial killing
- Enforced disappearances
- Torture and other ill-treatment, including sexual violence
- Inhumane detention conditions (e.g. overcrowding, malnutrition, epidemics and lack of family contact)
- Detention without a legal basis and/or procedural safeguards
- Transfer of detainees without due respect for the principle of *non-refoulement*
- Failure to ensure physical and psychological safety at the point of capture or arrest and during transfers
- Denial of fair trial rights
- Conditions not adapted to special needs (e.g. children, the mentally ill and people with disabilities)

SPECIFIC OPPORTUNITIES

- Engage with partners on applicable law and the implementation of good practices
- Strengthen the capacities of partner institutions
- Train partner personnel to implement relevant law and good practices
- Provide material assets or human resources to improve detention conditions (e.g. food, water, shelter, medical care, family contact)

Key legal rules

Article 3 common to the Geneva Conventions of 1949

Third Geneva Convention of 1949

Fourth Geneva Convention of 1949

Additional Protocol II of 1977, Articles 4–6

ICRC Customary IHL Study, Rules 118–128 and 93

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

Further reading

[The Copenhagen Process: Principles and Guidelines](#)

[Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#) (UN)

[Standard Minimum Rules for the Treatment of Prisoners](#) (UN)

[Towards Humane Prisons: A principled and participatory approach to prison planning and design](#) (ICRC)

[Water, Sanitation, Hygiene and Habitat in Prisons](#) (ICRC)

“Partnering in detention and detainee transfer operations” (T. Rodenhäuser)

“[The protective scope of Common Article 3: More than meets the eye](#)” (J. Pejic)

“[Transfers of detainees: legal framework, non-refoulement and contemporary challenges](#)” (C. Droege)

“[Procedural principles and safeguards for internment/administrative detention in armed conflict and other situations of violence](#)” (J. Pejic)

See also:

- [Section 3.4.3](#) Partnered military operations
- [Section 3.4.4](#) Other forms of support
- [Section 4.1](#) Persons deprived of their liberty

3.3.4 LAW ENFORCEMENT OPERATIONS

Law enforcement operations can take place before, during and after an armed conflict. In complex situations, there can be confusion about which body of law governs the activities of armed forces or other personnel, and this is sometimes exacerbated by rhetoric that stigmatizes groups or whole communities.

Actors may encounter such issues in relation to arrest and detention activities, measures for managing displaced people, the provision of humanitarian assistance, and operations described as counter-terrorism or counterinsurgency operations.

Personnel carrying out law enforcement operations typically require different training and equipment from those provided to armed forces. This is because the rules applicable to law enforcement operations are governed by international human rights law and the international standards deriving from it, while the rules

applicable to the conduct of hostilities in armed conflict are governed by IHL. Both supporting actors and supported parties should be prepared to make this distinction in their operations and support relationships and adapt their mindset accordingly. For example, the arms provided to support a party's conduct of hostilities may not be appropriate or legal to use in a law enforcement operation. Similarly, the training provided to an actor on arrest or capture and detention activities may need to be adapted to the situation at hand, i.e. conflict or law enforcement.

Further reading

[Basic Principles on Use of Force and Firearms by Law Enforcement Officials](#) (UN)

[Military Decision-Making in Security Operations](#) (ICRC)

[The use of weapons and equipment in law enforcement](#) (ICRC)

[The use of force in law enforcement operations – Factsheet](#) (ICRC)

[To Serve and Protect: Human Rights and Humanitarian Law for Police and Security Forces](#) (ICRC)

[International Humanitarian Law and the Challenges of Contemporary Armed Conflicts](#) (2019), pp. 57–63 (ICRC)

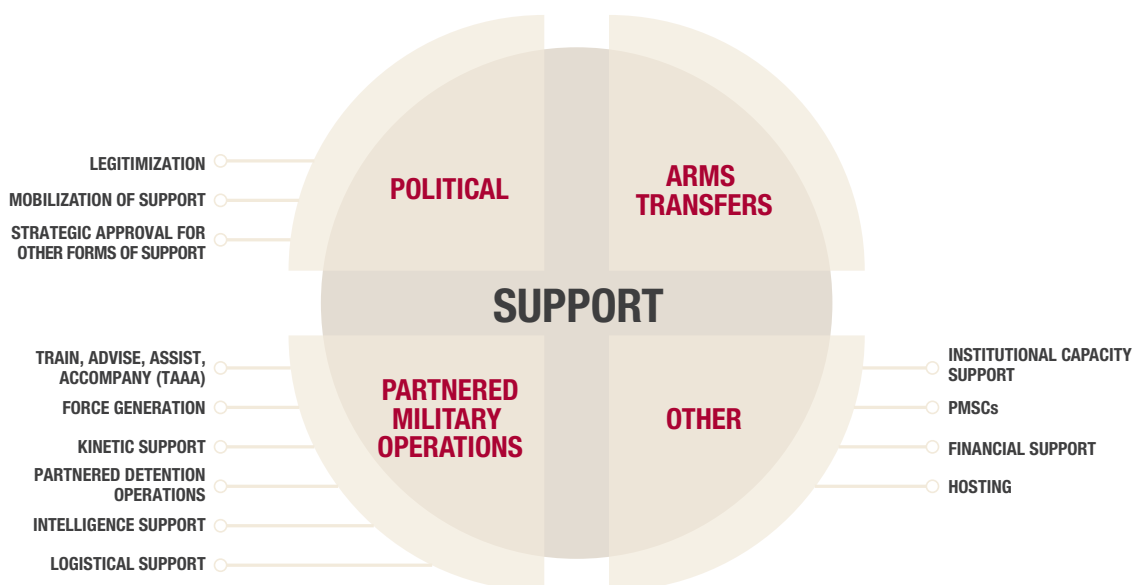
[International Humanitarian Law and the Challenges of Contemporary Armed Conflicts](#) (2015), pp. 33–37 (ICRC)

[Expert Meeting – The Use of Force in Armed Conflict: Interplay between the Conduct of Hostilities and Law Enforcement Paradigms](#) (ICRC)

3.4 FORMS OF SUPPORT

As described in [Section 1.2](#), support relationships in armed conflict refer to situations in which one actor provides support to another actor, enabling the latter to participate in an armed conflict. A key element of such relationships is the forms of support that have some bearing on the supported party's ability to engage in armed conflict.

The ICRC has observed numerous forms of support, three of which are especially common.



While these different types of support are often seen as being separate and distinct from one another, multi-faceted support relationships often combine two or more of them. Each type of support is associated with individual risks, some of which are highlighted below. Decision makers are encouraged to consider the combined effects of the support and how the relationship as a whole is managed, bearing in mind that a given actor may provide different types of support.

Decision makers should consider the support relationship as a whole, not merely the constituent forms of support provided.

Moreover, supported parties may receive support from more than one supporting actor, whose objectives may be inconsistent (see [Section 2](#)). In addition, supporting actors often provide support to a variety of parties, some of which may be operating in the same conflict situation. As described in [Section 1.4](#), the existence of multiple competing or intertwining support relationships risks escalating and prolonging armed conflict and thus increases the risks posed to affected people.

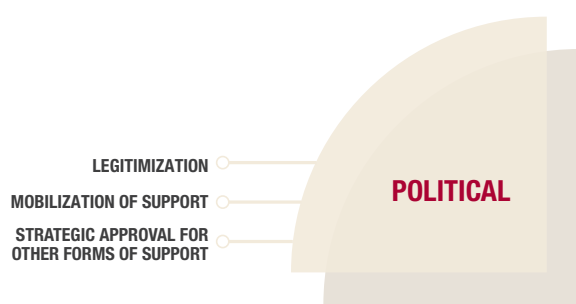
Where possible, decision makers should be mindful of the interaction between, and the collective impact of, multiple support relationships.

These are environmental factors that may bear upon the form and scale of support provided and the degree of influence one partner may have on another.

It is recognized that the decision to provide support may be taken and the support begun before the recipient becomes a party to an armed conflict. Examples of this are long-term security assistance and security cooperation. That decision should therefore take into account the likelihood that the recipient will engage in armed conflict in the foreseeable future.

The forms of support being provided (or any combination thereof) will likely affect – but not necessarily determine – the practical measures to be implemented within the context of the support relationship. Hence, actors should consider all ten areas of practical measures (see [Part C](#)) regardless of the form of support to be provided.

3.4.1 POLITICAL SUPPORT



The term “political support” here refers to political expressions of support for a party to an armed conflict that affect the party’s capacity within the armed conflict. Such support may be expressed on a bilateral or multilateral level, publicly or discreetly, and formally or informally.

Expressions of support for another actor may take the following forms:

- **legitimization** – providing recognition or legitimacy to another actor, for example by facilitating access to international forums or to negotiations or advocating for having the supported party taken off sanction lists.
- **mobilization of political support** – mobilization of support for the cause shared with the supported actor(s) and the need to provide the three other types of support, whether at the domestic level (amongst constituents) or the international level (amongst other actors). Examples include mobilizing, joining or supporting coalitions of States for the purpose of joint military operations, organizing specific roundtables or events of international importance to influence or negotiate with other actors for the benefit of the supported party, and representing the interests of the supported party in international forums and negotiation processes.
- **strategic approval for the other forms of support** – decisions to provide, modify or withhold support, whether at the domestic, regional or international level. This is the most pivotal expression of political support and does not exclude other forms of support in the political realm. It is worth noting that decisions of political support made at the strategic level are a key lever for other forms of support. Hence, it is the level at which authorities can decide how the relationship will influence the supported actor in order to bring about behavioural change.

A key concern when it comes to political support is that a strategic decision to provide support may not take due consideration of the risks that support may generate for civilians and others not fighting in the given situation. In particular, decisions based on short-term objectives tend to underestimate the long-term risks to affected people. A preliminary step towards addressing this concern is to ensure that the necessary legal, policy and operational mechanisms are in place for a risk assessment to be undertaken and for the support to be adapted so as to mitigate any identified risks. For those mechanisms to be effective, however, the assessment must be integrated into strategic decisions. In other words, the measures should be in place so that support will not be provided unless or until the supported party mitigates any increased risk to affected people.

An actor that provides political support should also consider the possibility that their action will prompt others to provide countervailing support to an adversary, or that the involvement of external interests will render peace negotiations more difficult or impossible.

In providing political support to parties to a conflict, actors may create opportunities to positively influence them, notably through normative engagement (see [Section 6.1.2](#)). In addition, decision makers at the strategic level have an important role to play in ensuring that practical measures are adopted to improve the protection of and reduce harm to affected people.

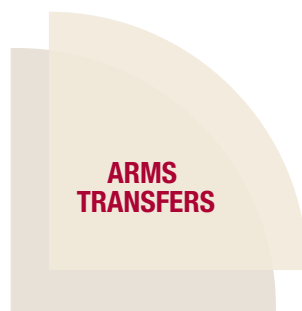
SPECIFIC RISKS

- Short-term objectives do not account for the long-term risks and impact of decisions
- The support escalates the armed conflict, notably by prompting other actors to provide countervailing support to the adversary
- The support relationship makes it harder to negotiate peace

SPECIFIC OPPORTUNITIES

- Positively influence partners through normative engagement
- Ensure practical measures are implemented in order to promote the protection of and reduce harm to affected people

3.4.2 ARMS TRANSFERS



The provision of support in the form of arms, ammunition and other means of warfare gives rise to a variety of direct risks to civilians, and in some cases, combatants, and can have indirect and longer-term negative humanitarian consequences. Notably, inadequate WAM practices (see [Section 3.3.1](#)), the inappropriate use or the misuse of weapons in the conduct of hostilities and in law enforcement situations (see [Sections 3.3.2](#) and [3.3.4](#), respectively), and the presence of unexploded and abandoned explosive ordnance (see [Section 4.8](#)) pose a risk of harm.

When transferring arms, steps should be taken to reduce these risks. This can be achieved by promoting, among other things, safe and secure WAM (see [Section 3.3.1](#)), strict controls over the ownership and possession of arms, the responsible (i.e. appropriate and legal) use of weapons (see [Sections 3.3.2](#) and [3.3.4](#)), measures to prevent diversion, and measures to address the risks posed by ERW and mines (see [Section 4.8](#)).²⁶

Weapons transfers require particular caution and due diligence because of the irreparable harm that can be caused when weapons are misused. To reduce human suffering and curtail proliferation, certain weapons are prohibited from being transferred.²⁷ Supporting States that provide the means by which conflicts are fought have a special duty to do everything reasonably in their power to ensure that the recipients respect IHL. In keeping with its obligation to ensure respect for IHL, an arms-transferring State must assess whether the recipient is likely to use the weapons to commit IHL violations. If there is an expectation that this will happen, based on facts or knowledge of past patterns, the State must refrain from transferring the weapons.²⁸

A thorough assessment of the risk that the arms, ammunition or military equipment transferred will be used in the commission of violations of IHL or international human rights law should include an inquiry into the recipient's past and present record of respect for IHL and human rights law, the recipient's intentions as expressed through formal commitments, and the recipient's capacity to ensure that the arms or equipment transferred will be used in a manner consistent with IHL and human rights law and will not be diverted or transferred to other destinations where they may be used to commit violations of these bodies of law.²⁹

The Arms Trade Treaty (ATT) and certain regional instruments provide more detailed rules on assessing the risks associated with arms transfers. Some of these instruments provide for consideration of measures to mitigate these risks. Any such mitigation measures should be assessed cautiously, in terms of what is

²⁶ Note that arms are sometimes transferred in the context of a “train, advise, assist, accompany” mission; see [Section 3.4.3](#) of this document for further discussion.

²⁷ For a discussion of IHL regulating the use and transfer of weapons, see the ICRC website: <https://www.icrc.org/en/war-and-law/weapons>.

²⁸ See *Commentary on the First Geneva Convention*, paras. 158–163 (see note 6 above); K. Dörmann and J. Serralvo, “Common Article 1 to the Geneva Conventions and the obligation to prevent international humanitarian law violations”, *International Review of the Red Cross* (IRRC), No. 895/896, September 2015, pp. 707–736: https://international-review.icrc.org/sites/default/files/irrc-895_6-dormann-serralvo.pdf. Treaties regulating arms transfers, including the Arms Trade Treaty, impose more detailed requirements.

²⁹ For further information on relevant indicators, see ICRC, *Arms Transfer Decisions: Applying International Humanitarian Law and International Human Rights Law Criteria*, ICRC, Geneva, 2016: <https://shop.icrc.org/arms-transfer-decisions-applying-international-humanitarian-law-and-international-human-rights-law-criteria-a-practical-guide-pdf-en>.

realistically achievable under the circumstances. They must be timely, robust and reliable, and the exporter and importer must have the capacity to implement them effectively and in good faith.³⁰

Legal reminder

Article 7 of the ATT requires States Parties to deny an arms transfer where there is an “overriding risk” of serious violations of IHL, serious violations of international human rights law, serious acts of gender-based violence or serious acts of violence against women and children, also considering available mitigation measures.³¹

In the ICRC’s interpretation, the obligation to ensure respect for IHL means all States must deny arms transfers where there is a substantial or clear risk that the weapons could be used to commit violations of IHL.

SPECIFIC RISKS

- Improper use, and misuse, of weapons, including in violation of IHL, leading to civilian harm, including death, injury and damage to or the destruction of civilian objects
- Diversion of weapons to unauthorized end users and for unauthorized end uses, including through resale, theft or loss
- Increased availability of weapons, fuelling armed violence and conflicts and undermining long-term peace and security

SPECIFIC OPPORTUNITIES

- Build capacity to effectively implement arms transfer risk mitigation measures (e.g. to strengthen diversion prevention through robust WAM, marking, record-keeping and tracing)
- Strengthen controls on the availability of arms and ammunition
- Provide training to support the proper and legal use of weapons and support measures to effectively prevent, investigate and suppress IHL violations and, where appropriate, prosecute serious violations of IHL
- Encourage States to formally commit to and assist in faithfully implementing the highest international standards on responsible arms transfers, safe and secure WAM, arms control and disarmament

Key legal rules

Article 1 common to the four Geneva Conventions of 1949

Arms Trade Treaty, 2013

Further reading

[Arms Transfer Decisions: Applying International Humanitarian Law and International Human Rights Law Criteria](#) (ICRC)

[Understanding the Arms Trade Treaty from a Humanitarian Perspective](#) (ICRC)

[2013 Arms Trade Treaty – Factsheet](#) (ICRC)

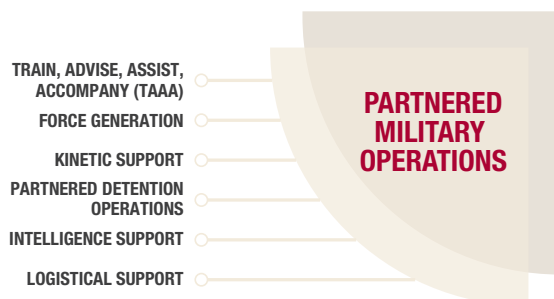
[International humanitarian law and gender-based violence in the context of the Arms Trade Treaty](#) (ICRC)

³⁰ See ICRC, *Understanding the Arms Trade Treaty from a Humanitarian Perspective*, ICRC, Geneva, 2016, pp. 38–39.

³¹ *Understanding the Arms Trade Treaty from a Humanitarian Perspective*, pp. 36–37 (see note 30 above).

See also:

- [Section 3.3.1](#) Weapons and ammunition management
- [Section 4.8](#) Landmines and explosive remnants of war

3.4.3 PARTNERED MILITARY OPERATIONS

For the purposes of this document, the term “partnered military operations” (PMOs) refers to formal arrangements between partners to achieve a specific military aim in a conflict. PMOs are often the most direct and visible type of support provided to parties to an armed conflict. As PMOs may vary greatly in the activities involved, the ICRC has identified six categories, each of which has subcategories:

- train, advise, assist, accompany (TAAA)
- force generation
- kinetic support
- partnered detention operations
- intelligence support
- logistical support.

Some of these activities may result in the supporting actor joining its partner as a party to an armed conflict (see [Section 3.1](#)). Depending on the category, PMOs consist of a variety of activities that give rise to specific risks and opportunities, as detailed below.

Train, advise, assist, accompany

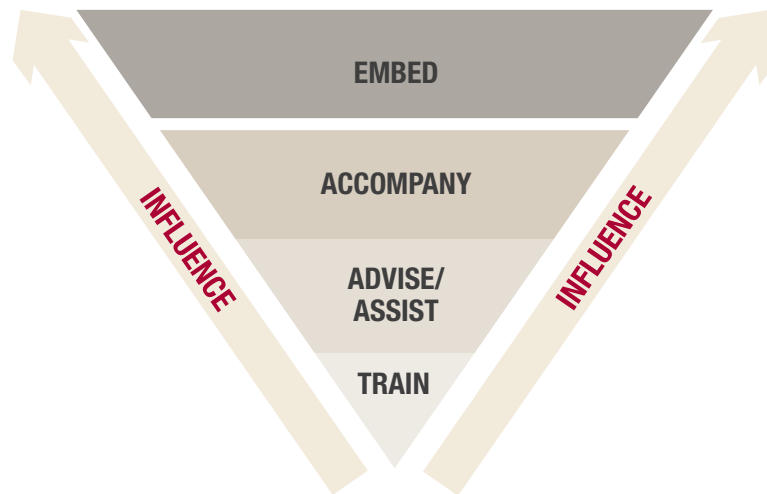
Military arrangements that aim to build the military capacity of a supporting actor through training appear to be the most prevalent form of PMO-type support. This may be because they present supporting actors with a tolerable level of risk, allowing them to achieve strategic aims and a degree of influence without more direct engagement.

Although this subcategory plays host to a wide variety of methodologies, settings and parameters, most programmes can be grouped as follows:

- **training** – a training programme provides the partner with specific skills or knowledge
- **train and equip** – a training programme set over a specific period of time provides the partner with specific skills and equipment
- **advise and assist (HQ)** – personnel are placed in a command or headquarters position to advise their partners during operations
- **accompany (ground)** – personnel are assigned to advise partners during operations directly on the ground; the adviser is typically not authorized to engage in combat but may call in other forms of support such as medical evacuation, close air support or logistics support.

Actors in a TAAA support relationship are likely to be in a position to influence each other. The degree of influence may depend on how involved they are, as depicted below. While support relationships may be pursued as a way to limit an actor’s direct involvement, increased involvement may be necessary to improve outcomes.

Training relationships present a unique opportunity to convey positive lessons within the scope of the training relationship; training and advice on IHL are indeed ways to promote better protection in support relationships.



Opportunities to positively influence through TAAA missions and embedding personnel

While TAAA missions present important opportunities to positively influence partner behaviour and outcomes, there are nevertheless risks that should be mitigated. For example, supporting actors face important limitations on the extent to which they can ensure that the forces they train, advise and assist comply with IHL and take other steps to minimize civilian harm.

It is important that appropriate safeguards be integrated into a TAAA mission to ensure that the training is adequate and effective in the context. This can be achieved, for example, through careful partner selection (see [Sections 6.1.3](#) and [6.2.1.C](#)), monitoring, evaluation and oversight (see [Sections 6.2.4](#) and [6.2.5](#)) and learning processes (see [Section 6.3.2](#)). At a minimum, the TAAA programme should incorporate tailored IHL training (see [Section 6.2.2](#)).

A host of problems can result from a failure to properly manage TAAA programmes that drastically increase the risks to civilians. If the supported party's intent is not aligned with that of the supporting actor, or if it shifts, there may be a risk that those trained may change allegiance or become predatory towards the local community, thus increasing the risk of harm and prolonging instability. Without implementing appropriate measures to ensure visibility and generate feedback on the behaviour of the trained personnel, there is a risk that the supported party or individuals within it might use their improved military capacity in ways that go beyond or contradict the support agreement.

SPECIFIC RISKS

- Increased civilian harm
- Efficacy of training not tested through monitoring and evaluation of trained forces
- Training does not incorporate and apply IHL rules
- Trained forces operate outside of scope of support agreement

SPECIFIC OPPORTUNITIES

- Specific IHL training and instruction, tailored to the expected circumstances of the conflict
- Normative engagement throughout the ranks
- Improve IHL compliance
- Improve civilian harm mitigation

Force generation

Force generation refers to the practice whereby actors, often external States, recruit, train and equip local armed forces. The key characteristic of this type of PMO is that the efforts of the supporting actor are critical to the creation of the supported force; it would not otherwise exist.

The supported party is usually dependent on the supporting actor for training, equipment and intelligence. Because of this characteristic, an important quality of force generation is the supporting actor's influence over the supported force. In this way, force generation more closely resembles what others could call a patron-client or proxy relationship.

Because the supported party relies on its supporting actor, the latter has considerable influence – and an important responsibility – to ensure that the supported party complies with IHL. The measures that the actor can take to positively influence the party include arranging robust IHL training (see [Section 6.2.2](#)), providing appropriate mission-specific equipment, and setting up monitoring and learning mechanisms (see [Sections 6.2.4](#) and [6.3.2](#)).

However, if the supporting actor does not exercise control and instead chooses a hands-off or distant relationship once the partner becomes operational, these partnerships can be particularly risky for affected people. The frameworks, systems or culture of newly established forces may not be as robust as those of other forces and therefore not as effective at ensuring compliance with IHL. Among other things, the new forces would have limited experience operationalizing IHL rules and learning lessons to improve their practices.

New and inexperienced forces that lack monitoring and oversight by the supporting actor may experience variations in the key factors of intent and leadership owing to influence from other actors, changes in the environment or simply a lack of command discipline.

SPECIFIC RISKS

- Lack of oversight and accountability
- Nascent institutions (frameworks, systems or culture) not robust
- Inexperienced in operationalizing IHL
- Susceptible to variations in intent and leadership

SPECIFIC OPPORTUNITIES

- Imbue culture of respect for IHL
- Participate in recruiting and vetting supported forces
- Specific IHL training and instruction, tailored to the expected circumstances of the conflict
- Feedback loop

Kinetic support

Kinetic support refers to PMOs where the supporting actor engages in hostilities in support of a party to a conflict.

The degree of kinetic support may vary, from embedded training partnerships to fire support. Some typical examples include:

- **embedded support** – embedding personnel with partner armed forces before, during and after operations, directly on the ground. Embedded personnel are authorized to engage in combat together with the supported unit and to facilitate the use of supporting force capabilities – such as fire support or logistical support – to enhance the capacity of the supported force.³²
- **combined, joint and partnered operations** – operations conducted by a mixed force or team composed of units or personnel from both partners; they collectively engage in combat.

³² For a discussion of legal issues relating to kinetic and other types of support, see “Fighting together and international humanitarian law” (see note 3 above).

- **strikes or raid operations** – a strike or a raid in support of a party. It commonly involves niche capability for capturing high-value targets.
- **fire support** – two types:
 - deliberate targeting – pre-planned attacks against targets that have been analysed, vetted and prioritized in advance
 - dynamic targeting – unplanned and unexpected attacks in which the target is not identified in advance; usually involves aircraft orbiting within a specific area awaiting instructions for targets that may or may not come (i.e. target of opportunity, troops in contact or time-sensitive targets).

Kinetic support increases the military capacity in favour of a party to a conflict. It therefore necessarily involves a risk of direct or indirect civilian harm.

Just like in some TAAA relationships, poorly planned and executed kinetic support can place civilians at risk, for example owing to inadequate alignment of operational systems and processes, such as rules of engagement and tactics, techniques and procedures. Actors in a support relationship involving kinetic support should take steps to address the additional challenges that may come with operating in partnership, such as interoperability, oversight and accountability. In dynamic situations, having multiple actors involved in a specific kinetic operational process (such as calling for close air support) can lead to a diffusion of responsibility. Practical measures may need to be put into place to mitigate the increased civilian risk, such as tailored training in specific operations or “red card holder” targeting procedures.

On the other hand, kinetic partnerships can promote good behaviour by making the partner’s activities more transparent. They increase the partners’ operational proximity, which can lead to improved assessment, normative engagement, monitoring and evaluation, and oversight. Furthermore, for the partners to work through and resolve interoperability challenges, kinetic support is usually planned and practiced in advance. This preparation provides an opportunity for both sides of the relationship to align their objectives, define their respective roles and responsibilities, test the interoperability of their capabilities and take practical steps to mitigate any risks.

SPECIFIC RISKS

- Increased capacity contributes to civilian harm
- Supporting actor becomes directly involved in a serious violation of IHL

SPECIFIC OPPORTUNITIES

- Increase monitoring, evaluation, oversight and accountability
- Increase normative engagement throughout the ranks
- Provide assistance to address humanitarian needs

Partnered detention operations

Partnered detention operations consist of activities that contribute to the capture- and detention-related activities of a party to a conflict, including capacity building.

Partnered detention operations can take a number of forms, including:

- **capture and transfer** – ground operations leading to the capture and transfer of detainees to a place of detention, conducted by a team composed of personnel from both partners; logistical support from one partner for a detention operation conducted by another partner; detention operations conducted by one partner making use of another partner’s intelligence; or the capture of a person by one partner and that person’s transfer to the other partner’s place of detention or judicial system
- **intelligence collection** – interviewing (i.e. tactical questioning, interrogating or debriefing) detainees and providing and receiving intelligence relating to detainees
- **capacity building** – providing a partner with specific skills, knowledge, material assets or technology to conduct detention operations and/or maintain detention facilities (e.g. building detention facilities or training and equipping detention facility personnel).

The risks associated with partnered detention operations closely parallel the risks attendant to all detention operations (see [Section 3.3.3](#)). Capture, arrest and detention activities have been among the most contentious issues for actors in support relationships, both for legal and practical reasons. These actors have struggled to ensure coherence in their respective responsibilities, for example in relation to information-sharing and transfers. In partnered operations, it is not always clear which partner is exercising control over a captured person, which procedures govern the transfer of detainees between partners, and which responsibilities the armed forces of one actor have regarding the humane treatment of people captured by a partner force. Such practical and legal challenges can lead to a diffusion of responsibility and result in inhumane treatment and detention conditions.

Actors should take necessary precautions in the planning and execution of partnered detention operations in order to anticipate and mitigate the risk that IHL and other international standards will be violated. Like kinetic partnerships, partnered detention operations typically entail proximity between partners that gives rise to two risk-mitigation factors. First, actors gain better insight into their partners' decision-making process and actions, and thus are better able to assess any risks of harm or opportunities to improve practices. Second, during the preparation stage, partners can incorporate measures to reduce the risk of ill-treatment, torture or other harm occurring in partnered detention operations. Preventive measures could be implemented through, for example, legal frameworks, a formal technical agreement or standard operating procedures.

Among other practical measures, actors should consider specifically training their partners' detention personnel on applying relevant laws and standards, humanely managing places of detention and using exclusively non-coercive interrogation techniques (see [Section 6.2.2](#)). Capacity building aimed at strengthening the judicial system could better secure the rights of detainees and ensure that they are released as soon as the reasons for their detention cease to apply (see [Section 6.2.1](#)). It may also be necessary to provide assistance to a party to secure humane conditions for those detained (see [Section 6.2.3](#)).

SPECIFIC RISKS

- Extrajudicial killing
- Torture or other forms of ill-treatment (including during screening, capture and transfer operations, and in places of detention)
- Inhumane detention conditions (e.g. overcrowding, malnutrition, epidemics and lack of family contact)
- Detention without a legal basis and/or procedural safeguards
- Transfer of detainees without due respect for the principle of *non-refoulement*
- Denial of fair trial rights

SPECIFIC OPPORTUNITIES

- Engage with partners on applicable law and implementing good practices
- Strengthen the capacities of partner institutions
- Train partner personnel to implement relevant laws and good practices
- Monitor and evaluate partner detention practices
- Improve practices through learning processes
- Provide material assets or human resources to improve detention conditions (e.g. food, water, shelter, medical care and family contact)

See also:

- [Section 3.3.3](#) Capture, arrest and detention
- [Section 4.1](#) Persons deprived of their liberty

Intelligence support

Partners in support relationships commonly share intelligence, i.e. information of military significance to a conflict.

Intelligence support usually falls into one of two categories:

- **intelligence sharing** – sharing information already available
- **intelligence, surveillance and reconnaissance (ISR)** – sharing information collected specifically for the operation being supported, typically through technical means but also through other sources.

Information may be less reliable when it is shared between actors with significant differences in terms of intent, and this can result in escalating the conflict by inadvertently enlarging its scope. Actors should also consider how intelligence will be used by the recipient, in particular the risk that the information shared will contribute to a violation of IHL, for example in relation to the conduct of hostilities (see [Section 3.3.2](#)) or detention activities (see above and [Section 3.3.3](#)).

False or inaccurate information contained in intelligence that leads to kinetic operations or detention operations can result in civilians and those deprived of their liberty being harmed. While safeguards may be in place for verifying the accuracy of information, such processes may be less effective where intelligence is shared between ad hoc partners (rather than longstanding partners, where such processes have been improved over time), or where the timeframe to verify and act on intelligence is short. Actors likely also have greater difficulty verifying information in situations with which they have less physical, cultural and linguistic proximity and are therefore less able to “read the environment”.

SPECIFIC RISKS

- False or faulty information in intelligence partnerships leads to flawed target selection or the detention of people on incorrect grounds

SPECIFIC OPPORTUNITIES

- Intelligence sharing, combined with adequate safeguards and monitoring, can help to minimize civilian harm

Logistical support

Logistical support refers to arrangements that provide for the maintenance and transportation of material, facilities and personnel.

There are four common types of logistical support:

- **inter-theatre transport** – transport of personnel or equipment from their homeland to a theatre of operation, without deployment to the front line (intra-theatre)
- **intra-theatre transport** – transport of personnel or equipment within a theatre of operation, usually during operations in order to improve the beneficiary’s range, mobility and speed of deployment
- **air-refuelling** – the refuelling of an aircraft in flight by another aircraft
- **specialized technical support** – mission-critical specialized technical support or maintenance for weapons, aircraft, or other war-sustaining equipment.

Although it may seem less involved than other forms of support, logistical support can play an important role in increasing the military capacity of a party to a conflict. In such situations, the supporting actor has both an opportunity and a responsibility to positively affect outcomes.

As logistical support increases a partner’s capacity to engage in conflict, actors should consider the consequences of the operations to which the support contributes. At a minimum, actors should assess whether there is a risk of the supported party using the increased capacity in violation of IHL and take steps to mitigate that risk. Logistical support that can be considered as being within the causal chain leading to risky behaviour – such as in-flight refuelling for partner aircraft before indiscriminate air strikes, or specialized technical assistance with artillery equipment used in populated areas – should certainly be considered an opportunity to positively influence a partner.

Actors that provide logistical support should also consider exercising their influence to promote compliance with IHL and protection for affected populations, even if their support is not associated with any identified risk. Beyond the positive influence that actors can have by virtue of their support relationship in general, actors should consider whether logistical support could be one way of encouraging a party to comply with its IHL obligations and manage the humanitarian impact of conflict more broadly. For example, it may offer to help transport essential goods to civilians.

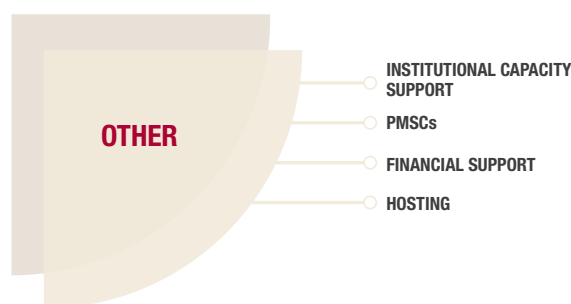
SPECIFIC RISKS

- Contributes to military operations resulting in civilian harm

SPECIFIC OPPORTUNITIES

- Provide logistical support to fulfil IHL obligations and otherwise assist civilians and others not fighting, e.g. by transporting essential goods

3.4.4 OTHER FORMS OF SUPPORT



Various other forms of support, whether provided on their own or in conjunction with other support (see above), may have an effect on the recipient's capacity to engage in armed conflict. As a result, the risks and opportunities that they pose relative to the protection of affected people must be assessed.

The most pertinent of these other forms of support include:

- institutional capacity support
- PMSCs
- financial support
- hosting.

Considerations specific to each are detailed below.

Institutional capacity support

Institutional capacity support refers to external support for institutions that is often long term in nature. Such programmes are typically relevant to support relationships when they relate to military academies, detention and judicial sector reform.

Providing institutional capacity support can increase the recipient's military capacity. Therefore, actors should integrate into these programmes concrete measures to promote the protection of civilians and others not fighting, including through compliance with IHL.

In the absence of such measures, the supported party could expand its role in a conflict without fully considering the impact on civilians and those no longer fighting. As a result, the number of IHL violations could increase.

Institutional capacity support can present a significant opportunity. Well-tailored, meaningful engagement, in which actors help a supported party to integrate IHL into its systems, processes and personnel (see [Section 6.2.1](#)), can greatly reduce the negative effects of conflict on affected people.

Furthermore, jointly designed efforts to strengthen civilian justice, the rule of law, detention authorities, forensics authorities and other civilian authorities should help to reduce suffering during and after a conflict among those who are not fighting. These institutions may need specific training, equipment or advice in order to manage their activities in a conflict situation. Properly managed institutions may also help to attenuate longer-term grievances, sentiments of injustice and protracted conflict and violence.

SPECIFIC RISKS

- Increases only fighting capacity, with little or no contextualized integration of IHL and other protective norms
- Escalates conflict and IHL violations
- Support for justice, rule-of-law and forensics actors may also suffer from inadequate contextualization and tailoring to immediate and upcoming needs
- Rights of detainees, civilians and the dead violated as a result

SPECIFIC OPPORTUNITIES

- Contextualized integration of IHL into the systems, processes and forces of a party to the conflict
- Fewer IHL violations and better protection of civilians during hostilities
- Improved capacity of civilian authorities to ensure the rights and dignity of civilians, the dead and detained are respected

Private military and security companies

In some situations, actors support a party to a conflict by contracting a PMSC to provide specialized services to the party that the supporting actor might otherwise have provided itself. Examples include training as well as maintaining and operating technologically advanced weapon systems.

As described in [Section 3.2.5](#), contracting PMSCs without appropriate vetting procedures, robust contracts and effective control and oversight risks creating a diffusion of responsibility that could result in IHL violations either by the PMSC or by those with whom they work.

SPECIFIC RISKS

- Diffusion of responsibility between the PMSC and actors in the support relationship
- Confusion between regulatory approaches
- Absence of robust vetting
- Rules of engagement do not adequately delimit the use of force
- Inability to monitor conduct and evaluate results
- Lack of oversight and accountability

SPECIFIC OPPORTUNITIES

- Potential to integrate IHL into professionally customized service-delivery approach
- Potential to build in termination clauses in case of IHL violations by the PMSC and/or the supported party

Further reading

[Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict](#) (ICRC and Swiss Federal Department of Foreign Affairs)

[Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law](#) (ICRC)

See also:

- [Section 3.2.5](#) Private military and security companies

Financial support

Financial support refers to direct or indirect funding, including through loan agreements and investments, that significantly enables the supported party to engage in armed conflict.

While financial support is perceived as being less involved than PMOs, for example, supporting actors are not without responsibility for the conduct of a supported party benefiting from their funding.

External financial support may reduce a party's reliance on the support of the local community, thus reducing its sense of obligation and accountability towards it. As a result, the party may be less concerned about civilian harm than it might otherwise be. Additionally, the financial support might prolong the conflict if it allows the supported party to survive much longer than it would have if it depended solely on local support and resources.

Financial support brings an opportunity to positively influence the supported party. For example, the provision of funding could be conditional upon continued compliance with IHL (see [Section 6.1.3.B](#)). The agreement between the actors could also specifically earmark a portion of funding to support measures that would reduce civilian harm, such as IHL training (see [Section 6.2.2](#)), providing essential goods (see [Section 6.2.3](#)) or clearing landmines or ERW (see [Sections 4.8](#) and [6.2.3](#)).

SPECIFIC RISKS

- Reduced accountability to civilians

SPECIFIC OPPORTUNITIES

- Fund measures to promote respect for IHL and the protection of civilians and others not fighting (e.g. training, providing essential goods and clearing landmines or ERW)
- Provide financial assistance to affected people (e.g. addressing the needs of the families of missing persons)

Hosting

“Hosting” is when an actor places its territory or facilities at the disposal of a party to a conflict. A common form of hosting is when a State permits foreign armed forces or armed groups to make use of its sovereign territory, e.g. the right to transit through its air space or territorial waters or to use its territory for military bases. Alternatively, an actor may provide administrative services (enabling the parties' leaders to obtain transportation, visa and financial facilities, for example).

Actors hosting a party to an armed conflict should consider the risk of the party committing IHL violations, notably from the host's territory. It would therefore be important for the actor to assess the supported party's intent, capacity and leadership and to formalize the relationship in an agreement that defines the conditions under which support will be provided (see [Section 6.1.3](#)).

Actors providing support in the form of hosting may be able to positively influence the supported party. For example, agreements to provide hosting facilities could involve specific language making the support contingent on IHL compliance. The supported party's presence on the host's territory may also provide opportunities to implement measures that promote compliance and protection, such as IHL training (see [Section 6.2.2](#)).

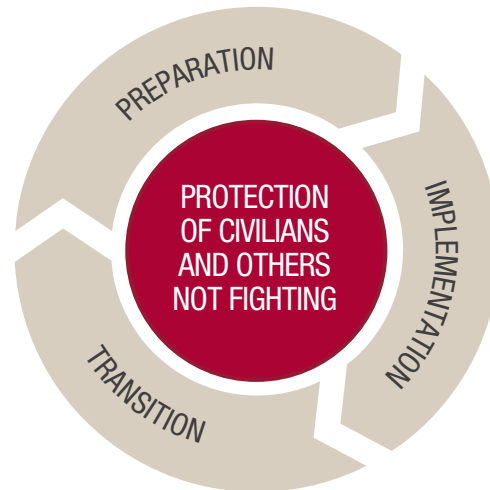
SPECIFIC RISKS

- Enables IHL violations

SPECIFIC OPPORTUNITIES

- Normative engagement
- IHL training
- Make hosting rights contingent on IHL compliance and the protection of civilians

4. THE PROTECTION OF CIVILIANS AND OTHERS NOT FIGHTING



This chapter explores some key areas of concern, relating to people and objects protected by IHL, that actors should consider when managing their support relationships. It identifies some specific risks that actors should seek to mitigate, as well as opportunities to promote the protection of civilians and others not fighting. This requires actors to take greater account of the harm that results, directly and indirectly, from activities related to armed conflict (see [Section 3.3](#)). The subjects and considerations discussed here are not intended to be exhaustive; actors should undertake their own comprehensive assessment.

Actors should place the protection of those not fighting at the centre of their efforts to manage their support relationships.

IHL provides rules to protect people who are not, or are no longer, participating in hostilities. General rules apply to protect civilians and persons *hors de combat*, such as the wounded and sick and persons deprived of their liberty. IHL also identifies groups requiring specific protection, such as women and children, medical personnel, refugees, IDPs and those who have gone missing as a result of armed conflict. Other branches of international law and domestic law may also apply to protect these people, depending on the circumstances.

The notion of “civilian” in IHL refers to all persons who are not combatants (in an IAC) or fighters (in a NIAC). “Civilian population” is a term that refers to groupings of civilians. The presence of combatants within the general civilian population does not change the character of the group or population as a whole.

Persons *hors de combat* are those who are in the power of an adverse party, are defenceless because of unconsciousness, shipwreck, wounds or sickness, or clearly express an intention to surrender – provided they abstain from any hostile act and do not attempt to escape.

IHL seeks to limit the harm that parties to a conflict may cause to people both directly and indirectly. It provides rules that protect the aforementioned individuals during hostilities, while in the power of a party to a conflict, and when otherwise affected by military operations.

Importantly, a broad range of activities by various bodies of a government or other authority can affect civilians and others not fighting. For example, civilians lose access to health care when their hospital has no water or electricity because those services have been damaged; civilians must leave the area because they fear arrest or attack by one of the parties; or medical personnel quit their jobs as a result of threats issued against them. Actors in support relationships need to be aware of the likely activities of the parties to a conflict and their consequences for civilians and others not fighting (see [Section 3.3](#)). It is also worth highlighting that sexual violence, although frequently dismissed as a “by-product” rather than a preventable war crime, is prohibited as a serious violation of IHL in both IACs and NIACs.

In addition to obligations not to carry out actions that may harm civilians and others not fighting, parties to a conflict may also have positive obligations towards them, such as to provide food, water, sanitation and medical care. Other actors that are not parties to a conflict may also have obligations towards affected people, for example with respect to humanitarian assistance.

Under IHL, civilian objects are all objects that are not military objectives. There is a general prohibition against targeting civilian objects during hostilities, as well as more specific rules regulating the use of civilian objects by parties to a conflict.

While civilian objects are generally protected under IHL, some objects are specifically protected, such as medical facilities and transport (see [Section 4.5](#)), objects indispensable to the survival of the civilian population, and cultural property. Attacks against or near works or installations containing dangerous forces (e.g. dams or nuclear power plants) are prohibited if they would result in severe losses amongst the civilian population, as are attacks on essential civilian infrastructure if the foreseeable effects would be disproportionate to the military advantage anticipated. Furthermore, IHL protects the natural environment and aims to limit the damage caused to it, not only because the environment sustains human life, but also because of its intrinsic value (see [Section 4.7](#)).

Actors should also consider the cumulative impact of the supported parties’ activities, and those of their supporters, on affected populations.

Further reading

[International Humanitarian Law and the Challenges of Contemporary Armed Conflicts](#) (2019), pp. 37–46 (ICRC)

[Engaging with State Armed Forces to Prevent Sexual Violence](#) (ICRC)

[Prevention and Criminal Repression of Rape and other Forms of Sexual Violence during Armed Conflicts – Factsheet](#) (ICRC)



4.1 PERSONS DEPRIVED OF THEIR LIBERTY

Whatever the reason for their detention, people deprived of their liberty are, by definition, in a vulnerable situation. How vulnerable their situation is depends on a number of factors, including their individual characteristics (sex, age, etc.), the general situation in which they are detained, the reason for their detention, the stage they are at in any judicial or administrative process, and by whom they are being held.

In addition, systemic shortcomings in facilities, procedures and processes often affect all detainees to some degree, regardless of other factors. For example, in the chaos of armed conflict, detention systems may be badly disrupted or may have to be improvised. The judicial and detention systems are often unable to cope with the numbers. The humane treatment of detainees is made even more challenging in facilities that are neglected or overcrowded.

IHL protects people deprived of their liberty as a result of armed conflict. They must be treated humanely in all circumstances, and they are protected in particular against murder, torture, and cruel, humiliating or degrading treatment. People deprived of their liberty must be allowed to correspond with their families and be provided with adequate food, water, clothing, shelter and medical attention.

Actors in a support relationship should plan in advance for the likelihood that parties to the conflict will arrest, capture and detain people (see [Section 3.3.3](#)). Detention activities in particular present specific risks in PMOs, including the diffusion of responsibility among partners (see [Section 3.4.3](#)). These challenges can affect how those detained are treated and their detention conditions. Principal among the ICRC's concerns are the risks of extrajudicial killings and disappearances, ill-treatment (particularly during interrogations), inadequate material conditions of detention, the absence of procedural safeguards and/or fair trial guarantees, harsh disciplinary sanctions, special needs left unmet, and detainee transfers among partner forces without respecting the principle of *non-refoulement*.

Whether or not actors in a support relationship are directly involved in detention-related activities, they have opportunities to positively influence how their partners treat detainees. Among other measures, they could engage with partners on applicable law, internationally recognized standards and good practices (see [Section 6.1.2](#)); strengthen the capacities of partner institutions or train partner personnel to implement relevant law, internationally recognized standards and good practices (see [Sections 6.2.1](#) and [6.2.2](#)); and provide material assets or human resources to improve detention conditions (see [Section 6.2.3](#)).

SPECIFIC RISKS

- Extrajudicial killings
- Enforced disappearances
- Torture and other forms of ill-treatment, including sexual violence
- Inhumane conditions of detention (e.g. overcrowding, malnutrition, epidemics, lack of family contact)
- Detention without a legal basis and/or procedural guarantees
- Denial of fair trial rights
- Conditions not adapted to special needs (e.g. children, mentally ill, people with disabilities)

SPECIFIC OPPORTUNITIES

- Engage with partners on applicable law and implementing good practices
- Strengthen the capacities of partner institutions
- Train partner personnel to implement relevant law and good practices
- Provide material assets or human resources to improve detention conditions (e.g. food, water, shelter, medical care, family contact)

Key legal rules

Article 3 common to the Geneva Conventions of 1949

Third Geneva Convention of 1949

Fourth Geneva Convention of 1949

Additional Protocol II of 1977, Articles 4–6

ICRC Customary IHL Study, Rules 118–128 and 93

Further reading

[The Copenhagen Process: Principles and Guidelines](#)

[Standard Minimum Rules for the Treatment of Prisoners](#) (UN)

[Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#) (UN)

“Partnering in detention and detainee transfer operations” (T. Rodenhäuser)

[“The protective scope of Common Article 3: More than meets the eye”](#) (J. Pejic)

[“Procedural principles and safeguards for internment/administrative detention in armed conflict and other situations of violence”](#) (J. Pejic)

[“Protecting people deprived of their liberty”](#) (ICRC)

[Sexual Violence in Detention](#) (ICRC)

See also:

- [Section 3.3.3](#) Capture, arrest and detention
- [Section 3.4.3](#) Partnered military operations



4.2 THE DEAD

In conflict, the dead are protected under IHL. Parties to a conflict are obligated to take all possible measures to search for, collect and evacuate dead bodies, and to ensure that they are not despoiled. All efforts should be made to ensure that the dead are not used to instil fear among opposing forces or civilians or as a bargaining chip in negotiations between parties to a conflict.

For identification purposes, the parties must record all available information prior to the disposal of dead bodies and mark the location of graves. Furthermore, the parties must ensure the dead are properly managed, which includes disposing of them in a respectful manner. They must also see to it that gravesites are registered and maintained to prevent deceased persons from going missing and to preserve necessary information for the future identification of unidentified human remains, in line with applicable data protection standards (see [Section 4.4](#)).

Actors in a support relationship may be able to help partners to improve their practices in the search for, collection, evacuation and management of the dead in accordance with their responsibilities. For example, they could share expertise or resources in order to implement mechanisms, strengthen capacities to identify combatants or establish a graves registration service (see [Section 6.2.1](#)). They could engage with and train their partners on managing the dead in line with their obligations and with best practice in terms of protection and dignity (see [Section 6.2.2](#)) and convey information on relevant laws, customs and other standards on recovering and managing the dead in a dignified manner, wherever they are operating (see [Section 6.1.2](#)).

SPECIFIC RISKS

- Missing persons
- Barriers to collection owing to hazards or deliberate action (e.g. booby-trapped bodies or gravesites)
- Bodies being despoiled (e.g. destruction of human remains during recovery operations, mutilation of the dead)
- Gravesites not marked
- Cultural and religious needs not respected (e.g. burial rites)
- Remains not returned
- Misidentification
- Return of the wrong human remains to a family member
- Impediment to reconciliation

SPECIFIC OPPORTUNITIES

- Assist in properly managing the dead, identifying remains and registering gravesites
- Train on recovery, analysis and identification techniques (e.g. autopsy, forensic archaeology and forensic genetics)

Key legal rules

Article 3 common to the Geneva Conventions of 1949

First Geneva Convention of 1949, Articles 15–18 and 20

Second Geneva Convention of 1949, Articles 16 and 18–21

Third Geneva Convention of 1949, Articles 66, 77 and 120–122

Fourth Geneva Convention of 1949, Articles 16, 113, 129–131 and 138–140

Additional Protocol I of 1977, Articles 17, 32–34, 61 and 78

Additional Protocol II of 1977, Articles 4 and 8

ICRC Customary IHL Study, Rules 112–116

Further reading

[Humanity after Life: Respecting and Protecting the Dead – Factsheet](#) (ICRC)

[Guidelines for Investigating Deaths in Custody](#) (ICRC)

[Management of the Dead under Islamic Law](#) (ICRC)

[“Management of the dead from Islamic law and international humanitarian law perspectives: Considerations for humanitarian forensics”](#) (A. Al-Dawoody)

[Management of Dead Bodies after Disasters: A Field Manual for First Responders](#) (ICRC)

[Forensic Identification of Human Remains](#) (ICRC)

[Operational Best Practices regarding the Management of Human Remains and Information on the Dead by Non-Specialists](#) (ICRC)

[Guidelines for the Use of Forensic Genetics in Investigations into Human Rights and International Humanitarian Law Violations](#) (ICRC)

[Medicolegal Facilities – Guidelines for Architectural Programming and Construction Assistance](#) (ICRC)

See also:

- [Section 3.4.3](#) Partnered military operations
- [Section 3.4.4](#) Other forms of support



4.3 INTERNALLY DISPLACED PERSONS

The ICRC is seeing greater numbers of people at risk of displacement. In recent years, thousands of people in cities on the front line of armed conflict have been displaced within just weeks or months. The widespread destruction of residential areas and critical civilian infrastructure can render homes uninhabitable and, therefore, cause displacement. Many remain within their own country, although they may end up fleeing several times, and most displacement situations become protracted.³³

Those displaced may find refuge in camps or, more often, outside camps in rural and especially low-resourced urban areas, where their arrival may add to the pressure on already weak and/or strained services and deteriorated infrastructure. This can further worsen everyone's living conditions and be a source of tension between displaced people and the host communities.

IDPs are particularly vulnerable to risks to their health and lives, including ongoing hostilities; landmines and ERW (see [Section 4.8](#)); sexual violence and exploitation; and forced recruitment. They may lack access to essential services, such as health care and education, for a long period of time.

IHL prohibits the forced displacement of the civilian population for reasons related to the armed conflict unless the security of the civilians involved or imperative military reasons so require. Numerous other rules of IHL, notably those governing the conduct of hostilities (see [Section 3.3.2](#)), are crucial to protecting civilians, and violations of these rules often trigger displacement. When the parties to a conflict comply with IHL, displacement is minimized, displaced people are better protected while being displaced, and the environment becomes conducive to safe and dignified voluntary returns.

Legal reminder

Displaced persons have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist. As part of this, the competent authorities have a duty to take measures to facilitate these returns and the reintegration of displaced persons.

Partners in support relationships can help to prevent displacement, protect and assist IDPs and establish the conditions and provide the means for IDPs to find a durable solution to their situation. Actors can work throughout the support relationship to foster better respect for IHL and thereby reduce displacement and the risks to those displaced. Supporting actors can also help supported parties to remove impediments to safe returns by equitably restoring access to essential services and clearing landmines and ERW (see [Sections 4.8](#) and [6.3.1](#)).

Returns should only occur under safe and dignified conditions. It is therefore important that the competent authorities also take non-discriminatory measures to support IDPs' efforts to normalize their situation while waiting to return home, or to facilitate their local integration as a durable solution.

SPECIFIC RISKS

- Forced displacement
- Trauma and other harm
- Families separated
- People going missing
- Loss of land and movable property
- Loss of official documentation, impeding access to essential services

³³ N. Crawford *et al.*, *Protracted Displacement: Uncertain Paths to Self-Reliance in Exile*, Humanitarian Policy Group, London, September 2015.

- Attacks against IDP sites
- Abuse and exploitation (including sexual violence)
- Restrictions on the freedom of movement
- Limited or no access to education
- Inability to work and loss of productive capacity
- Secondary and multiple displacements
- Forced or premature return
- Inter-communal tension or instability

SPECIFIC OPPORTUNITIES

- Assist partners in facilitating durable solutions
- Help to restore access to essential services and clear landmines and ERW, in an inclusive way and ensuring equitable access

Key legal rules

Fourth Geneva Convention of 1949, Articles 49 and 147

Additional Protocol I of 1977, Article 85

Additional Protocol II of 1977, Article 17

ICRC Customary IHL Study, Rules 129–133

African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), 2009

Further reading

[Guiding Principles on Internal Displacement](#) (UN)

[Displacement in times of armed conflict: How international humanitarian law protects in war, and why it matters](#) (ICRC)

[International Humanitarian Law and the Challenges of Contemporary Armed Conflicts](#) (2019), pp. 38–41 (ICRC)

[Addressing internal displacement in times of armed conflict and other violence](#) (ICRC)

[Displaced in Cities: Experiencing and Responding to Urban Internal Displacement Outside Camps](#) (ICRC)

[Urban services during protracted armed conflict: A call for a better approach to assisting affected people](#) (ICRC)

See also:

- [Section 3.4.3](#) Partnered military operations
- [Section 3.4.4](#) Other forms of support
- [Section 6.2.3](#) Assistance in IHL compliance
- [Section 6.3.1](#) Structured disengagement



4.4 MISSING PERSONS

The issue of missing persons continues to be a common feature of armed conflicts, both past and present. There are longstanding cases of missing persons from past conflicts, and the number of people reported missing in current conflicts is alarming.

When people go missing, the impact on their families, on other individuals and on societies is detrimental and long-lasting. In addition to not knowing the fate and whereabouts of loved ones, families experience numerous other day-to-day hardships, including social isolation or stigmatization and legal, administrative and economic problems. Moreover, the anguish and uncertainty mark family histories over generations, jeopardizing the prospects for reconstructing the social fabric of conflict-affected communities and societies.

The issue of missing persons can be addressed both before the fact (preventively) and after the fact (in terms of solving cases). How this is done, during and after conflict, will determine the scale of the problem and its repercussions on the missing persons themselves, their families and the communities affected.

Legal reminder

States and parties to armed conflicts have the obligation to prevent people from going missing as a result of armed conflict. They also have an obligation to clarify the fate and whereabouts of missing persons, which implies respect for the families' right to know the whereabouts and fate of their missing relatives and ensure the dead are treated in a dignified way.

These obligations do not start after hostilities come to an end. There is a series of practical preventive and early-action measures that parties to armed conflicts should take during a conflict to prevent people from going missing, to search and locate those reported missing, to restore the link with their families and, where relevant, to bring them back together (whether they are found alive or dead).

States and parties to a conflict should support professional and non-discriminatory action in support of missing persons and their families. This includes prevention, early action and clarifying the fate and whereabouts of missing persons out of respect for families' right to know.

While the issue of missing persons is complex and multi-layered, a wealth of information, expertise and know-how exists. These resources should be shared between partners in support relationships (see [Section 6.2.3](#)). Actors in such relationships may get the opportunity to help partners put in place frameworks, systems or processes that can help to prevent people from going missing (see [Section 6.2.1](#)); examples include registering people deprived of their liberty, notifying their families of their status, and identifying the wounded and sick when evacuated. Supporting actors may also be able to provide material resources, for example to facilitate contact or restore family links between missing and/or separated family members. In cases where actors are directly involved in those mechanisms, they should harmonize their respective approaches.

SPECIFIC RISKS

- Enforced disappearances
- Persons going missing, including as a result of omissions or poor practices: mismanaged or poorly managed registries (e.g. in health or detention facilities), lack of grave registries, poor practices in managing the dead, etc.
- Families separated
- Loss of contact between family members
- Trauma of family members left without any information on the whereabouts and fate of missing relatives
- Social, legal, administrative and economic challenges
- Long-term consequences for affected societies and possible negative impact on reconciliation processes

SPECIFIC OPPORTUNITIES

- Support partner to prevent persons from going missing or to find those who do
- Assist partner to facilitate contact or restore family links
- Institutional capacity building to put in place or improve frameworks, systems and processes to prevent persons from going missing and clarify the fate and whereabouts of missing persons
- Provide support to understand and address the needs of the families of the missing

See also:

- [Section 3.4.3](#) Partnered military operations
- [Section 3.4.4](#) Other forms of support

Key legal rules

First Geneva Convention of 1949, Articles 15–17

Second Geneva Convention of 1949, Articles 18–20

Third Geneva Convention of 1949, Articles 120–124

Fourth Geneva Convention of 1949, Articles 16, 129–131 and 136–141,

Additional Protocol I of 1977, Articles 15, 18, 32–34 and 67

Additional Protocol II of 1977, Article 8

ICRC Customary IHL Study, Rules 98, 112, 116–117 and 123

Further reading

[The Missing](#) (IRRC)

[Missing persons and their families – Factsheet](#) (ICRC)

[Guiding Principles/Model Law on the Missing](#) (ICRC)

[The missing and their families](#) (ICRC)



4.5 ACCESS TO MEDICAL CARE IN ARMED CONFLICT

Disregard for the protection afforded by IHL to health-care providers and their beneficiaries in current armed conflicts means that a large number of wounded and sick civilians, combatants and fighters suffer or die unnecessarily. Damage to or the destruction of medical facilities can have a long-term impact on the public health of the community and result in displacement.

Military operations can greatly undermine both safe access to and the delivery of health care, especially when such operations require setting up checkpoints, conducting search operations within health centres, or attacking military locations near a health-care facility. Supporting actors can create opportunities to address the risks implicit in such military operations, namely by facilitating the availability of medical care. The misuse of medical facilities or medical transport for military operations may cause them to lose their protection under IHL and hence expose them, along with the wounded and sick and the medical personnel inside, to the risk of attack. Working with partners to improve doctrine and processes and provide additional training can promote better respect and protection for medical facilities and medical personnel.

Access to health care may also be impeded in the immediate aftermath of conflict due to ongoing safety risks such as explosive devices and hazardous waste. Actors in a support relationship may be able to assist partners by providing the specialist personnel or equipment needed to identify and remove these risks.

SPECIFIC RISKS

- Death and injury of protected persons (the wounded and sick, medical personnel and civilians)
- Damage to health-care facilities (e.g. ambulances and hospitals)
- Care for the wounded and sick impeded
- The wounded and sick prevented or discouraged from seeking care
- Health-care personnel threatened or even prosecuted and no longer willing to continue working in their area of responsibility
- Epidemics
- Displacement

SPECIFIC OPPORTUNITIES

- Encourage parties to a conflict to refrain from attacking civilians, medical personnel or civilian infrastructure, including health-care facilities and vehicles
- Encourage parties to a conflict to lift measures preventing the delivery of necessary medical items
- Provide training on protecting medical personnel, facilities and transport and access to health care
- Provide medical supplies or personnel and assist with repairing or building facilities or civilian infrastructure
- Assist in clearing risks that impede access to medical facilities
- Investigate incidents of violence against health care by partners and ensure accountability for attacks that violate IHL

Key legal rules

First Geneva Convention of 1949

Second Geneva Convention of 1949

Fourth Geneva Convention of 1949, Articles 20 and 55–56

Additional Protocol I of 1977, Articles 12, 13, 15 and 21

Additional Protocol II of 1977, Articles 9 and 11

ICRC Customary IHL Study, Rules 25, 28–30 and 35

Further reading

[*Domestic Normative Frameworks for the Protection of Health Care*](#) (ICRC)

[*Promoting Military Operational Practice That Ensures Safe Access to and Delivery of Health Care*](#) (ICRC)

[*Safeguarding the provision of health care: Operational Practices and Relevant International Humanitarian Law concerning Armed Groups*](#) (ICRC)

[*The responsibilities of health care personnel working in armed conflicts and other emergencies*](#) (ICRC)

[*Ensuring the Preparedness and Security of Health-Care Facilities in Armed Conflict and Other Emergencies*](#) (ICRC)

[*Ambulance and Pre-Hospital Services in Risk Situations*](#) (ICRC)

[*Protecting Health Care: Guidance for the Armed Forces*](#) (ICRC)



4.6 ESSENTIAL SERVICES

Armed conflicts are increasingly played out in urban areas, where millions of people are at risk of harm if essential civilian services are degraded or if they cannot access such services.³⁴ Several trends have contributed to a decline in the delivery of essential services and to an unprecedented rise in humanitarian needs in urban areas; these include urbanization, the growing prevalence of parallel armed conflicts, the protracted nature of many conflicts and the sheer scale of destruction in urban warfare. It is increasingly likely that multiple crises, such as armed conflicts and natural disasters, will occur at the same time, further complicating the response and typically overwhelming all those involved.

Residents of urban areas often depend more on the centralized delivery of essential services, leaving them more vulnerable. Urban service systems (water supply, wastewater removal and electricity generation) are large scale and interconnected, entail complex logistics for their operations and maintenance, and rely on fragile and multi-layered governance structures.

IHL compliance in many of today's conflicts is insufficient. Too often, critical civilian water, sanitation and electricity infrastructure is directly targeted or otherwise affected by extensive destruction in urban areas (owing to the use of explosive weapons with wide area effects, for example). The reverberating effects of such attacks significantly reduce access to essential services.

Large swaths of communities will remain vulnerable to a lack of access to essential services as long as civilian objects are exposed to damage from armed conflict. The same holds true when other components of a service are affected, such as when consumables are damaged or destroyed, or when the personnel necessary to maintain a service are killed, injured or prevented from carrying out their tasks. This is first and foremost a public health concern, but it also threatens livelihoods and can cause displacement. A reduction in essential service delivery can also affect related services, such as communications, food and agriculture, critical manufacturing, and banking and financial services.

In addition to implementing measures to mitigate the above risks, actors in support relationships may find opportunities to improve access to essential services. They could help to repair or (re)build civilian infrastructure and could take steps to ensure safe access for service-provider personnel (e.g. operators and technicians) so they can operate and maintain the services and consumables (e.g. chemicals for water treatment) required for service delivery in line with basic standards.

SPECIFIC RISKS

- Death of and injury to protected persons (e.g. service-provider personnel – operators and technicians – and other civilians)
- Damage to or destruction of essential service infrastructure
- Damage to or destruction of other service-provider assets (e.g. offices, warehouses, stockyards, vehicles and machinery)
- Public health (disease outbreaks)
- Displacement
- Economic losses, lost livelihoods
- Impairment of related services (i.e. critical civilian infrastructure sectors)

SPECIFIC OPPORTUNITIES

- Encourage parties to refrain from attacking critical civilian infrastructure
- Share technical expertise and good practices in order to minimize the impact of military operations on essential services
- Assist with repairing or (re)building civilian infrastructure
- Take steps to ensure safe access for service-provider personnel (e.g. operators and technicians)

³⁴ The ICRC considers health, water, sanitation, electricity, solid waste management and education to be essential services.

Key legal rules

Fourth Geneva Convention of 1949, Articles 18–19, 53 and 55–56

Additional Protocol I of 1977, Articles 15, 52 and 54–57

Additional Protocol II of 1977, Articles 9 and 14–15

ICRC Customary IHL Study, Rules 7, 9–10, 14–19, 21, 42, 51 and 53–54

Further reading

[Urban services during protracted armed conflict: A call for a better approach to assisting affected people](#) (ICRC)

[Bled Dry: How war in the Middle East is bringing the region's water supplies to breaking point](#) (ICRC)

[When War Moves to Cities: Protection of Civilians in Urban Areas](#) (ICRC and InterAction)

[I saw my city die: Voices from the front lines of urban conflict in Iraq, Syria and Yemen](#) (ICRC)

[Explosive weapons in populated areas: Humanitarian, legal, technical and military aspects](#) (ICRC)

Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas (ICRC, forthcoming)

4.6.1 SCHOOLS AND OTHER EDUCATIONAL FACILITIES

Educational services are rapidly and profoundly disrupted during armed conflicts. Disruption occurs when students, educational personnel, and education infrastructure are directly targeted or incidentally harmed in attacks and when the military makes use of educational facilities, impeding learning and exposing schools to attack by opposing forces. Schools are frequently closed by authorities owing to nearby hostilities and resource constraints exacerbated by conflict; the fear of harm also keeps students and staff away. It is particularly challenging to protect educational continuity where the importance of education as an essential public service is undervalued by belligerents or where the delivery of education itself is a contested issue in the conflict.

The disruption of education can affect the community immediately, as schools are often involved in the delivery of other basic services. Its effects can persist for generations. For example, children who are prevented from attending school for even a few months in wartime often never go back. The degradation of basic services, including education, has a cumulative impact on children and the community, especially in situations of protracted conflict.

In addition to implementing measures to mitigate the above risks, actors in support relationships may have opportunities to either prevent educational disruption or facilitate the removal of conflict-induced barriers to access. Depending on the barriers to education in a given situation, actors in support relationships may find that they can raise awareness of the need to protect schools as civilian objects through training programmes (see [Section 6.2.2](#)), advocate for a reduction in the military use of schools (see [Section 6.1.2](#)), help to repair or (re)build educational facilities (see [Section 6.3.1.D](#)) and take steps to ensure safe access for educational personnel or coordination with humanitarian organizations (see [Section 6.2.3](#)). By incorporating such measures into their support relationships, actors can play a role in changing the mindset that access to education is a “nice to have”.

SPECIFIC RISKS

- Death of and injury to civilians (e.g. students, educational personnel)
- Closure of educational facilities
- Long-term effects on community education levels, with a disproportionate impact on girls
- Recruitment by armed groups
- Damage to or destruction of educational facilities and loss of educational material, and a concomitant rise in future rebuilding costs
- Rise in humanitarian needs due to the loss of access to critical services, information and support typically available in schools
- Cumulative impact of long-term disruption on development standards and public health

SPECIFIC OPPORTUNITIES

- Encourage parties to refrain from attacking schools and other educational facilities as well as students and educational personnel
- Advocate for a reduction in the military use of schools
- Provide support for educational personnel to continue activities, and facilitate repairs of educational facilities
- Assist the authorities, school personnel and other relevant stakeholders in assessing and managing security risks around schools
- Assist in clearing risks that impede access to schools (e.g. ERW)
- Investigate incidents of violence against education carried out by partners and ensure accountability for attacks that violate IHL

Key legal rules

Fourth Geneva Convention of 1949, Articles 24, 50(1) and 94

Additional Protocol II of 1977, Article 4(3)(a)

ICRC Customary IHL Study, Rule 135

Further reading

[International Humanitarian Law and the Challenges of Contemporary Armed Conflicts](#) (2019), pp. 44–46 (ICRC)

[Guidelines for Protecting Schools and Universities from Military Use During Armed Conflict](#)



4.7 THE NATURAL ENVIRONMENT

The natural environment is by default civilian in character; all parts of the natural environment are civilian objects unless they have become a military objective. In contemporary conflicts, the natural environment is at times directly attacked or incidentally damaged by the use of certain means or methods of warfare. It can also be impacted by damage caused to the built environment, for example when water, sanitation or electricity services are disrupted by hostilities. Attacks can lead to water, soil and land contamination, rendering drinking water and agricultural land scarcer for civilians; landmines and ERW can contaminate for decades; and biodiversity can be irreparably degraded when fighting takes place in hotspots.

The consequences of such environmental damage for civilians are manifold. Civilians depend on the natural environment for food and water. Farmers, herders and fishing communities depend on it for their livelihoods. When the environment is damaged and food and economic insecurity intensifies, the physical and mental health of conflict-affected people deteriorates. Individuals and communities try to cope by changing or diversifying their livelihoods, modifying their ways of life or migrating to new places. Yet this capacity to adapt decreases as conflict and environmental degradation continue.

While a certain degree of environmental damage is inherent in conflict, actors in support relationships may have opportunities to prevent serious environmental degradation. They could, for example, disseminate and integrate IHL rules protecting the natural environment into training programmes and sanction systems (see [Sections 6.2.1](#) and [6.2.2](#)); encourage parties to the conflict to adopt and implement measures to enhance their understanding of the natural environment prior to or on a regular basis during military operations (see [Section 6.1.2](#)); help partners to prevent or minimize harm to the environment, such as by providing technical expertise or sharing environmental impact assessments and maps showing particularly important or fragile environmental resources in combat areas (see [Section 6.2.3](#)); and exchange examples and best practices relating to measures that can be taken to comply with their IHL obligation to protect the natural environment.

SPECIFIC RISKS

- Water and soil contamination, impacting drinking water and food scarcity and longer-term food and economic security
- Long-term biodiversity loss
- Displacement
- Exacerbation of civilian harm owing to climate risks

SPECIFIC OPPORTUNITIES

- Disseminate and integrate IHL rules protecting the natural environment into training programmes and sanction systems for parties to a conflict
- Encourage measures to enhance understanding of the natural environment prior to or regularly during military operations
- Provide technical expertise on conducting environmental impact assessments and mapping particularly fragile environmental resources in combat areas
- Identify and designate areas containing particularly important or fragile environmental resources and share this information
- Exchange examples and best practices relating to measures that can be taken to comply with the IHL obligation to protect the natural environment

Key legal rules

Fourth Geneva Convention of 1949, Articles 53 and 147

Additional Protocol I of 1977, Articles 35(3) and 51–56

Additional Protocol II of 1977, Articles 14–16

ICRC Customary IHL Study, Rules 43–45

For a full list of relevant treaties, see the [ICRC treaty database](#)

Further reading

[Guidelines on the Protection of the Natural Environment in Situations of Armed Conflict](#) (ICRC)



4.8 LANDMINES AND EXPLOSIVE REMNANTS OF WAR

Until they are safely cleared, landmines and ERW (i.e. abandoned and unexploded explosive ordnance) present a continued threat of harm to civilians. In addition to the direct risk of death and injury, they can hinder access to essential services, infrastructure and agricultural lands, impede the safe return of displaced people (see [Section 4.3](#)), and hamper reconstruction and recovery efforts, with long-term consequences for human and socio-economic development.

To reduce these consequences, supporting actors should take effective measures to prevent and address the effects of landmines and ERW – especially where the actors themselves supply the explosive ordnance. Such measures include providing support to clear mines and ERW as soon as possible once active hostilities end, enacting measures to mitigate the risks to civilians until clearance is completed and delivering assistance to victims, in line with international standards.

Legal reminder

IHL sets out a comprehensive framework for preventing and addressing the problems caused by landmines and ERW. This includes provisions on clearing mines and ERW, implementing measures to protect civilians (such as marking and fencing) and providing medical, rehabilitative and socio-economic assistance for victims. It also includes requirements in terms of destroying stockpiles of anti-personnel mines and cluster munitions – weapons that have been a particular problem, in humanitarian terms, in post-conflict situations. The use, production, stockpiling and transfer of anti-personnel mines and cluster munitions are also banned under specific treaties.

The Anti-Personnel Mine Ban Convention (1997), the Protocol on Explosive Remnants of War (2003) (Protocol V to the 1980 CCW Convention) and the Convention on Cluster Munitions (2008) also have requirements for the States Parties to provide assistance and cooperation to States affected by these weapons.

SPECIFIC RISKS

- Continuing risk of civilian death and injury during and after conflict
- Prevents safe access to buildings, infrastructure and essential services, including for service providers to operate, maintain, assess or repair
- Inability to use land for productive purposes (e.g. agriculture)
- Prevents the movement of people and essential goods and commercial trade
- People displaced and unable to safely return

SPECIFIC OPPORTUNITIES

- Provide assistance and cooperation to States affected by landmines and ERW

Key legal rules

Anti-Personnel Mine Ban Convention, 1997

Protocol on Explosive Remnants of War, 2003 (Protocol V to the 1980 Convention on Certain Conventional Weapons (CCW))

The Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Amended Protocol II to the CCW)

Convention on Cluster Munitions, 2008

Further reading

[International Mine Action Standards](#)

[Weapon Contamination in Urban Settings: An ICRC Response](#) (ICRC)

[Increasing Resilience to Weapon Contamination through Behaviour Change](#) (ICRC)

See also:

- [Section 3.3.1](#) Weapons and ammunition management
- [Section 3.3.2](#) The conduct of hostilities
- [Section 3.4.2](#) Arms transfers

PART C

FRAMEWORK OF PRACTICAL MEASURES

5. FRAMEWORK OVERVIEW

There are numerous practical steps that actors in support relationships can take to maximize compliance with IHL and the protection of those not fighting and otherwise reduce negative humanitarian consequences.

From its preliminary analysis, the ICRC has developed a framework that divides those practical measures into ten functional groups. This section provides an overview of the framework and how it can be applied by decision makers in support relationships.

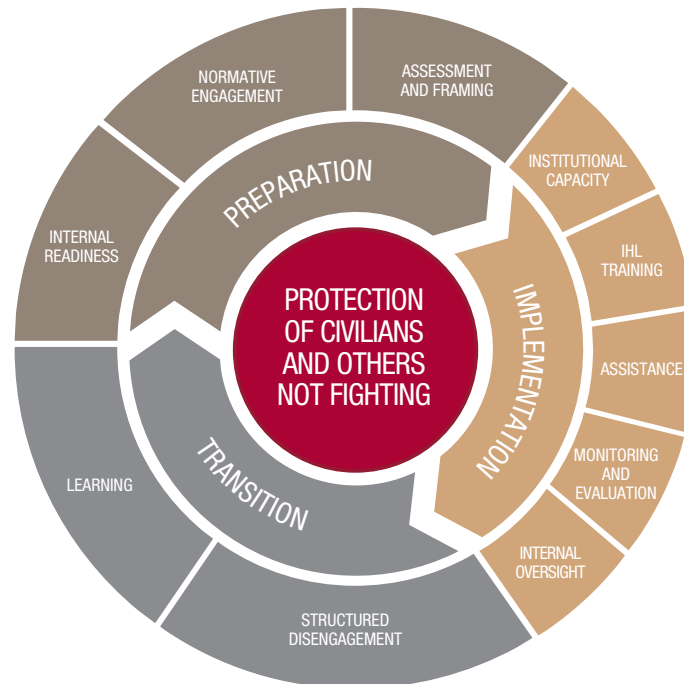
By making sure that effective practical steps are taken across these ten areas where appropriate, decision makers can mitigate the risks that the support relationship poses to affected people. It will be for individual decision makers to tailor the range of steps they take to the support relationship in question (see [Sections 3](#) and [4](#) for key risks and opportunities).

Actors should consider each area from a legal, policy and operational perspective and at all levels of decision-making. Although they are arranged into three stages – preparation, implementation and transition – the measures are not strictly sequenced. Many concerns will require that steps be taken throughout the course of the support relationship.

5.1 MANAGING SUPPORT RELATIONSHIPS

Actors should proactively manage their support relationships to promote the protection of civilians and others not fighting from harm.

This framework proposes that support relationships be consciously managed to achieve the goal of maximizing the protection of those not fighting. Actors should invest in practical measures across the ten areas that make up the three stages of preparation, implementation and transition. Decision makers should identify what practical measures are needed to reduce the risk of harm and positively influence their partner through their support relationship. Not all measures – or areas of measures – will be relevant to every relationship given the incredibly diverse range of support relationships. There are, however, some areas that will be relevant in most if not all support relationships, such as normative engagement, assessment of and framing the relationship, and learning. Decision makers should consider each area to determine whether or not it is required in the circumstances.



By making sure that effective practical steps are taken in each of these ten areas, decision makers will mitigate a considerable degree of risk to affected people from the support relationship. Actors will need to contextualize these broad areas to determine what practical measures to take in the support relationship under consideration.

To assist with planning, these ten areas are grouped into three main phases:

1. **preparation** to engage in a support relationship
2. **implementation** of the support relationship
3. **transition** away from the support relationship.

However, these measures are not strictly sequenced. All ten areas should inform a detailed plan for the support relationship at the outset and then be reviewed and adapted regularly so that the relationship remains fit for purpose. Many concerns will require that steps be taken throughout the course of the support relationship. For example, learning processes and normative engagement are relevant throughout the relationship. And while a transition strategy is implemented later in a relationship, decision makers need to take steps to prepare for a structured disengagement to reduce the risk of harm.

Actors should consider and take practical measures throughout the preparation, implementation and transition stages.

The ten areas of practical measures are listed below and then further described in [Section 6](#).

Protecting civilians and others not fighting

Actors in a support relationship should consciously manage their support relationship so as to improve the protection of civilians and others not fighting. This goal should guide decision makers when considering practical measures across the ten areas detailed below.

The “protection of civilians and others not fighting” is used here as shorthand for the range of measures designed to reduce the harm caused – directly and indirectly, in the short and long term – by the parties to a conflict and the actors

**PROTECTION
OF CIVILIANS
AND OTHERS
NOT FIGHTING**

that support them. Included in this broad category are measures to improve the protection of civilians, those *hors de combat* and other people protected by IHL as well as civilian and other specifically protected objects. Many measures are required under or derive from IHL.

Some of the particular humanitarian concerns that should be considered are detailed in [Section 4](#). They include the risks and opportunities specific to persons deprived of their liberty, the dead, IDPs, missing persons and medical personnel. Decision makers should also consider issues related to protected objects such as critical civilian infrastructure, medical facilities and transport, and the natural environment, and the risks posed by landmines and ERW. The risks and opportunities related to potential humanitarian concerns should be borne in mind when managing a support relationship.

Preparation



1. **Internal readiness to engage** – Improving an actor’s own internal functions before engaging in a support relationship.
 - Framework
 - Systems and processes
 - Personnel
 - Culture and intent

2. **Normative engagement** – Engaging with actual or prospective partners to clarify and encourage behaviour that complies with armed-conflict-related norms (legal or otherwise).
 - Strategic argumentation
 - Contribution to norm development and practical guidance
 - Engagement and influencing
 - Socialization
 - Dissemination
 - Mobilization

3. **Assessment and framing the relationship** – Ensuring the potential partners’ intent, capacity and leadership are aligned.
 - Support assessment
 - Agreements
 - Specific operational readiness
 - Transition strategy

Implementation



4. **Institutional capacity building** – Preparing a supported party’s authorities to protect and assist people during an armed conflict and help them to deal with its associated consequences.
 - Framework
 - Systems and processes
 - Personnel
 - Culture and intent
5. **IHL training** – Helping partner forces understand and operationalize IHL and other relevant rules.
 - Training
 - Mentoring
 - Monitoring and evaluating training and mentoring
6. **Assistance in IHL compliance** – Helping a partner to fulfil its IHL obligations or otherwise improve its protection of civilians and others not fighting.
 - Capacity multiplication
 - Resources
 - Substitution of functions
7. **Monitoring and evaluation** – Monitoring a partner’s actions and, where necessary, calling that partner to account for any problematic conduct.
 - Monitoring and evaluation
 - Recording
 - Investigations
 - Oversight
 - Accountability
8. **Internal oversight** – Ensuring that an actor’s own armed forces and other governmental organs operate within the law and are accountable to their own government and constituents.
 - Internal oversight
 - Investigations

Transition



9. **Structured disengagement** – Properly planning the process of ending the support, such as by tapering it, in order to minimize the disruption to the protection of civilians and others not fighting.
 - System sustainability
 - Ongoing protection of civilians and others not fighting
 - Responsible resource disengagement
 - Managing the aftermath
10. **Learning** – Identifying and incorporating lessons learned from the support relationship, i.e. the knowledge and insight gained from the experience.
 - Systematic learning to ensure affected people are better protected
 - Learning together
 - Incorporating lessons into doctrine and future practice

5.2 CONTEXTUALIZATION

The ICRC encourages actors to assess the measures in each area from a legal, policy and operational perspective and at all levels of decision-making. In contextualizing their approach, the actors should generally consider the ten areas, but also in relation to specific protection concerns ([Section 4](#)) and the type of conflict, actors, activities and support involved ([Section 3](#)).

Promoting respect for IHL means more than just mitigating the risks arising directly from the support being provided. The ICRC encourages actors to take a broader view of the ways in which they can promote positive behaviour, including through measures not directly tied to the support they provide. For example, they can engage with partners on relevant norms and provide assistance to mitigate the negative humanitarian consequences of the conflict regardless of the support being provided.

Supporting actors may also need to take practical measures before providing support and/or after achieving their own objectives. Importantly, each actor's obligations under international and domestic law do not start and end with the support relationship. For example, a supporting actor's legal obligations may continue after the support relationship ends, and both the supporting and supported actors' obligations may outlast the end of the conflict. Protecting persons deprived of their liberty and clarifying the fate and whereabouts of the missing are just two areas in which both types of actors may have continuing obligations after the end of the relationship or the conflict. These considerations need to be factored into decision-making throughout the relationship.

The points raised in this document are merely indicative of the many issues that decision makers need to consider while managing a support relationship. Decision makers have a responsibility to determine what practical measures will be most effective in the given circumstances and to continually adapt their approach if those measures prove less effective than expected or the circumstances change.³⁵ This document is intended as a practical tool for use in a wide range of circumstances. In practice, each actor must make its own assessment and act in compliance with its legal obligations.

If properly considered, the questions in this document should lead to improved outcomes, but they should not be regarded as a checklist. Actors have a responsibility to analyse the risks that the support relationship poses to civilians and others not fighting and the opportunities to improve their protection, and factor both into their decision-making process.

5.3 OVERARCHING QUESTIONS

In order to manage support relationships towards achieving coherent responsibility, decision makers should be guided by five overarching questions:

- 1) *What type of conflict, actors, activities and support are involved in the support relationship?*
- 2) *What gaps exist between the partners' respective intent, leadership and capacity?*
- 3) *What are the implications of the answers to the above questions for civilians and others not fighting?*
- 4) *What steps from any of the ten areas of practical measures discussed above could you and your potential partner(s) take together to improve the level of protection and reduce harm to civilians and others not fighting?*
- 5) *If the gaps identified in question 2 above remain significant, should you reconsider the support relationship?*

These overarching questions are supplemented by a series of key questions about each of the ten areas of practical measures (see [Section 6](#)) and more detailed questions meant to orient decision makers at all levels (see [Section 7](#)).

³⁵ IHL Challenges Report 2019, pp.75–76 (see note 1 above).

6. CONSIDERATIONS FOR DECISION MAKERS

Following the overview in [Section 5](#), this section looks in detail at each of the ten areas of practical measures for managing support relationships. For each area, key questions are posed for decision makers at the strategic level. This section also identifies a number of more specific concerns as well as examples of practical measures to consider in each area. These general considerations are further developed in [Section 7](#) through detailed questions for decision makers at all levels.

6.1 PREPARATION



6.1.1 INTERNAL READINESS TO ENGAGE

Internal readiness refers to the measures that actors can take to prepare their internal functions before engaging in a support relationship.

Introduction

Actors should take stock of their own internal readiness to manage a support relationship before agreeing to do so. Internal preparedness is important because, while decision makers may be pressed to agree to the support relationship quickly, the changes required to operate in a support relationship may be significant and take time to implement.

Internal readiness consists of four key elements, including:

- **Framework** – the laws and policies, both international and domestic, that establish the rules and boundaries for how a support relationship will operate
- **Systems and processes** – the procedures, bound by the framework, used to establish, maintain, oversee and end a support relationship
- **Personnel** – determining the staff positions that will be involved in support relationships, and selecting and training the individuals for these positions
- **Culture and intent** – the influences, both internal (such as leadership, institutional culture and peer pressure) and external (such as public opinion, media, societal culture and religion), that shape how support relationships are conducted.

Given the variety of actors and types of support that may be involved (see [Section 3](#)), preparations may need to be made within and across several agencies, departments or functions. Despite operating under a common framework, each of these entities will have their own systems, processes, personnel and culture. For example, arms export control agencies have well-defined licencing procedures, and military branches have doctrine and rules of engagement.

The key point is to consider an actor's overall readiness to engage in a support relationship and the coherence of its approach. Internal readiness should entail a realistic assessment of the spectrum of support relationships the given actor might engage in. The measures taken to prepare internally should put the actor in a position to manage future support relationships in a way that increases the protection of civilians and others not fighting.



Key questions

- What conditions and criteria need to be met in a support relationship? Are these conditions and criteria consistent across all your support relationships?
- Do resources need to be allocated differently, do processes require “partner-proofing” and do personnel need specific training?
- Are the internal entities involved in a support relationship aligned in their vision, and are they set up to manage the type of support relationship envisaged? How do you ensure coordination between these entities?
- Do you have systems in place to assess your partner's intent, capacity and leadership with regard to protecting civilians and others not fighting?
- Do you have established systems and procedures as well as the capability to monitor your partner's actions?

In individual decision-making processes, these considerations can be revisited (see [Section 6.1.3](#)). After taking the necessary preparatory steps, actors should be able to adapt more quickly to any specific support relationship that they enter into.

A. Framework

Most State actors that provide support already have a set of domestic laws and policies that can be used as an initial framework for managing support relationships in compliance with IHL. However, IHL obligations apply to all those engaged in armed conflict – including States that receive support and NSAGs that are less likely to have similar norms and policies.

An overarching and coherent framework of laws and policies is needed to ensure consistency between departments, agencies and functions involved in support relationships. Certain parts of that framework can be prepared in advance, such as relevant military policies and doctrine, which should be IHL compliant and designed to protect civilians. Another example is the comprehensive legal and regulatory framework needed to effectively implement and enforce arms export and import controls.

PMOs will be reaching – and implementing – agreement on responsibility for the use of military force at all levels and the use, location and command and control lines of advisers and mentors at headquarters or in the field. Draft status of force agreements or drafts of other agreements between actors that place emphasis on protecting those not fighting can form part of that framework and be prepared in advance as part of internal readiness. For example, partners can agree on responsibilities and standards to be followed during partnered detention operations, with the aim of mitigating the risk of IHL violations and avoiding a diffusion of responsibility (see [Section 3.4.3](#)). These agreements can also anticipate the status of forces accused of committing violations as well as processes for clarifying primary and secondary jurisdiction in order to adjudicate any allegations.

When considering framework laws or policies, it is also important for actors to establish minimum standards and thresholds that should be met when entering into any partnership. These standards can be applied both between supporting actors, regarding any potential supported party, and by actors

considering accepting support from a partner. The standards could be linked to internal assessments and/or external benchmarks using criteria such as human rights records, corruption, military competency and arms availability.

For support relationships to better protect civilians and others not fighting, the actors involved must take steps to integrate these frameworks into the subordinate systems and processes.

B. Systems and processes

For decision makers, assessing internal readiness for support relationships will entail reviewing a wide range of systems and processes. It is important that all relevant systems and processes integrate measures designed to moderate behaviour in conflict.

Where the systems or processes of different ministries, departments or agencies are interlinked, a holistic perspective of those systems and processes is needed to reduce internal gaps. This can improve internal readiness, especially in view of the complexity of government administrations and support relationships. This perspective should encompass all departments, agencies and functions of a given administration as well as other actors (including actors in a support relationship such as States, non-State actors and multilateral organizations).

The development and implementation of a policy on the protection of civilians help to raise the profile of civilians and of civilian harm mitigation measures in readiness activities. Such policies provide overarching guidance to both civilian and military entities and ensure that the duty to protect civilians is integrated into systems and processes in a coordinated way. Internal oversight and accountability processes help to ensure the effectiveness of such policies in actual practice (see [Section 6.2.5](#)).

One of the problems that may challenge an actor's ability to operate in compliance with IHL – and require specific safeguards – is a disparity between its capabilities and those of its partner. For example, where a supporting actor is providing close air support, a capability that is highly desired by supported parties, care must be taken to prevent its misuse. This may require more steps or verifications than the process employed when this type of support is delivered to one's own forces.

Before committing or receiving resources and finalizing the planning of a support relationship, actors should fully consider lessons identified, lessons learned and best practices. That will allow them to understand what has worked previously, what has failed, and what challenges and risks are likely to arise (see [Section 6.3.2](#)). These lessons may come from other actors, ministries, departments and agencies that have provided or received support, such as other development activities undertaken with the same actor. This will help to provide a realistic check of potential support, the methodology needed to manage the support and the commitments a future partner may need to take.

Actors that commonly work within a coalition should consider general steps they can take in order to facilitate coordination with each other. They might also ensure that roles and responsibilities for all joint or combined processes are clearly defined, even before these roles and responsibilities are considered for a specific operational situation.

Systems and processes of governments and authorities

Governments and authorities, including the senior leadership in many cases, are not always in agreement regarding the systems and processes relevant to support relationships across their ministries, departments, agencies and functions. This lack of agreement, which can affect their understanding of the support relationship and intra-agency expectations, will be exacerbated by the extra level of complexity that support relationships bring. In the case of a supporting State, a comprehensive approach is needed at both capital level and within the host State, where local support is managed between departments and agencies present on the ground.

If they fail to take account of the wider implications that a support relationship has on internal structures and resources, actors could ultimately exacerbate – rather than mitigate – the humanitarian risks associated with armed conflicts. This is especially true if that support is delivered to the partner’s security sector alone. For example, external support for defence may result in an increase in detainees that the justice sector is unable to adequately cope with. Systems and processes should be coordinated across all government departments or agencies involved to prepare for, mitigate, monitor and remedy such gaps as early as possible.

Supported actors should be cognizant of the effects support relationships can have across their ministries, departments and agencies, and they should approach support relationships in a coherent and consistent fashion that prevents gaps occurring.

Therefore, where several departments and agencies within one authority are involved in providing or receiving support, the systems and processes should be overseen by a lead department or agency and include sufficient coordination and information-sharing mechanisms. The authorities in charge of managing relationships with the partner should also be clearly delineated. Both supporting and supported actors can insist upon these measures from the other party in the relationship.

This approach can help to ensure that support is delivered and received in a coordinated and consistent fashion and prevent the loss of valuable information about risks or allegations of misconduct or IHL violations, as that would reduce the likelihood of accountability.

See also:

- [Section 6.2.5](#) Internal oversight

C. Personnel

Dedicating resources to develop expertise in support relationships can improve an actor’s collaboration with partners. While particularly apparent for those engaging in PMOs, this is also applicable to those working with partners using other types of support, e.g. diplomats and staff from ministries or departments of foreign affairs, intelligence services, development agencies and treasury officials.

Over time, individuals, units and agencies that specialize in working with partner forces can develop a high level of professionalization and standards, including in terms of IHL dissemination and promoting values and practices that protect civilians and others not fighting. This may include experts in non-military roles – who may not normally be perceived as part of the deployable force – to support institutional capacity building.

Training and exercises for future supporting troops, staff and diplomats should address how to work together and encourage a partner to comply with IHL and better protect civilians and others not fighting. Military exercises often focus on an actor’s own troops, when the reality of support relationships is that the command level will be heavily involved in relationship-building with partners and applying support, influence and oversight.

Small steps can go a long way towards achieving better readiness for a support relationship. Examples include training in the potential partners’ language and staff exchanges between actors, ministries, departments and agencies.

D. Culture and intent

Each entity in a support relationship, including those within one actor, may have its own approach to support relationships that is driven by the organizational culture and the organization’s mission. For example, diplomats, development staff and troops are likely to approach and manage support relationships in slightly different ways. This requires robust and ongoing coordination among them to ensure consistency, lest these differences create gaps in operationalizing IHL and protecting civilians.

The senior civilian and military leadership, especially individuals who lead or coordinate inter-agency or inter-departmental activities involved in support relationships, can play an important role in prioritizing IHL and the protection of civilians as actors prepare to engage in a support relationship. This can be achieved by incorporating IHL and the protection of civilians into readiness activities such as policy-making, by ensuring these topics are emphasized when selecting and training staff, and through system and process design.

6.1.2 NORMATIVE ENGAGEMENT

Normative engagement refers to the range of measures taken to clarify and encourage adherence to conduct-related norms in relation to armed conflict. The relevant norms may be found in international law (both treaty and customary), domestic law, “soft” law or other guidance or be derived from practice.

Introduction

Normative engagement should be tailored when preparing and implementing a specific support relationship.

To maximize engagement, partners should have a good understanding of the major political, social and economic factors driving their partner’s decisions. These myriad factors will have a bearing on the value parties place on IHL and the extent to which they comply, such as how they conduct hostilities and treat civilians and others not fighting.

A wide range of governmental and non-governmental stakeholders can influence an actor’s agreement with and adherence to behavioural norms in an armed conflict. This can include such disparate actors as heads of State or government, ministries, ambassadors, operational commanders, media, and religious and community leaders.

There is a risk that partners do not share the same understanding of IHL or do not implement their obligations. When entering a support relationship, actors should therefore take steps to identify where these discrepancies might lie and to ensure that any conduct within the context of the support relationship will be undertaken according to the more protective of the partners’ standards.

Much can be done, even before considering specific situations and actors, to promote understanding and good practices with regard to IHL. Promoting compliance with IHL and the protection of civilians and others not fighting within the broader international community will help future partners prepare for the support relationship (see [Section 6.1.1](#)). More specific measures can be taken once a specific relationship or engagement comes into consideration.

An actor’s intent is a critical factor in IHL implementation and compliance (see [Section 6.1.3](#)). To the extent possible, supporting actors should seek to assess the strength of a potential partner’s intent to comply with IHL in a given situation and to take measures to influence that intent if needed. For example, actors can make their support contingent upon IHL compliance. Moreover, actors in a support relationship should engage with their partners to address potential humanitarian concerns and consider more general preventive measures.



Key questions

- In its international relations and in international forums, has your leadership committed to broad, multilateral positions supporting IHL compliance?
- Does your leadership encourage other actors to accede to international legal instruments and other standards intended to reduce the humanitarian consequences of armed conflict?
- Do you have programmes that promote respect for IHL and the protection of civilians, and do you make these programmes available to partners or potential partners?
- Do you have bilateral and multilateral mechanisms designed to influence potential partners’ views and perspectives on compliance with IHL?

A. Strategic communication

Statements made by actors in international forums can serve to reinforce standards or express their commitment to behave in a certain way. They can also use public statements to condemn or discourage poor behaviour. Such statements signal to partners the standards of conduct expected when they team up with such actors. The closer the relationship between two actors, the more influence one actor's statement is likely to have on the partner.

For example, actors could make known (publicly, in relevant forums, or bilaterally to their prospective partners) how their armed forces implement IHL rules applicable to the use of explosive weapons in populated areas – in particular the prohibition on indiscriminate and disproportionate attacks and the obligation to take all feasible precautions in attack. They could lead by example by making public commitments that go beyond their legal obligations. Examples include both the Safe Schools Declaration and the Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action.³⁶

B. Contributing to the development of norms and practical guidance

By contributing to the work of international or multilateral bodies, actors can help to clarify international law and develop guidance for operationalizing it. Relevant bodies and processes may already exist, such as conferences of States party to weapons treaties or the Montreux Document Forum.³⁷ Actors could also seek to establish a group or body for a specific purpose, such as a working group or a centre of excellence.

To cite an example, the ICRC recommends that actors share good practices, experience and lessons learned in the protection of civilians in the conduct of hostilities in populated areas, including with regard to the choice and use of means and methods of warfare (see [Sections 3.3.2](#) and [4.6](#)).

C. Engaging and influencing

Actors in support relationships are well-placed to encourage and influence their partners to comply with IHL. Amongst other things, supporting actors should consider reminding all parties to the conflict of the need to respect IHL rules in all circumstances. To be effective, any influence will have to be tailored to the party's characteristics and the nature of the conflict. Thus, wherever possible, arguments should be based on a sound understanding of the motivations and interests of the party to the conflict and backed by good contacts and a track record of engagement with the party.

Some of the following interests may help structure the dialogue and engagement with parties to armed conflicts:

1. core values
2. military efficacy and discipline
3. reciprocal respect and mutual interest
4. reputation
5. criminal prosecution
6. economy and infrastructure.

³⁶ See ICRC, "The Safe Schools Declaration and the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict", ICRC, Geneva, 2018: <https://www.icrc.org/en/document/safe-schools-declaration-and-guidelines-protecting-schools-and-universities-military-use>. For more on Geneva Call Deeds of Commitment, see www.genevacall.org.

³⁷ The Montreux Document Forum is a forum for participants of the Montreux Document on pertinent international legal obligations and good practices for states related to operations of private military and security companies during armed conflict. For more details, see www.mdforum.ch.

D. Socialization

Socialization is the process by which people adopt the norms and rules of a given community.³⁸ Individuals can be socialized into committing violence or, conversely, showing restraint (taking deliberate action to limit the use of violence).

At a minimum, formal socialization mechanisms in armed forces and armed groups inculcate the rules of IHL in all group members, incorporate these rules into practical training, and include the threat of punishment for non-compliance. However, informal norms can be as strong as formal norms. Partners can cooperate creatively with integrated State armed forces and with NSAGs to socialize their fighters of all ranks to act with restraint (see also [Section 6.2.1](#)).

Further reading

[The Roots of Restraint in War](#) (ICRC)

E. Dissemination

Arms bearers with little or no IHL training can significantly impede efforts to increase the protection of civilians and others not fighting and to regulate the behaviour of parties to conflicts. There is little likelihood that a body of law will be observed unless those whose duty it is to respect and apply it are instructed in it and trained to comply with its obligations.

Parties to armed conflicts have a duty to integrate IHL into their doctrine, training and rules of engagement.³⁹ This duty stems from the obligation of all parties to respect and ensure respect for IHL. In customary law, the duty to train members in IHL is considered binding on both States and armed groups.⁴⁰

Both supporting and supported actors may be able to assist with IHL dissemination and training aimed at those whose actions and behaviour can affect victims of armed conflicts. They include armed forces, police forces, security forces and others bearing arms, as well as decision makers and members of key departments and agencies, not to mention opinion leaders at both the local and international levels.

See also:

- [Section 6.2.2](#) IHL training

F. Mobilization

Actors engaged in support relationships should consider engaging and mobilizing other actors, including States, armed groups and international organizations, to encourage the parties to improve their compliance with IHL. This would be especially relevant in military coalitions, where multiple actors act in concert to address concerns about the conduct of one partner.

Further reading

[Increasing Respect for International Humanitarian Law in Non-International Armed Conflicts](#) (M. Mack)

³⁸ See J. Checkel, “Socialization and violence: Introduction and framework”, *Journal of Peace Research*, Vol. 54, No. 5, September 2017, pp. 592–605.

³⁹ In treaty law, the duty of States to provide IHL instruction to their armed forces is found in Articles 47, 48, 127 and 144 in the First, Second, Third and Fourth Geneva Conventions, respectively, and in Article 83 of Additional Protocol I. This treaty obligation is applicable both in peacetime and in times of IAC. In a specific reference to NIACs, Additional Protocol II requires, in Article 19, that the Protocol “shall be disseminated as widely as possible”.

⁴⁰ ICRC *Customary IHL Study*, Rule 142 and explanation (see note 7 above).

6.1.3 ASSESSMENT AND FRAMING OF THE RELATIONSHIP

In the ICRC's view, assessing and framing a support relationship refers to the process of carefully analysing potential partners and planning support in a manner that more closely aligns the partners in order to reduce the risk of harm to affected people.

Introduction

Assessing and framing are critical to managing a coherent support relationship. Conducting a thorough support assessment allows actors to identify risks and opportunities in relation to compliance with IHL and other standards and the protection of civilians and others not fighting. Any significant concerns can be identified and addressed – and the relationship itself can be reconsidered – before implementation. Based on that assessment, the actors can agree on the parameters of the support relationship, incorporating any measures to address the risks and opportunities identified in the assessment. Finally, creating a detailed plan for structured disengagement clarifies the intended outcomes of the relationship and the measures that will be taken to minimize harm during the transition and beyond.

In order to assess the risks and opportunities that may arise in terms of protecting affected people, the following three factors of each partner should first be analysed:

1. intent
2. leadership
3. capacity.

Of course, these factors should be assessed prior to entering into or implementing the support relationship.⁴¹ They should also be routinely reassessed in the light of subsequent behaviour and evolving internal and external circumstances.

Bringing these factors into alignment is central to ensuring that a support relationship serves to enhance, not undermine, IHL compliance and the protection of those affected by conflict.

Intent

Intent refers to the prospective partner's objectives or goals, notably its intention or willingness to comply with IHL and promote the protection of civilians and others not fighting. Intention with respect to IHL and protection can be assessed using a range of sources, including formal commitments and adherence to IHL and other relevant international legal and other frameworks, the recipient's past and present record of respect for IHL and human rights law, public discourse and bilateral assurances.⁴²

A lack of intent can be reflected in political declarations, prior behaviour or objectives that are inconsistent with the principles, rules and spirit of IHL. Support relationships in which this intent is lacking constitute a considerable risk for the protection of civilians and others not fighting, and so careful consideration must be given before entering into such a partnership.

Leadership

Leadership refers to a partner's organizational structure and its ability to ensure that the leaders' intent, goals, directions (instructions or guidance) and values – whether related to IHL or not – are understood, respected and faithfully executed throughout the organization's hierarchy. For example, this may bear upon the weight given to diplomatic assurances.

⁴¹ States party to the Arms Trade Treaty have an obligation to assess the potential that conventional arms or items could be used to commit or facilitate a serious violation of IHL or international human rights law, among other factors, prior to authorizing an export. They are also encouraged to reassess their authorization if they become aware of new information. See Arms Trade Treaty, Arts 7.1 and 7.7.

⁴² See, for example, *Arms Transfer Decisions*, p. 21 (see note 29 above), and the Montreux Document (see note 25 above).

Although the leadership aspect is not always easy to assess, an effort to do so should be made during the readiness stage prior to taking a decision to engage. Assessing the partner's strength of leadership requires an understanding of its organizational structure, including the chain of command in its armed forces, and how effectively their decisions are implemented. Understanding an actor's organizational structure also helps to identify key decision makers within a group and primary contacts for addressing operational and humanitarian concerns.⁴³ This exercise may be more challenging in cases of decentralized NSAGs or community-embedded NSAGs,⁴⁴ or where the lines of authority are otherwise opaque to the external actor.

This assessment can also indicate the levers of influence that leaders have at their disposal. For example, centralized armed groups rely on clearly established rules and values, which are likely to be imparted to the rank and file through indoctrination and training. Decentralized and community-embedded armed groups do not always have written codes of conduct, drawing instead on shared values and traditions.⁴⁵

Capacity

Capacity refers to the material assets, human resources and skills that enable an actor to achieve its goals.

When assessing capacity, one critical aspect to consider is the degree to which the partner is interoperable with others. Even if both intent and leadership are strong and well aligned between actors in a support relationship, that relationship may be weakened if the partners' resources are not appropriately aligned and interoperable.

A partner may have strong leadership but lack the resources to achieve its objectives. The actors will need to agree on roles and responsibilities in view of their mutually assessed capacities.

If the supported actor identifies any gaps in its capacity to effectively receive support, it should make the prospective supporting actor aware of them. The gaps can therefore be rectified as soon as practicable to protect both the partners and civilians.

Visualizing Intent-Leadership-Capacity

Actors considering entering into a support relationship in armed conflict should carefully assess their potential partner's intent, leadership and capacity. Their aim should be to identify strengths, weaknesses and major alignment gaps during the preparation phase. The observed gaps could lead to the diffusion of responsibility.

Before entering a support relationship, each partner should assess itself and then its potential partner, based on the three factors described above.

Having undertaken those two assessments, each partner should then conduct a gap analysis to determine whether the partners are compatible.

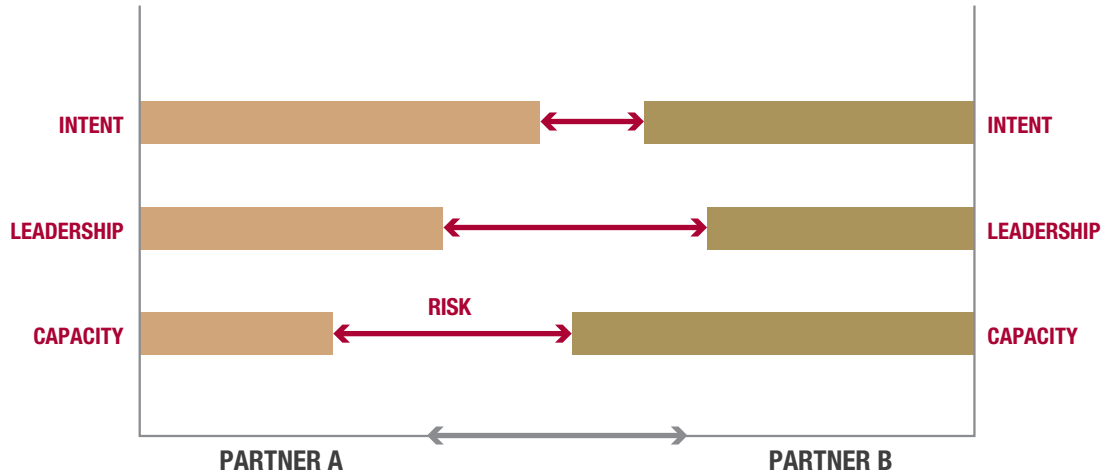
In all cases, an alignment gap should trigger consideration of how to mitigate the resulting risks to the affected community. In conducting the gap analysis, it is important to consider the following points:

- Is each partner strong enough on each criterion to operate well in a support relationship?
- Working together, would the partners be capable of making up for any weaknesses in one or the other?
- What practical measures could be taken to close any identified gaps?
- How do you assess the effectiveness of measures aimed at closing the gaps?
- What are the implications of any remaining gaps for affected people?

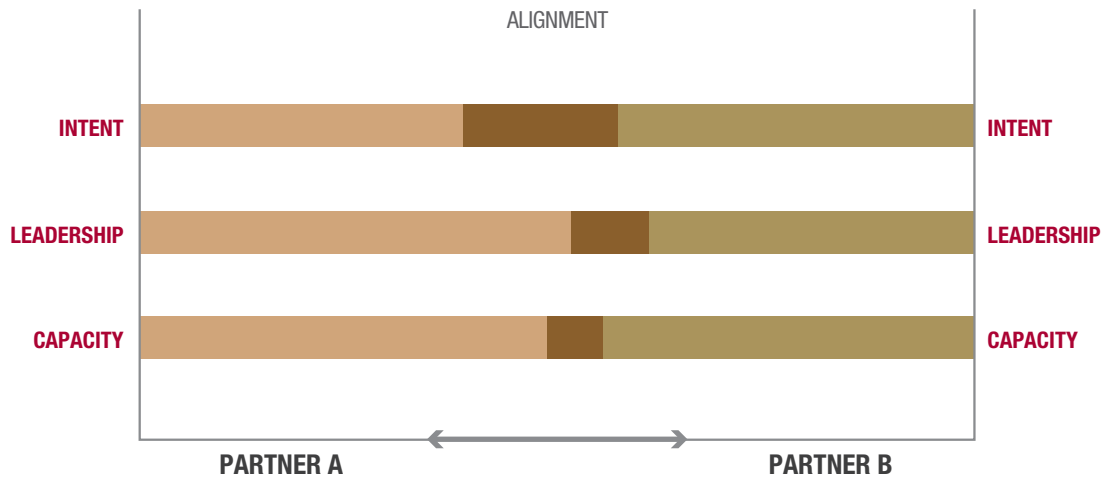
⁴³ *Roots of Restraint*, p. 23 (see note 20 above).

⁴⁴ *Roots of Restraint*, pp. 23 and 55 (see note 20 above).

⁴⁵ *Roots of Restraint*, p. 23 (see note 20 above).

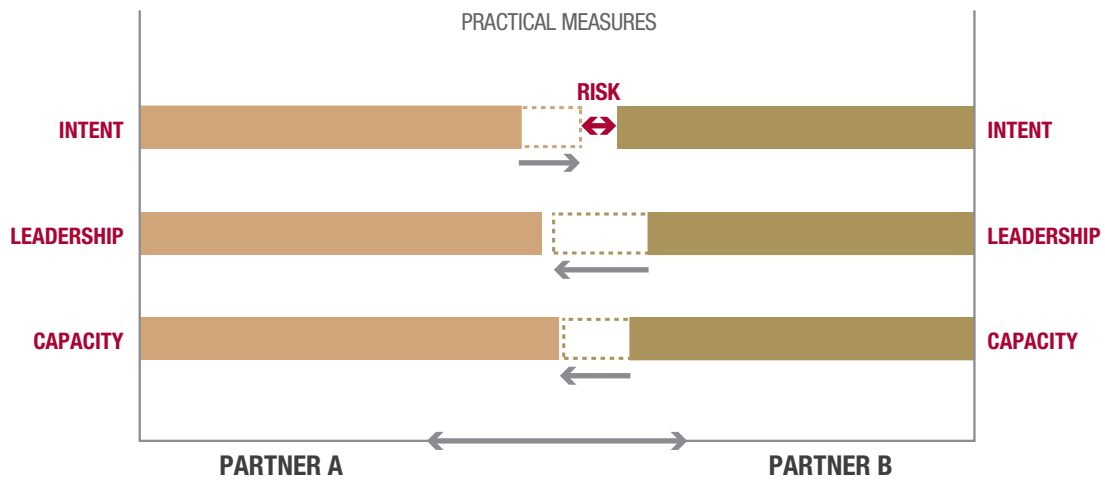


Ideally, partners should each be strong across all three factors.

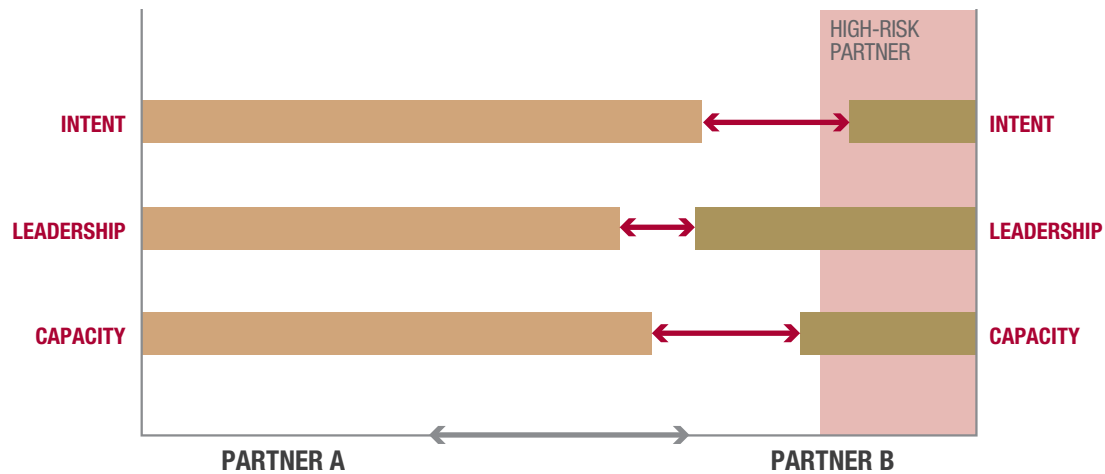


Alternatively, one partner's strengths may compensate for the other partner's weaknesses.

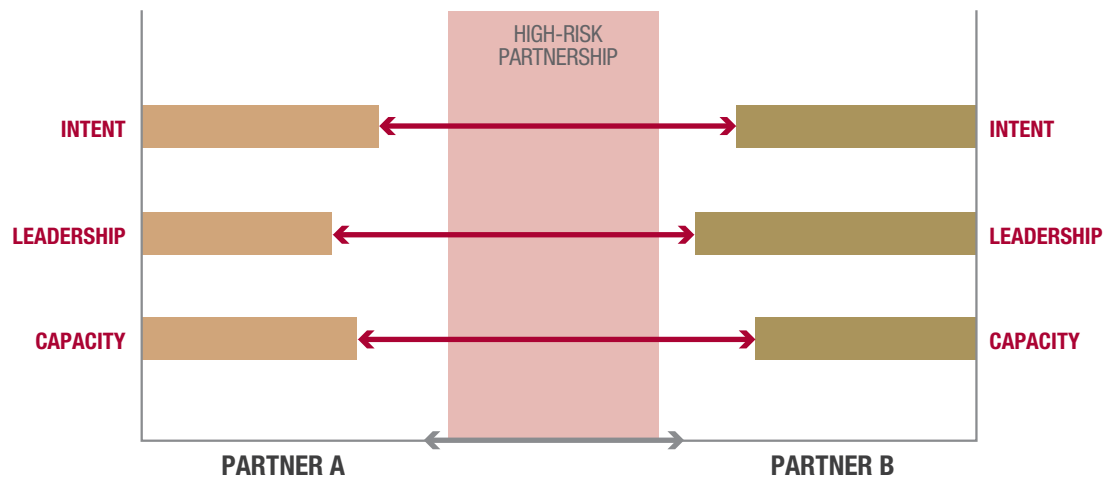
Where there are gaps between the partners, practical measures should be identified to close them.



However, there is a limit to how much a partner can reasonably expect to be able to compensate for another actor over which it does not have control. Partnering with an actor that does not have at least a minimum level of intent, leadership and capacity should be avoided, as such a support relationship could pose a high and unmitigable risk to civilians and others not fighting.



Similarly, where the gaps are significant, the actors may need to reconsider the relationship altogether.



Key questions

- Have you accurately assessed your and your partner's respective intent, leadership and capacity?
- Are any gaps in intent, leadership and capacity able to be addressed through the planned support?
- What are the conditions that define a successful support relationship?
- How will you transition out of the support relationship when: (a) your objectives are met or (b) your objectives are not met?

A. Support assessments

As an extension of the gap analysis, it is important to conduct, to the extent feasible, an accurate assessment of the needs and capacities of the proposed partner. Such assessments provide the starting point for a comprehensive plan that should cover the duration of the support relationship. Formal support assessments should be reviewed regularly in the light of operational realities and evolving circumstances.

Processes should be established for conducting rigorous assessments and framing the relationship accordingly. Carrying out an effective support assessment at the outset, even where it does not result in the identification of significant risks, will help actors to define a reasonable end state for the relationship, tailor the support accordingly and identify appropriate measures to foster respect for IHL and the protection of affected people. An assessment is also needed to identify any risks to be mitigated. Where there are identifiable risks, the assessment framework provides a mechanism for factoring them into the decision-making process and identifying possible mitigating measures. Supporting actors can conduct support assessments of the supported party, while supported parties can assess the risks associated with accepting support.

The most obvious risk is that a supporting actor could provide or enhance the capacity by which violations occur. If the support relationship is knowingly the determinative factor leading to an IHL violation, then the supporting actor can rightly be seen as responsible for the violation. Where there is an expectation, based on facts or knowledge of past patterns, that the support to be provided would be used to commit a violation of IHL, that support must not be given.⁴⁶ More broadly, the provision of support that does not properly match the partner's capacity and circumstances is apt to result in harm to persons protected under IHL.

Assessing risks and defining mitigating measures

In order to identify any risks specific to the partner, the assessment should include the partner's political and legal positions, language, culture, educational system and levels, economic and/or financial capacity, and military and technical capacity. The partner's past behaviour will be an important indicator of the risk of future violations. However, especially for newly established forces or units, the absence of confirmed violations is no guarantee of future IHL compliance. Rather, each actor should seek to positively satisfy itself, to the extent feasible, that the other party will respect IHL and other relevant legal standards that apply to it. To the extent that patterns of behaviour are evident, the actor should seek to understand what drives the other actor. A better understanding of the drivers of behaviour will inform the subsequent consideration of possible mitigating measures and their expected effectiveness.

Steps should also be taken to assess other risks, such as unintended consequences of the relationship itself. The agreement between the partners should address those risks, such as by clearly defining each partner's roles and responsibilities and the end state of the relationship, which may include the supported party's post-conflict future such as DDR options.

An actor undertaking a support assessment may ultimately reach the conclusion that the risks associated with the support relationship cannot be adequately mitigated. In such cases, the support relationship should not be established unless specific additional conditions that directly address the source of the risk are met.

Assessing respective frameworks

It is likely that two actors' legal frameworks, among other things, will differ. Actors should therefore identify the critical issues for which they will need to understand how their partner interprets and applies its legal obligations. Critical issues are those that affect how people protected under IHL are treated, with regard to issues such as detention; detainee transfers; the death penalty; the choice of means and methods of warfare; the definition of civilians, combatants and prisoners of war; and sanctions for IHL violations. Differences regarding these issues will have significant practical and legal implications for both parties.

The above issues are among those that will be affected by the partner's legal obligations, which may differ from those of the other partner. In particular, one partner may be party to different legal instruments, such as the Protocols Additional to the Geneva Conventions or the Convention on Cluster Munitions. Non-State actors may also be bound by international treaties applicable in the territory in which they operate and may, in addition, have committed to abide by international standards.⁴⁷ In view of a potential support relationship, one actor may encourage another to accede to relevant treaties or commitments (see [Section 6.1.2](#)). Indeed, States party to the Convention on Cluster Munitions are required to both encourage their counterparts to join the Convention and to make their best efforts to discourage such non-party States from using cluster munitions.⁴⁸

⁴⁶ *Commentary on the First Geneva Convention*, paras. 158–163 (see note 6 above).

⁴⁷ See Geneva Call Deeds of Commitment (see note 36 above).

⁴⁸ See Convention on Cluster Munitions, Art. 21. Although the Convention allows States Parties to continue to cooperate and engage in military operations with States not party even if the latter may continue to use, stockpile and transfer cluster munitions, such cooperation cannot amount to assisting in, encouraging or inducing prohibited activities within the meaning of Article 1 of the Convention.

A decision maker may also need to understand how their partner's legal obligations are interpreted and applied within its domestic or internal system. For example, linguistic differences may lead partners to have different interpretations of the meaning of key terms, such as "civilian". Such differences can have important implications in practice, especially during PMOs.

Legal reminder

Under IHL, States must:

- comply with IHL
- refrain from providing any support that would encourage or assist in IHL violations
- do everything reasonably in their power to prevent IHL violations by the parties to an armed conflict and bring such violations to an end.⁴⁹

Legal reminder

In keeping with States' obligations under the Arms Trade Treaty (2013), where applicable, States that support parties to an armed conflict must assess the intended recipients' likely level of compliance with IHL and refrain from authorizing weapons transfers if there is a clear or substantial risk that the arms could be used to commit or facilitate serious violations of this law.

Further reading

[*Understanding the Arms Trade Treaty from a Humanitarian Perspective* \(ICRC\)](#)

[*Arms Transfer Decisions: Applying International Humanitarian Law and International Human Rights Law Criteria* \(ICRC\)](#)

B. Agreements

Agreements about support relationships serve to set expectations and can contribute to ensuring respect for IHL and other relevant standards. They provide partners with the opportunity to reach a shared understanding about the scope and objectives of the support relationship and any conditions attached to the arrangement. Such details may be contained in, for example, status of forces agreements, memoranda of understanding and technical agreements. Whatever their form, these agreements should clearly delineate and allocate respective roles and responsibilities and address issues associated with the protection of civilians and IHL principles. The internal division of responsibilities among an actor's subsidiary institutions should be clear to itself and to its partner (see [Section 6.1.1](#)).

Any ambiguities about what each partner will do, and the limits of their responsibility and authority, increase the risk of confusion and reduce the actors' combined capacity to ensure respect for IHL and other relevant standards. Confusion as to who is responsible for what can have important consequences in a conflict setting. For example, in certain PMOs of a kinetic nature, coordination and expectations should be airtight. Similarly, in information-sharing partnerships, a common understanding of the use of the information and of any potential doubt or uncertainty as to the accuracy or validity of the information is critical. In some cases, ambiguities may cause actors or personnel to misunderstand their responsibility for an operation or for its consequences, potentially undermining norms of restraint. Moreover, poorly defined relationships can result in the loss of valuable information about alleged misconduct or

⁴⁹ Article 1 common to the four Geneva Conventions; Additional Protocol I, Art. 1; *ICRC Customary IHL Study*, Rules 139 and 144 (see note 7 above); *Commentary on the First Geneva Convention*, [paras. 164–173](#) (see note 6 above); *IHL Challenges Report 2019*, pp. 75–76 (see note 1 above).

IHL violations and can limit the actors' capacity to address such concerns. Consequently, clear lines of authority for reporting and investigating allegations and assigning accountability are particularly important, as are delineated roles and responsibilities for shared processes that can have a direct impact upon compliance with IHL.

Where the partners do not share the same legal obligations, it will be even more important that they seek to reach agreement over any legal and non-legal standards of behaviour. The actors may need to consider how their respective capacity will enable or, conversely, limit their ability to fulfil those standards in a given situation. They will then have to take measures to adapt their capacity or roles and responsibilities accordingly.

A technical agreement or understanding could define the scope and means of the support relationship and establish procedures that formalize the relevant lines of authority and reporting responsibilities. Clear procedures should be established for all matters related to IHL compliance and the protection of civilians in armed conflict. These include, for example, civilian harm tracking mechanisms, marking and clearing ERW and dead body management.

To give effect to the agreement, it is also important to establish clear communication channels so that all relevant procedures are known, understood and followed by all of the partners' representatives. The partners should maintain a regular dialogue on all matters of humanitarian concern and on the measures undertaken to ensure respect for IHL in practice.

While the above considerations apply to bilateral support relationships, they are also relevant to coalition partnerships or arrangements where an actor receives support from multiple partners (see [Section 2.2.3](#)). In particularly complex situations, there should be alignment between a few "lead-role" functions that might include the territorial State, a lead State of a multinational coalition (or equivalent in an alliance of NSAGs) and/or the United Nations.

Making support conditional upon compliance with IHL or further measures to strengthen the protection of civilians, together with targeted mitigation measures, gives supporting actors the opportunity to improve other partners' conduct and alleviate suffering while still maintaining the support relationship. For example, the ICRC recommends making the transfer of explosive weapons with a wide impact area conditional upon recipients putting in place limits on the use of such weapons in accordance with a number of good practices aimed at avoiding their use in populated areas. Likewise, support for detention operations could be made conditional upon the recipient allowing the supporting actor access to places of detention and detainees. Such conditions may be necessary for the supporting actor to be satisfied that the support it provides is being used as intended and in compliance with IHL.

Minimizing harm to civilians and others not fighting should be agreed as a primary condition of the support relationship.

C. Specific operational readiness

Actors will review the measures taken to prepare internally and adapt them to the identified partner and situation.

Once the specific area of deployment is known, pre-deployment training including cultural awareness and language training should be conducted. Elements that support normative engagement, such as the local culture and influences in favour of IHL compliance, can be tailored for the specific circumstances. Training materials in the appropriate language can be prepared, and staff members with experience in that area – including from other ministries, agencies and departments – can be approached to enhance specific readiness.

D. Transition strategy

The end state of the support relationship should be clearly defined, together with any conditions for terminating or restructuring the support. During the preparation phase, both actors should develop a transition plan for a structured disengagement. This plan should list the conditions for the disengagement to be considered complete and the steps needed to end the support relationship in an orderly and safe fashion. The plan should anticipate two scenarios: one in which the actors' objectives have been reached, and the other where they have not been reached and the support is withdrawn or modified.

All too often, political or military considerations prompt a supporting actor to suddenly withdraw its support. Without proper planning, such an abrupt change can leave civilians and others not fighting exposed to new violations of IHL and human rights. It may also hinder their access to remedies for past violations. A sudden withdrawal may also have a significant impact on the supported party's behaviour, and this impact may need to be weighed in advance against the reasons for the withdrawal (see [Section 2.3.1](#)). The transition strategy should take into account, among other things, the risks to civilians and others not fighting, the vested interests of local actors, and questions of DDR (see [Section 6.3.1](#)).

See also:

- [Section 6.3.1](#) Structured disengagement

6.2 IMPLEMENTATION



6.2.1 INSTITUTIONAL CAPACITY BUILDING

Institutional capacity building refers to the group of measures taken to prepare the institutions that constitute a supported party to undertake activities associated with the conduct and consequences of an armed conflict.

Four components of institutional capacity building are discussed here:

- framework
- systems and processes
- personnel
- culture and intent.

Such measures are especially pertinent when support is provided in the form of arms transfers ([Section 3.4.2](#)) and PMOs (see [Section 3.4.3](#)).

Introduction

A key concern in support relationships is the supported party's institutional capacity to manage and utilize the support it receives in a manner conducive to the protection and assistance of people during armed conflict and in its aftermath.

Actors entering a support relationship should consider whether the institutions comprising the supported party are suitably prepared to receive the proposed support (see [Section 6.1.3](#)). The institutions in question are first and foremost those associated with the armed forces and other security forces. However, the range of institutions potentially affected by armed conflict is wide and includes those involved in detention, policing, criminal justice, health care, education, social welfare and civil registration.

Taking steps to strengthen those institutions could help to maximize the positive impact of the support and minimize the risk of the support being misapplied, in particular to commit or facilitate violations of IHL.

Some institutional capacity-building programmes between supporting and supported actors are implemented in peacetime in the normal course of international relations, such as security and defence sector reform programmes. It may be the case that the long-term nature of these programmes and their prescribed objectives make them resistant to shorter-term adjustments. If partners engage in conflict, and this was unforeseen at the outset of the capacity-building relationship, decision makers should be flexible and prepared to adapt those programmes.



Key questions

- Do the partner's institutions apply a framework and use systems and processes that support and ensure the proposed conflict-related support activities are in compliance with IHL and other relevant legal standards?
- Are partner armed forces selected and vetted effectively?
- Does the partner have the capacity to manage the aftermath of hostilities?
- When the proposed support draws to a close, will the partner's institutions have the capacity to continue IHL-compliant operations on their own?

A. Framework

The framework of policies and laws setting out how an actor should operate, as well as the system in place to enforce that framework, will influence its behaviour. The better the actor's mandate and authority are defined, the greater the likelihood that they will comply with IHL.

As a starting point, the policies and rules promoted by an actor must be consistent with its obligations under IHL. Among other things, a party's rules of engagement and rules on humane treatment during capture and detention, and the process by which members of the party will be held accountable in case of misconduct or a violation of the law, must all be clearly articulated. The framework must be accompanied by an effective organizational structure to ensure adherence to the policies and laws.

Actors may have opportunities to enhance the framework regulating their partner's behaviour in compliance with IHL, particularly with respect to their engagement with civilians, rules of engagement and arrest and detention operations. This is particularly relevant when a supporting actor is operating on the territory of a host State.

Furthermore, actors that support parties to armed conflicts should consider ensuring, to the greatest extent possible, that the supported party has a strong, effective chain of command and control that allows commanders to enforce compliance with IHL. They should also consider bringing, where relevant and appropriate, a supported armed group into the established frameworks governing the territorial State's armed and security forces and strengthening that State's capacity to integrate, control and oversee the group.

B. Systems and processes

The systems and processes of all of the armed forces or groups, ministries, departments and agencies that make up the supported party should be aligned, with the goal of achieving greater respect for IHL and enhancing the protection of civilians. Civilian entities, even if not considered part of the support relationship or engaged in the armed conflict, can play an important role in promoting and ensuring adherence to IHL. Effective systems and processes can be implemented coherently across entities through relevant laws and policies, such as protection-of-civilians policies, deeds of commitment and declarations. A supporting actor can support the development of such frameworks, systems and processes where they do not already exist.

Armed forces and armed groups should provide staff training, clear standards of conduct and effective sanctions in the event of misconduct. The armed actor's basic structure must allow for clear command and control, the ability to plan and conduct operations, oversight and clarity on responsibility for conduct, and a sanctions regime. The needs go beyond operations, however, and they normally include a human-resource policy and structure, logistics, training and communications. Armed groups mirror these functions, albeit through a variety of group structures (centralized, decentralized, or community-embedded armed groups). Clearly, from integrated State armed forces to the various structures of armed groups, there needs to be a mechanism in place for reporting and investigating potential IHL violations (see [Section 6.2.5](#)).

Actors should take all necessary measures to ensure that the applicable rules and sanctions are integrated into their system of reference and that they are known and properly applied. Among other measures, efforts should be made to ensure that national judges or competent judicial authorities are trained in IHL. Though beyond the remit of this document, there should also be alignment between States in the guarantees and procedures used by the national courts responsible for dealing with violations of IHL.

This consideration is particularly relevant for new or burgeoning forces, where the recruitment process may outpace the development of supporting structures and an organizational culture. The absence of both clear guidelines on the organization and management of local partner forces and the leadership needed to ensure such guidelines are applied may exacerbate other identified risks.

Further reading

[The Roots of Restraint in War](#) (ICRC)

[Elements to Render Sanctions More Effective – Factsheet](#) (ICRC)

See also:

- [Section 6.2.2](#) IHL training

C. Personnel

Each actor has primary responsibility for selecting and vetting its own personnel, including its weapons bearers. Where these processes do not already exist, supporting actors may be able to assist with establishing and systematically implementing robust, standardized processes for selecting and vetting the members of the armed forces of the party they support.

One priority for such processes should be to ensure that all recruits are 18 years of age or older.⁵⁰ The processes should also exclude persons convicted of IHL violations or serious criminal behaviour; those suspected or accused of past IHL violations or serious criminal behaviour should only be permitted to

⁵⁰ For an overview of State obligations regarding the age of recruitment, see the legal reminder in this section. In case of doubt as to an individual's age, the ICRC considers that the person should always be treated as a child (presumption of minority) and that age assessment techniques should be used as a measure of last resort.

enlist if an appropriate investigation has been undertaken. Partnering with armed forces whose members are the subject of credible allegations of serious criminal conduct (domestic or international) increases the risk that the support provided will contribute to violations of IHL, including in relationships with other actors.

Carefully selecting and vetting recruits for the armed forces of a party to a conflict is essential to ensure compliance with IHL. The same logic applies to a partner's armed forces and PMSCs. Particularly in PMOs, the process by which partners recruit for their armed forces affects their capacity to ensure compliance with IHL and the protection of civilians and can have a bearing on the security of the actor's own personnel. An actor may be considered legally, ethically or morally responsible for the later conduct of the other actor's forces, even if the support relationship has ceased to exist and despite challenges to obtaining the necessary information during the vetting phase.

In order to properly assess the above factors, the vetting process should focus on individuals, not groups. Vetting may also extend to existing members of a force, especially those with command appointments whose authority and influence may have a greater impact on the application of IHL and the protection of civilians and others not fighting.

The question of identity and its impact on behaviour in conflict should be given special attention during recruitment and vetting. Units or groups formed on the basis of tribal, religious or political affiliations tend to retain that underlying identity or unifying trait; this may be inconsistent with their official role and negatively affect how they conduct military operations. Conversely, units within armed forces that represent a broader cross section of society may promote a better understanding of cultural norms across the country and potentially improve acceptance of those units countrywide.

As much as possible, recruitment should be voluntary and free from any coercive pressure.

Legal reminder

Most States are party to the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2002) (OPAC). These States must ensure that people under the age of 18 are not compulsorily recruited into their armed forces (Article 2) and take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities (Article 1).

Under the OPAC, armed groups distinct from the armed forces should not, under any circumstances, recruit or use in hostilities persons under the age of 18 (Article 4).

For States not party to the OPAC, Additional Protocols I (Article 77) and II (Article 4) put the minimum age for the recruitment of children and their participation in hostilities at 15 years, as does the Convention on the Rights of the Child (1989) (Article 38).⁵¹ Additional Protocol I and the Convention on the Rights of the Child also encourage parties, in recruiting among those aged from 15 to 18, to give priority to the oldest.

For States party to the African Charter on the Rights and Welfare of the Child (1990), any recruitment (compulsory or voluntary) of children under 18 is prohibited (Article 22).

Under the Rome Statute of the International Criminal Court (1998), conscripting or enlisting children under the age of 15 into the armed forces or armed groups or using them to participate actively in hostilities is a war crime both in international (Article 8 (2)(b)(xxvi)) and non-international (Article 8 (2)(e)(vii)) armed conflicts.

⁵¹ A list of States party to these treaties is available at: <https://ihl-databases.icrc.org/ihl>.

Further reading

[The Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers](#)

[The Principles and Guidelines on Children Associated with Armed Forces or Armed Groups](#)

[The Paris Commitments to protect children from unlawful recruitment or use by armed forces or armed groups](#)

[Children associated with armed forces or armed groups](#) (ICRC)

[Guiding principles for the domestic implementation of a comprehensive system of protection for children associated with armed forces or armed groups](#), pp. 395–396 (ICRC)

[Legal Protection of Children in Armed Conflict – Factsheet](#) (ICRC)

See also:

- [Section 6.3.1](#) Structured disengagement

D. Culture and intent

The institutional culture of either actor in a support relationship can be positively shaped to reinforce the normative framework adopted and the systems and processes employed. The measures taken for this purpose may need to be implemented consistently over a long period for their effects to be seen.

In structures where there is civilian authority or influence over the armed forces, the civilian leadership will also shape and reinforce the institutional culture. Measures to shape institutional culture can be positive or negative. For example, leaders may implicitly encourage behaviour contrary to IHL or other branches of law by stigmatizing adversaries or setting sales targets for arms transfers.

Military commanders are responsible for the conduct of the armed forces under their command. An appropriate combination of guidance, leadership and direction from the commander will set the tone for all activities. It is important that a commander's guidance become routine and be given effect. The commander's guidance and direction should address not only what should happen, but critically what *should not* happen. For example, a clear statement on the protection of civilians has been seen to directly influence the actions of combat troops.

Actors in a support relationship may work together to develop military academies or staff colleges with robust protection-of-civilian curricula. They may also make it easy for one actor's armed forces to attend another's professional military educational institutions. Long-term exposure to positive examples of organizational culture and ethics where IHL is applied and non-combatants are protected can have a positive effect on subsequent behaviour. It can also form the basis for long-term interpersonal connections that strengthen the overall relationship.

6.2.2 INTERNATIONAL HUMANITARIAN LAW TRAINING

IHL training refers to training activities specifically designed to ensure respect for IHL and reduce harm to civilians, others not fighting and both civilian and specifically protected objects.

IHL training as a practical measure to improve protection should be distinguished from TAAA PMOs as a type of support provided to a party to a conflict (see [Section 3.4.3](#)). Training and instruction on IHL would not necessarily qualify as a support relationship in and of itself. Conversely, training and instruction on IHL or other protection issues can be, and often are, incorporated into broader TAAA programmes.

Broadly speaking, three related types of measures could be implemented:

- A. training
- B. mentoring
- C. monitoring and evaluating both training and mentoring.

Introduction

Proper training and instruction are central to ensuring respect for IHL and the protection of victims of armed conflict more broadly.⁵² They ensure that the applicable rules are systematically known, internalized and put to work. Just as they dedicate resources to training their own personnel, actors that support parties to an armed conflict should – regardless of the form of their support – consider supporting or providing them with training and instruction on the rules and principles of IHL and other relevant laws and standards.

Legal reminder

Parties to armed conflicts have a duty to integrate IHL into their doctrine, training and rules of engagement.⁵³ This duty stems from the obligation of all parties to respect and ensure respect for IHL. Under customary law, the duty to train members in IHL is recognized as binding upon both States and armed groups that are party to non-international armed conflicts.⁵⁴

Despite its importance, IHL training on its own may not be sufficient to mitigate the risks identified in the support relationship (see [Section 6.1.3](#)). Moreover, the effectiveness of training depends on a number of factors, as detailed below. Actors in a support relationship should carefully consider any training and mentoring programmes and be prepared to adapt them in line with subsequent monitoring and evaluation.



Key questions

- Do you incorporate training on IHL and other relevant laws into your support relationship?
- Do your personnel have the appropriate skills, including an understanding of the trainees' language and culture, to provide training?
- Is your training programme adapted to the partner in terms of content, methods and materials, timing and frequency, and audience?
- How do you evaluate the effectiveness of your IHL training and incorporate that assessment into subsequent training cycles?
- Is IHL training integrated across your broader training programme, such as in combined exercises?
- Will you supplement training or instruction with mentoring?

A. International humanitarian law training programme

The choice of content, format, audience and trainers is central to ensuring that a training programme is effective. Ideally, training programmes are tailored to the recipient partner's needs, as determined during the support assessment (see [Section 6.1.3](#)). Similarly, training programmes should be reviewed and adapted over time in response to operational observations, whether they concern the performance of past trainees (see [Section 6.2.2](#)), specific issues of humanitarian concern or other changes in the operational environment.

The place given to IHL training and education within a broader training programme should serve to underscore its importance. IHL and other legal principles applicable to situations of armed conflict and other situations of violence should not only be taught as stand-alone modules or courses. All other

⁵² *Roots of Restraint*, pp. 28–29 (see note 20 above), including references found therein.

⁵³ In treaty law, the duty of States to provide IHL instruction to their armed forces is found in Articles 47, 48, 127 and 144 in the First, Second, Third and Fourth Geneva Conventions respectively, and in Article 83 of Additional Protocol I. This treaty obligation is applicable both in peacetime and in times of IAC. In a specific reference to NIACs, Additional Protocol II requires, in Article 19, that the Protocol “shall be disseminated as widely as possible”.

⁵⁴ *ICRC Customary IHL Study*, Rule 142 (see note 7 above).

military training must be consistent with the requirements of IHL. Indeed, other training programmes or exercises often provide opportunities to reinforce or clarify IHL rules.

Weapons training which applies IHL principles to the use of certain weapons is even more important in the context of arms transfers or PMOs. As an example, the ICRC recommends that, when providing support in the form of explosive weapons with a wide impact area, supporting actors also carry out training to ensure that the supported parties' armed forces know and understand the effects of such weapons in populated areas and implement good practices to avoid their use in such situations.

Content

In the case of armed conflict, IHL is the baseline of such training. Comprehensive IHL training should be provided on the rules governing specific activities, as needed, such as the humane and dignified treatment of people deprived of their liberty, or the principles of precautions, distinction and proportionality in attack. Norms and principles pertaining to the respectful engagement with civilians and particularly vulnerable groups can further mitigate humanitarian consequences. Providing training and advice on such norms and principles may further contribute to IHL compliance and the protection of people affected by armed conflict.

Other legal frameworks such as international human rights law, international refugee law and international criminal law may be relevant in the circumstances and may therefore need to be included in the training. As military and security forces may have to engage in situations below the threshold of armed conflict, proper training should be provided on the different legal and normative frameworks governing the use of force (armed conflict and law enforcement paradigms). The need for such training will depend on the functions of the forces being trained and may change over time.

Actors should consider incorporating a gender perspective into all aspects of their training. "Gender-blind" training can have a negative impact on both the military mission and the ability to protect affected people. Conversely, incorporating a gender perspective into the training can increase situational awareness and result in better protection for those affected. Including a gender perspective also facilitates identifying and addressing the particular vulnerabilities of men, women, boys and girls in situations of armed conflict and violence.

Actors should consult with local partners when preparing a training programme so that it is in keeping with relevant and situation-specific challenges and realities.

In certain situations, the ICRC may be in a position to offer its services in developing an IHL curriculum or to contribute to the training itself.

Methods and materials

Making legal concepts more practical and grounding them in operational reality allows for better assimilation than if they remain purely academic and theoretical. Mixed training methods that combine IHL briefings, classroom discussions, case-study reviews and practical field exercises have been shown to be the most effective in inculcating norms of restraint in combatants.⁵⁵ Delivering practical training that includes intense, realistic and fast-paced exercises based on the applicable rules of engagement allows trainees to operationalize IHL training, linking it to on-the-ground realities and challenges.

The partner forces' organizational structure, level of integration and type of command may call for different forms of training. To be effective, training programmes should be tailored to the target audience in terms of the language spoken and their educational level and other characteristics. In addition to addressing trainees in a language they speak comfortably, trainers should gear the level of language to the audience, for example by favouring less technical language, using images and acting out practical scenarios.

⁵⁵ Based on empirical research undertaken with the Australian and Philippine armies by Andrew Bell. For further details see *Roots of Restraint* (see note 20 above).

Understanding partners' varying incentives to comply with IHL norms may inform and shape the training and advice provided. How the legal norms are framed can be an important factor contributing to – or undermining – compliance with those norms. The most effective training combines legal norms and principles with the values underpinning them. While the law should always be presented accurately, and no compromises should be made on legal principles and norms, tailoring the information to the specific cultural, religious and social context and operational realities will make the training more effective and persuasive. And because IHL and other legal principles are often mirrored in cultural, religious, or social norms and traditions – in terms of civilian protection and prohibiting the use of certain means and methods of warfare, for example – trainers should seek to emphasize this correlation.⁵⁶ Incorporating comparable historical or contemporary examples of compliance can also add credibility and relevance to the training.⁵⁷ Appealing to the trainees' identity and ethos can help to instil humanitarian principles and respect for the law.

Timing and frequency

Training and instruction should be repeated at regular intervals, given the turnover among personnel and within units and the need to refresh the knowledge of those already trained. Repeating training sessions at regular intervals serves to anchor respect for humanitarian principles as a reflex reaction. The frequency of training will need to be determined in view of the trainees' operational requirements, although, as a general rule, personnel should receive training at least once per year, even in operational settings. Research on integrated State armed forces suggests that military units commanded by leaders with more intensive training in norms of restraint engaged in less violence against civilians.⁵⁸ Unit leaders are uniquely placed to emphasize norms of restraint in key moments, for example in the wake of an incident in which a unit member has been injured or killed.⁵⁹

Audience

Anyone who plays a key role in the application of IHL should be taught its rules and the sanctions applicable to violations. That includes all armed forces, as well as legal officers and advisers, regardless of the group to which they belong, and those acting under the auspices of the United Nations or a competent regional organization. It may also include civilian personnel who perform relevant functions, such as diplomatic staff, arms export control officials and medical personnel. The training should enable individuals to clearly identify what is permissible and what is not.

Reinforcing norms of restraint should take place not only at the strategic level of government or the armed forces, but at the tactical level as well. While this can be challenging, it is an important element in preventing violations of IHL. Leadership can be an important factor in instilling an organizational culture of IHL compliance and civilian protection (see also [Sections 6.1.2](#) and [6.2.1](#)). For example, junior non-commissioned officers are central to efforts to promote norms of restraint among junior soldiers within small operational units. While training senior commanders, ambassadors and other leaders is worthwhile in itself, their active participation in training sessions also serves to reinforce the value of the training in the eyes of other trainees. This messaging can be reinforced by the leadership of both actors in the support relationship.

Trainers

The choice of trainer can make a difference in the extent to which norms are socialized. To identify the most effective training providers for a given audience, it will be necessary to understand the organizational and cultural context. In some cases, an effective instructor in IHL may require credibility derived from operational experience; that will allow them to draw on dilemmas they have faced and explain the choices they made. Other audiences may give greater credence to trainers with no combat experience but

⁵⁶ *Roots of Restraint*, p. 34 (see note 20 above).

⁵⁷ *Roots of Restraint*, p. 65 (see note 20 above).

⁵⁸ Andrew Bell, "Measuring the effect of norm socialization on the treatment of civilians: An analysis of U.S. army conduct in Iraq and Afghanistan", paper presented at the annual meeting of the American Political Science Association, San Francisco, 31 August–3 September 2017. See also *Roots of Restraint*, p. 28–29 (see note 20 above).

⁵⁹ *Roots of Restraint*, p. 29 (see note 20 above), citing interview with David Kilcullen, Geneva, 29 November 2017.

recognized IHL expertise, such as civilian lawyers from the ICRC. Considering the importance of leadership and a sense of rapport, a training programme may be most effective when the trainer is in a direct, close hierarchical relationship with the trainees and/or is clearly seen to support the principles and ideas of IHL being conveyed and practiced.

Some actors may hire contractors to deliver specialized training. However, this may come at the cost of operational experience and the feedback loop that would be available if the trainer came from within the actor's own ranks. Additional frameworks and safeguards may be required when hiring external contractors, such as vetting the trainers based on their past conduct and training (see [Section 3.2.5](#)).

Training may also be more effective when developed or delivered in conjunction with local authorities and civil society (such as Red Cross and Red Crescent Societies, legal professionals and/or non-governmental organizations). Such partners may be best positioned to appeal to local values, use familiar pedagogical approaches and explain concepts more effectively. Furthermore, such collaborations can have a positive effect on civil-military relations and develop trust, thus creating a conducive environment for continued engagement.

Further reading

[*The Roots of Restraint in War* \(ICRC\)](#)

[*Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict* \(ICRC and Swiss Federal Department of Foreign Affairs\)](#)

[*Islamic Law and International Humanitarian Law – Factsheet* \(ICRC\)](#)

[Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas \(ICRC, forthcoming\)](#)

B. Mentoring

Partner forces or civilian personnel who receive training can also be mentored in operational situations outside of formal training programmes or institutions. The presence of mentors provides an opportunity to provide technical guidance or coaching that is tailored to the partner's day-to-day operational activities. It may also allow counterparts to develop a rapport through which official group norms are supported or enforced at the peer level, thus increasing the likelihood that they will be internalized.⁶⁰

The common feature of mentoring programmes is that the mentor is usually outside of the supported actor's hierarchy. This fosters a climate of open dialogue. Just as with trainers and advisers, mentors should be qualified and experienced in the relevant area of operation.

Mentors who work closely with the partner's personnel will be in a better position to assess the efficacy of the training and the partner's further needs, including changes that should be made to the existing training regime. They could also collect lessons learned that could be used to improve the relationship and the pre-deployment training of incoming personnel from their own organization or other partners (see [Section 6.3.2](#)).

Through mentors, norms of restraint can be continually reinforced during training programmes, pre-deployment preparations and specific missions and operations. To be effective, mentoring should be undertaken in conjunction with other measures. It also requires continuity of personnel over a sustained period, and the personnel should be able to impart a positive influence in regard to the protection of civilians.

⁶⁰ *Roots of Restraint*, p. 25 (see note 20 above).

C. Monitoring and evaluation

Practical measures to provide training or mentoring to partners should be supplemented by measures to evaluate their effectiveness. Any observations should feed back into the design and implementation of further training or mentoring – as is the case with monitoring, evaluation and learning mechanisms in general (see [Sections 6.2.4](#) and [6.3.2](#)).

Evaluation methods could include testing the trainees under duress, as well as peer-judged and collectively debriefed exercises. Another approach would be to monitor trained troops on the ground for a period of time following the training to observe and assess the outcome. Extensive debriefings with partner forces and other partners engaged with the trained forces can also help in the evaluation process.

6.2.3 ASSISTANCE IN INTERNATIONAL HUMANITARIAN LAW COMPLIANCE

This section addresses measures that can help an actor to comply with its IHL obligations or otherwise improve its protection of civilians and others not fighting.

This is distinct from the type of assistance that enables parties to engage in armed conflict (see [Section 3.4.3](#)) and is more operationally targeted than institutional capacity building (see [Section 6.2.1](#)).

The ICRC has identified three main types of assistance:

- A. capacity multiplication
- B. resources
- C. substituting functions.

These measures provide actors in a support relationship with effective ways to reduce the negative humanitarian consequences of an armed conflict without necessarily becoming a party to the conflict. These measures are especially relevant where a partner intends to be physically present in the conflict situation – although some actors may consider allocating specific personnel for the purpose of implementing these measures. These measures relate to ensuring adherence to IHL during the conduct of operations and may take place alongside, and reinforce, similar efforts during training or to build institutional capacity.

Introduction

Assessments or ongoing monitoring may reveal gaps in a party's capacities to fulfil its obligations under IHL and otherwise improve the protection of civilians and others not fighting (see [Sections 6.1.3](#) and [6.2.4](#)). The existence of a support relationship can provide an avenue for a party to a conflict to receive assistance to fulfil these obligations. Through the support relationship, it can receive help in enhancing its capacity, it can obtain additional resources, or it can be substituted in certain functions. If the supporting actor provides support as a capacity multiplier, it should ensure that such capacity is directed towards improving compliance with IHL and in a manner that protects civilians, which may entail additional control measures or training.

Actors should consider what specific or technical assistance they may be able to provide or need to request, for example in caring for the wounded and sick, preparing for and managing detainees, managing the dead, preventing people from going missing or clarifying their fate and whereabouts, and marking and clearing ERW. Assistance may serve as a means to mitigate an identified risk (see [Section 6.1.3](#)), or simply to contribute towards improving conditions for those affected by the conflict.

Supporting actors are encouraged to plan ahead when providing this type of specialized assistance in order to mitigate the negative humanitarian consequences of the conflict to which they have contributed, even after they have achieved their own strategic objectives. In the event that a supporting actor withdraws completely or reduces its engagement in a given situation, it should consider the ongoing impact on civilians and others not fighting. Where possible, arrangements should be made to ensure that the supported party is able to continue to fulfil its obligations and achieve its protection outcomes without the supporting actor's assistance. It may require that the assistance be slowly ramped down while those transitional arrangements are established and implemented. For more on the question of disengagement, see [Section 6.3.1](#).



Key questions

- Does your partner have gaps in their capacity, functions or resources that impede its ability to fulfil its obligations towards people protected by IHL?
- Can you help your partner to incorporate civilian protection into its military planning and commit resources that address these gaps?
- What contingencies do you have in place if the supported party proves unable to fulfil its obligations towards people protected by IHL?

A. Capacity multiplication

By committing itself to a support relationship, a supporting actor can put itself in a position to actively assist its partner in fulfilling IHL obligations during operations. Naturally, the greater the presence of the supporting actor in the operational context, the greater the degree of assistance they can provide.

A supporting actor may render assistance by lending specific expertise to the supported party; it may provide staff to undertake specific functions or to advise the supported party personnel in those functions. A partner could make its personnel available to provide additional capacity for a given period, or it could offer advice or respond to requests for advice on specific issues. The advice could be provided at a strategic, operational or tactical level and pertain to a host of issues. It is usually connected with a particular technical capacity or a specific issue that requires input or intervention.

Supported parties may be able to enhance the supporting actor's capacity to abide by IHL by providing information and intelligence that improves the supporting force's understanding of civilian considerations (such as cultural norms and patterns of life) and helps it to identify targets in order to properly apply the principles of distinction, proportionality and precautions.

Much as a supporting actor may provide advice to its partner on military operations, it may also enhance its partner's capacity to integrate humanitarian principles into its operations. The advice it provides may be framed within a broader training relationship.

When it comes to improving detention conditions, for example, the supporting actor could provide the supported party with a liaison officer to help it to plan detention operations and manage places of detention. And with regard to minimizing civilian harm, a supporting actor may be in a position to work with its partner to establish a system for tracking civilian harm, which would help them identify patterns and improve their targeting procedures.

Technical personnel assigned to advise a supported party should be qualified and experienced in the field in which they provide advice. They should be trained in IHL-compliant techniques that reduce civilian harm and able to identify and mitigate risks of IHL violations or civilian harm. Furthermore, advisers should be familiar with both the partner and the situation(s) in which it operates in order to provide contextually appropriate advice.

This advisory measure need not be limited to military personnel; in some cases the required specialist support could be provided by civilians. For example, a civilian harm tracking system can benefit from the input of civil society, community-based organizations, non-governmental organizations and the media.

B. Resources

A supporting actor may be well-placed to contribute resources to help its partner to fulfil its obligations. Examples include transferring essential goods for affected people, transferring equipment that will help the party perform its functions more effectively, or building or renovating infrastructure that serves a humanitarian purpose.

For example, the supporting actor could assist by providing food, hygiene services or medical care for distribution to people deprived of their liberty, the wounded and sick, or civilians.

Infrastructure support could concern the supply of essential services to the civilian population, or ensuring adequate standards are met for those under the authority of a party to a conflict, in particular those deprived of their liberty. The supporting actor could provide financial assistance, physical resources such as building materials and IT systems, or personnel.

C. Substituting functions

Where the supported party is unable to perform its functions, the supporting actor should consider substituting for the party in those functions. This may be the case when, for example, the supported party is unable to clear areas contaminated by ERW or provide health care to civilians and others not fighting. Those functions can then be provided by the supporting party until a supported actor can fulfil those functions to the required level.

6.2.4 MONITORING AND EVALUATION

A range of measures can be taken by an actor to ensure visibility over its partner's actions and, where necessary, to call that partner to account for any problematic conduct or to take corrective measures aimed at improving conduct. Ordinarily, these measures will build on the mechanisms each actor has developed to conduct internal oversight during a support relationship (see [Section 6.2.5](#)).

Decision makers should consider and address six interrelated elements:

- A. monitoring and evaluation
- B. recording
- C. oversight
- D. reporting procedures
- E. investigations
- F. accountability.

Introduction

All actors should regularly assess the conduct of their partners in a support relationship and take measures to reduce the risks to which civilians and others not fighting may be exposed.

An actor that provides support to a party to an armed conflict has a legal, moral or ethical responsibility to consider how that support is used and to develop mechanisms to hold its partner to account for any problematic behaviour. The supporting actor should also take the supported party's behaviour into account as it assesses the risk of continuing to support that party, and it should seek to identify any necessary corrective measures. To prevent violations of IHL or other norms from recurring, the supported party must be held accountable for its actions and sanctioned appropriately.

A responsible support relationship therefore requires effective mechanisms that ensure that the supporting and supported actors each have knowledge of how the other behaves within the framework of the relationship and how the support given or received is being used. At the outset, a clearly defined agreement that places a priority on how adherence to IHL and the protection of civilians will be monitored can signal the importance placed on this issue and have a deterrent effect (see [Section 6.1.3](#)).

Where the partners each have effective internal mechanisms, the focus will be on achieving alignment between their respective measures. If any existing mechanisms are not expected to be effective in a given situation, the actor can help its partner to strengthen them.

The monitoring and evaluation mechanisms should also be integrated into learning processes. This means incorporating any issues identified through those mechanisms into analyses and, where appropriate, making systemic adjustments to prevent those issues from recurring (see [Section 6.3.2](#)).



Key questions

- Do you have visibility on your partner's operations?
- How do you evaluate the humanitarian impact of your partner's operations?
- How do you determine whether the support you provide is used in compliance with IHL?
- What metrics do you use to review and modify the support relationship over time?
- What system do you use to address potential misconduct by the partner, or other problems in the relationship?
- If IHL violations may have occurred, how will they be effectively investigated?

A. Monitoring and evaluation

The capacity to monitor the conduct of partners in a support relationship is a baseline requirement. As in all processes and relationships involving different actors, timely and accurate information can help to track whether a support relationship is working efficiently and correctly and to identify any specific risks. Monitoring is particularly important to ascertain whether support is being used in accordance with IHL and other relevant international laws and standards. It therefore feeds into the exercise of oversight (if any) and accountability between partners. It is also closely linked with the recording of information, reporting procedures and investigations, where relevant.

One-off assessments are not enough to ensure a responsible support relationship. As circumstances change over time, it is important to monitor the partner's conduct in order to identify links between the support provided and that partner's behaviour.

Effective monitoring depends on a variety of factors outside of the actor's control. Yet that actor's decisions also have implications for its capacity to monitor. This is especially true where the supporting actor, opting for a light-footprint strategy, has decided to limit the number of its personnel on the ground, or during arms transfers where there may be no personnel from the supporting actor on the ground.

However, the onus remains on each actor to ensure it has sufficient, reliable information upon which to base its decisions with respect to the support relationship. The urgency of security concerns should not be seen as overriding the need to ensure adequate monitoring.

To conduct effective monitoring, the actor must rely on different sources of information. Triangulated reporting helps to ensure that information is reliable. Monitoring processes should seek to gather information provided by the widest possible range of external monitoring bodies, particularly those that are independent and impartial. Communities affected by an armed conflict should be provided with the means and mechanisms to safely report and share allegations that could bear upon such evaluations (see [Section 6.2.4.D](#)). Even where an actor does not have a physical presence, there are different ways to ensure some level of monitoring is available.

Potential sources of information include:

- internal reports from combined, joint and partnered operations (see [Section 6.2.4.B](#))
- reports from personnel embedded with partner armed forces
- specialized, trained monitoring positions
- a periodic reporting mechanism by the partner itself
- other actors that are present, like other armed forces
- other ministries, departments or agencies of either the supported or supporting actor
- independent organizations
- civil society
- external data, such as satellite imagery, social media information or public reporting.

In some cases, a physical presence may be the only way for the supporting actor to be satisfied that the support it provides is being used in compliance with IHL. In other situations, regular reports may suffice. The level of monitoring will of course depend on the type of support provided and the assessment of the

risk associated with this support. In any case, the absence of information should not be regarded as confirming that the supported party's behaviour complies with international law.

Where feasible, an actor can improve its reactivity to incidents and find it easier to identify systemic issues if it has dedicated monitoring personnel. For example, in a PMO, the capacity to respond quickly to incidents of civilian harm may help to reduce the negative humanitarian consequences, respond to the concerns of the partner and/or affected community and, where relevant, take corrective measures.

Monitoring and evaluation need not require a substantial investment or onerous reporting procedures.⁶¹ Indeed, some actors may already have a monitoring and evaluation framework in place for keeping track of its own activities. Such frameworks should be adapted to ensure that they include partners and that the scope of information being collected includes issues related to possible misconduct and violations of the law. The information collected through monitoring should be evaluated to determine whether the support relationship is working as envisaged and what factors affect its effectiveness, and to identify any specific risks that have or may arise.

B. Recording

Collecting, documenting and retaining information relating to military operations serve multiple purposes: they enable the partners to learn throughout the relationship (see [Section 6.3.2](#)); the information can be useful for improving operational effectiveness, tailoring training programmes (see [Section 6.2.2](#)) and reviewing risk assessments (see [Section 6.1.3](#)); and the information is essential for any criminal or administrative investigations that might be launched (see [Section 6.2.4](#)).

Examples of matters that should be recorded include civilian harm (loss of civilian life, injury to civilians and/or damage to civilian objects) resulting from operations; munitions that have been used, lost or abandoned; and information on people who are captured or detained. The information may be recorded in one of several formats, including post-mission debriefs, contact reports and after-action reviews. The information recorded in a civilian harm tracking mechanism, for example, can facilitate iterative improvements in practice, reveal potential systemic issues, support contextually relevant training and flag possible violations that may require investigation.

In PMOs, a procedure for sharing information related to possible incidents should be established in advance – yet with reasonable expectations, given the challenge of verifying the material shared and classifying the information recorded.⁶² More generally, an actor may take steps to record information relating to its partner's military operations as part of its monitoring and evaluation procedure (see [Section 6.2.4.A](#)).

A learning process should be implemented throughout the relationship to review performance and identify lessons that can be applied within the relationship going forward. Depending on the issues raised, the feedback loop may be more or less immediate. Continual learning is especially important in instances where there is a risk that violations of IHL or other standards may occur (or continue). The learning process can serve to ensure that corrective measures are taken to prevent or put an end to the violations. A dynamic, on-the-fly method to identify, capture and apply those lessons while the relationship is ongoing will allow for any improvements to be incorporated into the relationship and for any problems to be addressed as soon as possible.

⁶¹ UN Human Rights Due Diligence Policy Guidance (see note 16 above).

⁶² N. Lubell, J. Pejic and C. Simmons, *Guidelines on investigating violations of IHL: Law, policy and good practice*, ICRC and the Geneva Academy of International Humanitarian Law and Human Rights, Geneva, 2019, p. 15: <https://www.icrc.org/en/document/guidelines-investigating-violations-ihl-law-policy-and-good-practice>.

Further reading

Guidelines on investigating violations of IHL: Law, policy and good practice, pp. 14–15 (N. Lubell, J. Pejic, and C. Simmons)

See also:

- [Section 6.2.2](#) IHL training
- [Section 6.3.2](#) Learning

C. Oversight

Effective oversight is fundamental to ensuring respect for IHL and reducing the risk of harm. Oversight, in the sense of having the power to review and act, is typically a matter for an actor to implement internally (see [Section 6.2.5](#)). It is in the actor's interest to ensure that its partner has adequate internal oversight and, if not, to help them develop the necessary mechanisms (see [Section 6.2.1](#)).

Actors in a support relationship should have a certain degree of high-level visibility into their partner's behaviour in the context of the relationship and have at least some power to intervene. This is not to suggest any situation of hierarchy or control between actors. It is simply a question of exercising oversight by monitoring their partner's behaviour and exercising their power to positively influence that behaviour by reviewing, suspending or decreasing their support if necessary.

The issue of oversight at an operational level becomes relevant in support relationships where one of the actors does not have the framework, systems or processes to conduct its own internal oversight. This is particularly relevant in PMOs, for example when it comes to newly established forces. By definition, these forces are less well-established than existing security forces. Depending on how these forces are generated, new recruits may be freshly trained and senior staff may lack command experience. Leadership and accountability mechanisms may not yet be rooted in the organizational culture. These factors suggest the supporting actor itself should exercise oversight, at the same time that it builds the force's capacity to address pressing security concerns. In areas where long-term oversight cannot reasonably be expected to be exercised by the supporting actor or another actor, such forces should not be established or supported. Such oversight should continue until the forces are demobilized, integrated into national security forces, or otherwise made responsive to the political and judicial accountability mechanisms established by the relevant authorities (see [Section 6.3.1](#)).

D. Reporting procedures

Reporting procedures provide the link between monitoring and the investigation of possible violations of IHL.

Firstly, actors should consider whether their partners have an existing procedure for reporting possible violations of IHL. Anyone with a reporting obligation should be capable of recognizing breaches of IHL (and of other relevant laws). To that end, personnel in supervisory or command positions should be trained to recognize breaches of these bodies of law and understand their responsibility to report such breaches to the relevant authorities. It is also crucial that these personnel be authorized to act on the basis of outside allegations.

Secondly, when entering a support relationship, actors should seek to implement uniform reporting procedures that are agreed and understood by all parties concerned and communicated to all relevant personnel. The establishment of a database for this purpose would help track allegations and ensure that relevant information is preserved to assist potential investigations (see next section). It may be appropriate to implement a dual reporting system, whereby possible violations are reported within the chain of command of each actor in the relationship.

Thirdly, actors should create accessible and effective processes for receiving outside allegations of an incident that may require investigation.⁶³ Allegations could be made by individuals directly or indirectly affected by military operations or other people or bodies with an interest in the matter. Procedures and channels of communication should be established to ensure complainants' safety, security and privacy. Actors may need to address challenges such as linguistic, social and cultural factors that might hinder individuals from making an allegation. Sharing good practices would be valuable in this regard.

E. Investigations

This section addresses investigations by an actor into a partner's conduct, and mechanisms for joint investigations. The selection of appropriate measures will be informed by the strength of the partner's internal investigation processes (see [Section 6.2.5.B](#)).

Investigation refers to activities aimed at establishing the facts surrounding an incident in order to allow for a subsequent determination of responsibility for a possible violation of IHL or other law.⁶⁴ Investigations may be of a criminal or administrative nature, depending on the possible violations in question. For example, regular monitoring may detect potential systemic issues which, through administrative investigation, can be corrected to prevent possible IHL violations or their recurrence.

Decision makers will need to consider whether their partner's investigation process is likely to be effective in the context of a bilateral or multilateral support relationship. For example, a supporting actor may have difficulty securing the cooperation of other actors or obtaining relevant information from the supported party. Steps may need to be taken to remedy potential weaknesses, such as by collecting information to transmit to partner authorities, by training partner forces in the investigative process and providing capacity-building assistance to this end, or by establishing a system for joint investigations. Joint investigations may also be appropriate where they are related to combined, joint and partnered operations. In either case, cooperation may strengthen the investigation and support the partner's ability to regulate the forces under its command.

Other measures failing, an actor should be prepared to conduct its own investigation into possible violations of IHL or of other relevant laws committed by its partner's personnel and refer them to the authorities concerned and/or trigger the appropriate accountability mechanisms.

Further reading

[*Guidelines on investigating violations of IHL: Law, policy and good practice*](#) (N. Lubell, J. Pejic, and C. Simmons)

F. Accountability

Effective accountability processes are essential to ensuring compliance with IHL and other international standards. In a support relationship, accountability has two facets: accountability between actors in the relationship as a feature of coherent responsibility (discussed below), and each actor's internal accountability (see [Section 6.2.5](#)).

Accountability processes can be military or civilian, administrative or criminal. The notion of accountability used here is not necessarily limited to legal processes; some issues in the support relationship can be addressed informally or through diplomatic channels. For example, the rapport between commanders of two forces may allow them to share concerns about the other's personnel. In more serious or systemic cases, suspending or terminating support may be a way for a supporting actor to make the supported party accountable for its past use of that support. Each actor should have a clear understanding of the appropriate avenues for accountability depending on the issue at stake, including where formal accountability mechanisms are required by international or domestic law.

⁶³ See *Guidelines on investigating violations of IHL*, p. 20 (see note 62 above).

⁶⁴ For a more complete understanding, see *Guidelines on investigating violations of IHL* (see note 62 above).

The central question is whether a partner has in place effective mechanisms to ensure accountability for its own actions and those taken on its behalf.⁶⁵ Where this cannot be affirmed, the other actor(s) in the support relationship should take steps to improve those mechanisms and, in the meantime, take other practical measures to fill the accountability gap.

All support relationships should also have well-developed and understood procedures for either partner to be informed of, raise and, ultimately, resolve any problems relating to either partner. Partners in a support relationship may also need a system for reconciling their respective mechanisms so that any gaps are filled while duplication is avoided.

In a support relationship, the actors should individually or collectively ensure that an accountability mechanism is in place. Accountability processes should be capable of determining the responsibility of both alleged perpetrators and commanders; they should also lead to allegations being reported, effectively investigated and addressed.

Measures to ensure their partners' accountability are most crucial when actors are engaged in PMOs. Yet the issue is no less relevant when supporting actors are not present on the ground alongside the partner. In situations where a coalition of actors provides support, the actors should coordinate with each other to build appropriate mechanisms and processes that can address individual and collective behaviour.

Accountability mechanisms should be factored into the relationship from the outset by both supporting and supported actors, regardless of the type of support provided.

Accountability is such a key element in responsible support relationships that the necessary processes and mechanisms should be incorporated into them during the preparation phase wherever possible (see [Section 6.1](#)). Standing alliances and coalitions can develop such complementary processes in peacetime as a matter of preparedness.

6.2.5 INTERNAL OVERSIGHT

Internal oversight refers to the group of measures established to ensure that an actor's own armed forces and other governmental bodies operate within the law and are accountable to their own government or constituents.

Two elements are described below for consideration:

- A. internal oversight
- B. investigations.

Introduction

Actors that engage in armed conflict often have systems in place to ensure that decisions to go to war and the conduct of their forces in war have a sound legal basis. To this end, mechanisms are established so that armed forces and other governmental bodies operate within their legal powers, that the conduct of individual personnel can be reviewed and, where necessary, that sanctions are imposed for violations of applicable domestic and international law.

All too frequently, however, actors structurally or politically distance themselves from the conflict situation in which they provide support. For example, some programmes or activities may be excluded from standard oversight frameworks because they relate to national security. Furthermore, depending on the type of support provided, supporting actors may not apply domestic frameworks to certain programmes or activities with the same degree of scrutiny as they would if these actors were themselves party to the armed conflict. Even while support relationships may be regarded as a means of minimizing an actor's costs or the risk of taking direct action, they could be used to operate with impunity if appropriate measures are not taken.

⁶⁵ The internal accountability of an actor towards its own government and constituents is addressed in [Section 6.2.5](#) of this document.

In view of the potential humanitarian consequences of providing support to parties to armed conflict, it is important for supporting actors to establish systems of oversight and accountability that allow them to review and, where necessary, correct the support they provide.

Where the scope of the support provided is wide or varies over time, there is a risk that no single agency or body has general oversight of the support relationship. This hampers effective coordination, creates tension between different bodies and contributes to the internal lack of accountability and the diffusion of responsibility (see [Section 2.2](#)).

In coalitions, a lack of oversight or accountability can occur wherever roles and responsibilities are unclear. This is particularly prevalent where actors pool resources in loose alliances with no formal coordination and accountability mechanisms.



Key questions

- Do you have a procedure for effectively investigating all possible IHL violations by your armed forces or personnel, including in the context of a support relationship?
- What is your process for reviewing your own decisions to provide or receive support?
- Do other parts of the government have the power to check that the support relationship is planned and implemented in accordance with international and domestic law?

A. Internal oversight

Various mechanisms can be used to review an actor's decisions and conduct in a support relationship. Depending on the actor's governance structure, government officials, elected representatives and constituencies may be able to scrutinize the government's or authority's decisions.

Oversight mechanisms may cover the decision to provide or receive support, the selection of the type of support provided and the conduct of personnel while providing support. In addition to ensuring that support is provided in accordance with relevant laws and policies, such mechanisms provide an opportunity to learn from those support relationships and build on any identified weaknesses or strengths.

Having an effective internal review mechanism is particularly important when it comes to actors or operations that are intentionally excluded from normal reporting procedures for security reasons, such as missions conducted by special forces or intelligence services. Whatever the reasons for not disclosing these types of operations, exempting them from normal oversight mechanisms risks diminishing the accountability of their personnel. Review mechanisms can be put in place that protect those security imperatives while still ensuring accountability.

Parliament

Insofar as they are involved in creating or amending laws, parliamentarians play an important role in granting and controlling the authority of the executive. Depending on the parliamentary system, parliaments can take or shape decisions to provide or receive support and manage the application of national resources to this end. Under domestic law or customs, parliamentarians may be able to ask the government questions relating to the exercise of its powers, or to establish commissions of inquiry into a given matter. In exercising their functions, parliamentarians can have access to information provided by the government or external sources, such as reports by independent observers.

Parliamentarians require transparency from the government in order to obtain the necessary information with which to take or shape decisions affecting the support relationship, including to amend the relationship where necessary. Where the topics being discussed are regarded as sensitive for national security reasons, special measures could be adopted to ensure that the information is shared only with those who require it to exercise their functions.

Judicial authorities

Amongst the entities able to provide oversight are domestic judicial authorities. They may provide a forum for challenging the decisions or conduct of the other branches of government. States can take steps to ensure that the national courts have jurisdiction over questions of compliance with IHL and other international laws. For example, domestic law may give courts the authority to review the legality of arms transfer decisions. Judicial authorities are also an important means of ensuring accountability for any crimes. This includes the task of prosecuting war crimes allegedly committed by their national forces or on their territory.

Further reading

International Humanitarian Law: Handbook for Parliamentarians (ICRC and Inter-Parliamentary Union)

B. Investigations

All supporting and supported actors should have systems in place to ensure that effective investigations are conducted into possible violations of IHL under their jurisdiction. Investigations may be required under international or domestic law, such as in cases of alleged war crimes. They may also serve other purposes, such as to identify good practices and lessons, improve operational effectiveness, maintain discipline, demonstrate accountability to affected communities and facilitate a transition to peace.

Many States have national legal frameworks and processes to investigate possible violations of IHL by people under their jurisdiction, including their own armed forces. However, investigative practices vary widely.

Decision makers will need to consider whether their investigative processes are likely to be effective in the context of a bilateral or multilateral support relationship. For an investigation to be effective, it should be capable of enabling a determination of whether there was a violation of IHL, identify the individual and systemic factors that caused or contributed to an incident, and lay the ground for any remedial action that may be required. Actors may set up ad hoc frameworks, systems and processes for the support relationship, for example in multinational coalitions or peace forces. In addition, the support agreement may require the partners and the host State to share information and cooperate with each other.

Further reading

Guidelines on investigating violations of IHL: Law, policy and good practice (N. Lubell, J. Pejic, and C. Simmons)

6.3 TRANSITION



6.3.1 STRUCTURED DISENGAGEMENT

Structured disengagement refers to measures to ensure that the actors properly plan the end or the reduction of support in order to minimize the disruption to the protection of civilians and others not fighting.

Introduction

It is to be expected that a support relationship will evolve over time. The scale or nature of support may vary in response to the recipient's involvement in an armed conflict, the recipient's behaviour, shifts in either partner's objectives, or other environmental factors. Whatever the reason, it is inevitable that a transition will occur at some point, whether the relationship comes to an end (withdrawal or handover) or the support being provided is significantly reduced.

It is important to have a comprehensive exit or transition strategy in place as early as possible, once the main parameters of the support relationship have been defined and before the support has been implemented. For example, a provisional strategy should be established before PMOs begin. Because some measures will need to be taken in advance of the disengagement, waiting until shortly before disengagement to come up with a plan increases the risks for the local community. In the ICRC's view, actors should plan their structured disengagement from the relationship, taking into account scenarios in which their strategic objectives have been met or have not been met. Actors should also be aware that disengagement may not take place until an armed conflict ends. In some cases, the transition strategy will be part of a larger integrated recovery strategy encompassing, for example, economic development, security sector reform, the return of refugees and IDPs, and justice and reconciliation. The disengagement strategy will need to be reviewed as the relationship and the nature and extent of support evolve. This will minimize the number of changes required in the run-up to disengagement.

In addition to addressing the needs of the people affected by conflict, the strategy should reflect an assessment of the risks of harm stemming from the transition itself. For example, actors should consider how they will manage any handover and the impact of the future absence of support. The strategy should anticipate the vested interests of local actors, and it may need to address the DDR of the supported party's personnel as well as that party's capacity in the PSSM of transferred weapons and related ammunition.

The plan should also take into account the broader humanitarian consequences of the armed conflict and the situation as it stands at the time of disengagement. These consequences will be felt for years if not decades after the conflict has ended. The disengagement strategy should therefore identify ways of minimizing the long-term impact of the actors' activities on affected people. Many of these measures may themselves need to be implemented over the medium to long term. Failing to properly manage these consequences may result in continued instability and violence or even the recurrence of armed conflict.

Practical measures may be taken in the following areas:

- A. system sustainability
- B. ongoing protection of civilians and others not fighting
- C. responsible resource disengagement
- D. managing the aftermath.



Key questions

- Does the supported party depend on the support to comply with IHL, and what can you do to ensure it remains compliant once your support ends?
- What other functions that the supporting actor fulfils to promote the protection of people affected by conflict will need to be assumed by the supported party or another actor when the support ends?
- How will the supported party's intention to comply with IHL and other relevant standards be affected if the support relationship changes or ends?
- Have you agreed on responsible resource disengagement measures (such as DDR programmes or arms management programmes) to put into place?
- How will you assess and mitigate the risk of harm to members of your partner's armed forces and their families or communities once the support or conflict ends?

A. System sustainability

A comprehensive exit strategy should include measures to ensure the supported party's institutions and operations are maintained, transferred or ended following disengagement. Functions of particular concern are those affecting people not or no longer participating in hostilities. They include essential services such as health care, detention and justice systems, processes to find missing persons and facilitate durable solutions for IDPs, weapons and ammunition management and marking and clearing ERW, and procedures aimed at mitigating civilian harm (see [Sections 3](#) and [4](#)).

Where functions are transferred from the supported party to another actor, the supporting actor should ensure that measures set up to protect civilians and others not fighting remain in place. If the supported party intends to continue its operations, the focus should be on ensuring that they can be maintained in full respect of IHL and applicable human rights standards. This may require tailored measures so that the party can take over any functions being provided by the supporting actor. The supporting actor's functions should be gradually tapered as the supported party takes them over.

Supporting actors preparing to disengage in anticipation of the end of a conflict should consider shifting their training objectives. In particular, the supported party's weapons bearers may require increased training in rules and best practices applicable in peace time, including in relation to use-of-force procedures and weapons management. If armed forces are called upon to engage in law enforcement operations, specialized training and equipment is needed.

In cases where a supporting actor intends to cease its functions or transfer them to an authority other than the supported party, such as pursuant to a peace process, its exit strategy should include responsible resource disengagement from the supported party (see [Section 6.3.1.C](#)).

If the supported party prevails in a conflict, the support it receives will almost certainly need to be shifted away from the security sector and focused on broader stabilization needs, including development. Such a transition before this point, or in the absence of strategic success, may be more challenging; in such cases it may make sense to transition the support to another responsible actor. It is beyond the scope of this document to fully explore the question of transition, the practical implications of which will nevertheless affect all government departments and agencies. A whole-of-government approach will be essential to minimize disruption and threats to civilians and others.

See also:

- [Section 3.3.4](#) Law enforcement operations

Train the trainers

It may be relevant to develop the capacity of partner forces to conduct their own IHL training to ensure sustainability beyond the end of the relationship. While train-the-trainer programmes are often long-term initiatives executed throughout the support relationship, they are especially relevant as part of a comprehensive exit strategy. In such cases, they must take account of the partner forces' current and future functions, while at the same time distinguishing between legal paradigms applicable during times of conflict and times of peace.

B. Ongoing protection of civilians and others not fighting

Actors in a support relationship must not overlook the impact that a transition will have on civilians and others not fighting. Even if the transition occurs at the end of a conflict, both supported parties and supporting actors may have continuing legal obligations or other responsibilities towards, for example, persons deprived of their liberty, the dead and the missing.

See also:

- [Section 4](#) The protection of civilians and others not fighting

Continued protection of detainees

Special consideration should be given to the obligations that parties to an armed conflict, and sometimes supporting actors, have towards people deprived of their liberty.

If it transfers detainees to the supported party, the supporting actor has a continuing responsibility to ensure those detainees' well-being. This duty may be implemented through post-transfer monitoring, for example (see [Section 6.2.4](#)).

Where the supporting actor withdraws financial and material assistance that the supported party requires to provide dignified conditions of detention, mitigating measures must be implemented to ensure that persons deprived of their liberty continue to be protected.

Actors should also consider the capacity of the local justice sector. If a supporting actor intends to transfer custody of a large number of detainees to the supported party, it must consider whether that party has the resources and procedures in place to detain, investigate and, where appropriate, prosecute those people in accordance with international standards. Supporting actors may also play a role in implementing conflict-related amnesties.

Further reading

[*Amnesties and International Humanitarian Law: Purpose and Scope – Factsheet*](#) (ICRC)

See also:

- [Section 6.3.1.D](#) Managing the aftermath

Mechanisms to clarify the fate and whereabouts of missing persons

Without infringing upon the rights of the people concerned, actors could share information with their partners that will help to prevent people from going missing and clarify the fate and whereabouts of those already missing, in support of the families' right to know. This process may include establishing mechanisms to centralize information on people deprived of their liberty, hospitalized, deceased or reported missing. Such mechanisms should ensure that families can report and receive information on the fate and whereabouts of their loved ones in a safe and non-discriminatory manner.

Any transitional justice processes should incorporate mechanisms to clarify the fate and whereabouts of missing persons, although they are also relevant in the absence of such a process.

See also:

- [Section 4.4](#) Missing persons

C. Responsible resource disengagement

An important factor for decision makers to consider is the need to ensure that material assets and personnel that it has injected into a support relationship are managed responsibly. As part of the transition, it may be necessary to put in place measures to ensure these resources are also disengaged, for example through the removal of arms stockpiles or the establishment of a DDR programme.

Disarmament, demobilization and reintegration

DDR programmes are an important part of managing the transition from armed conflict to peace. Done properly – in compliance with applicable IHL and human rights standards – DDR programmes can help prevent further social upheaval. DDR is especially important after NIACs, where formerly opposing forces find themselves living alongside one another in society after the conflict has ended.

The partners should consider outlining plans for the eventual DDR of members of the armed forces they support (see [Section 6.1.3](#)). The relevance of such measures may depend on the nature of the supported party (see [Section 3.2](#)) and the outcome of the conflict.

Detailed plans for DDR should be drawn up and the corresponding funds allocated as early as possible. It is important to ensure that special attention is given in a timely manner to identifying and handling children – both girls and boys – who are associated with armed forces or NSAGs, through appropriate processes.⁶⁶ However, the ICRC cannot recommend one particular DDR strategy to minimize the long-term impact on the affected people.

Where the territorial State will be responsible for DDR, supporting actors should determine as soon as possible which bodies will implement it and allocate resources to those bodies so that they can build and sustain their capacity to fulfil this role. Where support is provided to an NSAG, the needs of the supported group may be difficult to predict and depend on the outcome of the conflict or the relationship.

Legal reminder

States party to the Optional Protocol on Children in Armed Conflict (the majority of States) must take all feasible measures to demobilize or otherwise release from service persons under 18. When necessary, they must also accord all appropriate assistance for their physical and psychological recovery and their social reintegration.⁶⁷ States Parties must cooperate in the implementation of this protection for children, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary thereto, including through technical cooperation and financial assistance (Article 7). The release of all children unlawfully recruited or used by armed forces or groups must be sought unconditionally at all times, including during armed conflict. Actions to secure disarmament, demobilization and reintegration of children should not be dependent on a cease-fire or peace agreement or on any release or demobilization process for adults. Coordination with local actors as well as international humanitarian actors such as UNICEF should be facilitated to implement DDR.

All children (meaning persons under the age of 18) who have been associated with armed forces or armed groups are entitled to care and special protection (*ICRC Customary IHL Study*, Rule 135).

⁶⁶ A child is defined as anyone below 18 years old; see Convention on the Rights of the Child, Art. 1.

⁶⁷ Optional Protocol to the Convention on the Rights of the Child, Art. 6(3).

Further reading

[The Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers](#)

[The Principles and Guidelines on Children Associated with Armed Forces or Armed Groups](#)

[Implementation Guidance for the Vancouver Principles](#)

[Children associated with armed forces or armed groups \(ICRC\)](#)

[Guiding principles for the domestic implementation of a comprehensive system of protection for children associated with armed forces or armed groups](#), pp. 395–396 (ICRC)

[Legal Protection of Children in Armed Conflict – Factsheet \(ICRC\)](#)

[UN Disarmament, Demobilization and Reintegration Resource Centre \(UN\)](#)

See also:

- [Section 6.2.1.C Personnel](#)

Weapons and ammunition management

Supporting forces will often deploy with and accumulate stockpiles of ammunitions, weapons and other lethal equipment over the course of their support relationship. Transitioning out of a support relationship, however hastily, does not negate a supporting force’s responsibility for weapons and ammunition that, if not safely and securely stored, may jeopardize civilian protection. To prevent weapons and ammunition from being diverted or misused, and to avoid accidental explosions, supporting forces can destroy or permanently disable these items, take them out of the country or territory when they withdraw, or transfer custody of them to a responsible partner.

See also:

- [Section 3.3.1 Weapons and ammunition management](#)
- [Section 3.4.2 Arms transfers](#)
- [Section 4.8 Landmines and explosive remnants of war](#)

D. Managing the aftermath

Actors in support relationships should consider measures to address the impact of military operations and associated activities on affected people (see [Section 4](#)). Parties to conflicts and other actors may have legal obligations to take steps such as collecting and caring for the wounded and sick. Other measures may be implemented as a matter of policy.

Taking steps in the immediate aftermath of operations, to the extent feasible, can help to limit their long-term and cumulative impact. Therefore, measures to manage the aftermath of a conflict should be considered while planning and implementing the relationship rather than waiting for the transition or the end of the conflict. Of course, certain measures may only be possible once the conflict has ended or may need to be implemented over a longer period. They remain relevant regardless of whether the actors have achieved their objectives in the support relationship.

Reconstruction efforts

To the extent possible, actors should consider contributing to or otherwise facilitating the reconstruction of any critical civilian infrastructure that may have been damaged as a result of the armed conflict and re-establishing any essential services.

Measures may include rebuilding or renovating damaged facilities or renewing the supply of goods such as medical equipment, with due consideration for civil-military coordination principles and good practice. Reconstruction and repairs should take place as soon as possible in order to mitigate the cumulative

impact on essential service infrastructure and reduce the risk of a long-term or irreversible decline in service.⁶⁸ This is important not only for humanitarian reasons, but also to prevent major development reversals and to reduce the likelihood of protracted displacement. Care should be taken to ensure that any such measures are implemented equitably, to avoid inflaming any ongoing social divides.

In their effort to include women in post-conflict reconstruction efforts, States may also consult the guidance and standards set out in the UN Security Council's host of Women, Peace and Security resolutions and related frameworks.

See also:

- [Section 4.6](#) Essential services

Durable solutions for internally displaced persons

The lack of access to essential services, especially in urban environments, is a key factor driving displacement and can also affect the search for durable solutions to this problem. Reconstruction efforts may make it easier for IDPs to return, if they so wish, and help to reduce the humanitarian consequences of protracted displacement. It is important to recognize that not everyone displaced by hostilities will want or be able to go back. In such cases, actors should consider helping their partners to facilitate other durable solutions, namely local integration and resettlement in other parts of the country, while ensuring that the IDPs' options are voluntary, safe, and dignified.

See also:

- [Section 4.3](#) Internally displaced persons

Clearance of mines and explosive remnants of war

Another important facet of helping people to return to ordinary life is the removal of ERW. Contamination by unexploded ordnance, laid mines, abandoned ammunition, improvised explosive devices and weapons can all pose direct and indirect risks to civilians and hamper reconstruction and recovery, with long-term consequences for development.

Each actor should mark and, if they have the capacity, dispose of any ERW discovered. A mechanism to coordinate contamination surveys and humanitarian clearance efforts should be established as soon as possible once active hostilities end. Other measures to support the clearance of mines and ERW, mitigate the risks to civilians and provide assistance to affected States may be required as a matter of law or policy.

See also:

- [Section 4.8](#) Landmines and explosive remnants of war

Key legal rules

Anti-Personnel Mine Ban Convention, 1997

Protocol on Explosive Remnants of War, 2003 (Protocol V to the 1980 CCW Convention)

Convention on Cluster Munitions, 2008

⁶⁸ See ICRC, *Urban Services during Protracted Armed Conflict: A Call for a Better Approach Assisting Affected People*, ICRC, Geneva, 2015: <https://shop.icrc.org/urban-services-during-protracted-armed-conflict-pdf-en>.

6.3.2 LEARNING

A *lesson learned* is knowledge or understanding gained by experience and observation. The experience may be positive, as in a successful test or mission, or negative, as in a mishap or failure.

A “lessons identified and learned” (learning) process is one that crosses functional boundaries and allows organizations to learn from both their mistakes and successes. The process should prevent the actors from repeating mistakes and encourage them to build on successes.

A lesson must be:

- significant, in that it has a real or assumed impact on operations
- valid, in that it is factually and technically correct
- applicable, in that it identifies a specific design, process or decision that reduces or eliminates the potential for failures and mishaps, or it reinforces a positive result.

Introduction

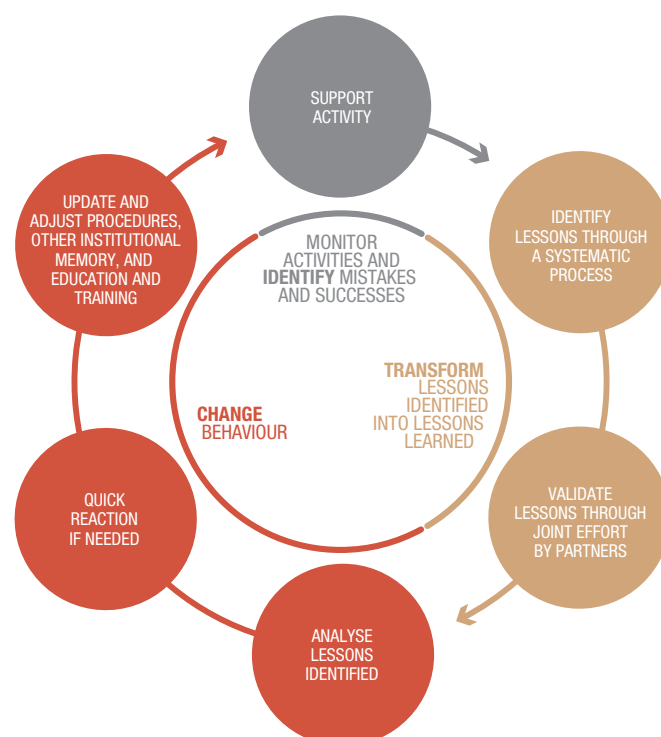
Learning processes should specifically address the protection of civilians and others not fighting, as this will be a key measurement of mission success.

If they do not learn lessons from past experience, all actors are liable to repeat the same mistakes. The objective of learning processes is to improve compliance with IHL and to better protect civilians by stopping something, doing something differently or doing something new. In that sense, the lesson is not learned until it has been identified and incorporated into subsequent practices.

Learning is an ongoing and cyclical process that takes place at every stage of the support relationship:

- at the preparation stage, when past lessons learned are incorporated into the framework, systems and processes
- during the relationship, when a system for recording issues that go wrong is implemented
- after the conflict or relationship ends, when lessons are identified, incorporated into future practice and shared with others.

Monitoring and evaluation mechanisms should also be integrated into learning processes. As a result, problems identified through those mechanisms can be incorporated into lessons-learned analyses and, where appropriate, prevented from recurring through systemic adjustments.





Key questions

- Do you have a process for capturing and managing observations and lessons learned throughout the support relationship?
- Does the learning process allow you to identify issues relating to IHL and the protection of those not fighting?
- Do you have a process for finding root causes and developing remedial actions?
- How do you make sure the lessons identified or learned are correctly implemented?
- Does your learning process allow you to identify, capture and incorporate lessons in order to improve an ongoing support relationship?
- How will you incorporate your partner's feedback in the learning process?
- Do you share your lessons with other partners or allies, or other parties, in order to improve support-relationship practices?

A. Systematic learning to enhance the protection of affected people

Actors in support relationships should establish an ongoing or periodic reporting system that allows them to continually identify potential issues. The system will reveal patterns of issues that have not been dealt with on a more immediate basis, and these patterns will form the basis of a lessons-learned process. The system will typically capture issues on multiple levels.

Cultural differences between the supporting and supported actors may also generate context-specific lessons (for example with respect to culture), and reveal more generic non-contextual practices.

A distinction should be made between recording information for learning-related purposes and for investigating possible violations. A learning-oriented system can record issues on a technical level without identifying legal liability. Issues relating to possible violations of IHL or other laws should also trigger an investigative process and, where appropriate, disciplinary or penal sanctions (see [Sections 6.2.4](#) and [6.2.5](#)). However, the investigation of possible violations may also produce lessons learned that can prevent future violations.

Review processes often consider outputs, rather than general outcomes, and ignore the impact of support relationships on the victims of armed conflict. Learning should focus on victims of armed conflict and consider civilian protection as a yardstick for evaluating the success of a mission and drawing lessons.

B. Learning together

All too often, lessons-learned exercises are conducted independently, usually with one actor making assumptions about the other actor's perspective or needs. Where possible, the lessons-learned process should involve the supported and supporting actors combining their experiences and providing joint lessons, in pursuit of a fuller understanding of the issue. The process may need to be tailored to the relationship to accommodate each partner's culture and learning tradition. Any good practices identified should be shared with allies and partners.

To better incorporate lessons related to the humanitarian consequences of the support relationship, learning processes should be open to civilians and communities whenever possible. Seeking direct feedback on how institutional capacity support or a TAAA mission affects local communities is a crucial component of responsible support relationships and the long-term success of these programmes.

Support relationships, even if purely military, will have implications across the entire government. Their influence will therefore be much broader than "just" military. The learning process should be open to input from non-military actors at all stages before, during and after the relationship.

C. Incorporating lessons into doctrine and future practice

When a support relationship ends, a comprehensive lessons-learned exercise should be conducted on the entire relationship and those lessons incorporated into future support relationships. Those lessons should also be carefully reviewed before embarking on a new support relationship with the same actor.

In some cases, it may be appropriate to share lessons learned more broadly. The ICRC encourages all actors to publish, or share in relevant forums, their experience and lessons learned in relation to the protection of civilians and others not fighting. Areas of interest would include, for example, the choice and use of means and methods of warfare in populated areas.

Previous lessons should be studied in the preparation phase, while recognizing that support can be culturally specific. They can provide extremely useful insight into challenges that are likely to arise in future support relationships, and they should be used for training and exercise events before committing to any new support activity. Supporting actors need to know what does and does not work in order to apply influence effectively and lay the foundations for a successful support relationship.

The supported partner may have learned its own lessons from previous experience, either formally or informally. Partners and other ministries or agencies should confer at the preparation stage and heed lessons learned on all sides as they implement the relationship.

7. QUESTIONS FOR DECISION MAKERS

This section supplements [Section 6](#) by providing specific questions to help decision makers consider what measures may be relevant to their circumstances. For each of the ten areas of practical measures, questions are aimed either at supporting actors or supported parties, or both.

Additionally, some considerations relevant to specific humanitarian concerns are posed, for example detention-related risks. See [Section 4](#) for further information on issues relating to the protection of civilians and others not fighting as well as the safeguarding of civilian and other specifically protected objects.

Some questions may also address specific factors in the support relationship, as described in [Section 3](#), and so may not be relevant to all support relationships. In the web version of this document, decision makers can filter the questions by different variables in order to narrow the list of questions to those most relevant to the relationship they are considering.

The detailed questions in this section are secondary to the overarching strategic questions applicable to all support relationships (see also [Section 5](#)):

1. What type of conflict, actors, activities and support are involved in the support relationship?
2. What gaps exist between the partners' intent, leadership and capacity?
3. What are the implications of the answers to the above questions for civilians and others not fighting?
4. What steps from any of the ten areas of practical measures discussed above could you and your potential partner(s) take together to improve the level of protection and reduce harm to civilians and others not fighting?
5. If the gaps identified in question 2 above remain significant, should you reconsider the support relationship?

Further operational questions are posed below for each of the ten areas of practical measures. Key questions at the top of each section highlight the primary considerations that should guide decisions in managing the support relationship (see also [Section 6](#)). They are followed by more detailed guiding questions that may be relevant, depending on the circumstances.

7.1 PREPARATION



7.1.1 INTERNAL READINESS TO ENGAGE

- What conditions and criteria need to be met in a support relationship? Are these conditions and criteria consistent across all your support relationships?
- Do resources need to be allocated differently, do processes require “partner-proofing” and do personnel need specific training?
- Are the internal entities involved in a support relationship aligned in their vision, and are they set up to manage the type of support relationship envisaged? How do you ensure coordination between these entities?
- Do you have systems in place to assess your partner’s intent, capacity and leadership with regard to protecting civilians and others not fighting?
- Do you have established systems and procedures, as well as the capability, to monitor your partner’s actions?

General questions



General

- Are legal advisers available to your armed forces?
- Will legal advisers provide guidance to personnel on distinct issues related to support relationships prior to deployment?
- Have you incorporated the Geneva Conventions into national law?
- Have you adopted criminal legislation to punish those guilty of serious violations of IHL?
- Do your national courts have universal jurisdiction over war crimes committed by or against nationals of your country or on your territory?
- Do the laws of your State allow for corporate criminal responsibility?
- What mechanism(s) exist to discuss among the relevant entities matters relevant to the support relationship (e.g. an interministerial committee, a review board or a working group)?
- How are the roles and responsibilities in a support relationship communicated to the relevant agencies and departments involved in providing or receiving support?
- What is the process for considering, across government agencies and departments, matters of humanitarian concern and measures to ensure respect for IHL in practice?
- How is the protection of civilians integrated into military policy and doctrine?
- Do your military policy and doctrine address the measures to be taken to reduce civilian harm in PMOs?
- Do you have a policy on the protection of civilians?
- Do you have a civilian harm tracking mechanism?
- Do you have a system to manage your human resources in a support relationship?
- How will you harmonize your operational directives or policies with respect to the means and methods of warfare?
- Are your command and control systems sufficiently robust to work in a partnered environment?
- How will you ensure communication with field commanders?
- Have your command and control systems been adapted to operate with partner forces?



Detention

- Does your pre-transfer risk assessment allow detainees to voice fears relating to their transfer, and if so, how do you address such fears?



Missing persons

- Do you have a system for sharing information collected by your national information bureau (or equivalent) and other sources with your partner?
- Do you have protocols in place to collect and safeguard all relevant data on the wounded and sick you evacuate (i.e. personal data and the place, date and time, and by whom, the person was evacuated)?
- Do you have a mechanism to notify the families when you evacuate the wounded or sick?
- Do you have a mechanism to ensure that people admitted to medical facilities under your responsibility can restore and/or maintain contact with their family members?



Landmines and explosive remnants of war

- Is there a national mine action authority in your State?
- What are the role and responsibilities of the national mine action authority in your State?
- Have national mine action standards and standard operating procedures been written and disseminated?
- What international standards and guidelines are applicable (e.g. IMAS, IATG and MOSAIC)?

Questions for supporting actors



General

- Have your legal advisers considered the specific issues that support relationships may raise?
- Do you have an arms export control regime?
- Which laws are relevant to contracting PMSCs?
- How do you ensure transparency and accountability in the process of contracting PMSCs?
- Do you have a system to ensure alignment across government agencies in respect of a support relationship?
- How do you ensure that resources are appropriately allocated to support the partner?
- Is your human resources management system adapted to the roles you wish to assign your personnel?
- Are the units assigned to PMOs specially trained to undertake such missions?
- Do you have a unit or group in your armed forces that is specialized in delivering training and assistance to partner forces?
- Will your armed forces have access to legal advisers prior to and during their deployment?
- Are your armed forces trained to address the protection of civilians with partner forces?
- Are your armed forces trained to identify and address violations of IHL by partner forces?
- How do you preserve your institutional memory of support relationships?
- How do you ensure that lessons are carried forward so that they can be applied in subsequent support relationships with the same or a different partner?
- Which ministries need to be involved in vetting, selecting and contracting PMSCs?
- What criteria do you apply when evaluating whether to employ the services of a PMSC?
- Do you have a process in place to ensure that lessons from support relationships are identified and taken into account?
- How will you establish clear lines of responsibility in the relationship?
- Do some of your personnel have experience in partnered operations?
- Does their pre-deployment training address cultural and linguistic divides between them and partner forces?
- Are they able to incorporate IHL training and education into their training programme?
- Do training and instruction on IHL and other relevant legal frameworks address issues related to working with partners?
- Do you have a reporting mechanism that includes partners?
- Do you have a logistics chain fit for the purpose of PMOs?



The dead

- Do you have suitably qualified people to carry out gravesite excavations?
- How will you contribute to the process of recovering the dead without further complicating identification efforts and without desecrating the remains?
- How will you address the risks to those who recover the dead?



Missing persons

- Have you established a system for families to report missing persons and receive information on their fate and whereabouts?



Landmines and explosive remnants of war

- Do you have a plan in place and the capacity to implement corrective measures in your partner's humanitarian mine action process, explosive ordnance disposal process and PSSM?

Questions for supported parties



General

- What are the implications of having a different legal framework from that of your prospective partner?
- What conditions will you place on agreeing to enter the support relationship?
- Can you work across departments or agencies to fully understand and put into place measures so that external support does not impede a whole-of-government approach?



Missing persons

- Do you have a mechanism to notify families when you detain people and when you subsequently transfer them?
- Do you have a mechanism to ensure that detainees can restore and/or maintain contact with their family members?



Missing persons and the dead

- Do you have a system to gather, centralize and safeguard information on captured, wounded, sick, missing and dead people and to transmit that information to the other parties during the conflict?



7.1.2 NORMATIVE ENGAGEMENT

- In its international relations and in international forums, has your leadership committed to broad, multilateral positions supporting IHL compliance?
- Does your leadership encourage other parties to accede to international legal instruments and other standards intended to reduce the humanitarian consequences of armed conflict?
- Do you have programmes that promote IHL compliance and the protection of civilians, and do you make these programmes available to partners or potential partners?
- Do you have bilateral and multilateral mechanisms designed to influence potential partners' views and perspectives on compliance with IHL?

General questions



General

- How do you promote IHL in public statements?
- To what extent do you employ strategic argumentation to explain why it is in your partner's interest to comply with IHL?
- When encouraging your partner to comply with IHL, do you highlight how compliance will serve your partner's motivations and interests?
- If you become aware of possible IHL violations by your partner, do you ask other actors to encourage your partner to improve its IHL compliance?
- Does your partner share your interpretation of IHL, and have you identified any discrepancies that should be addressed?
- If you and your partner have different interpretations of an IHL rule, which interpretation provides greater protection for civilians or others not fighting?
- For you and your partner, is minimizing civilian harm in planning and conducting military operations considered a strategic priority?
- Does the agreement with your partner include the objective of minimizing civilian harm, and was this objective enshrined in doctrine and policy?
- Can you encourage the supported party to engage in a constructive, confidential, bilateral dialogue with the ICRC to improve the protection of civilians and others not fighting?
- Have you made clear to your partner your expectations regarding the means and methods they use?
- Do you encourage your partner to grant access and protection to neutral, impartial and independent humanitarian actors?
- Does your partner understand, accept and readily apply international standards and guidelines on weapons management (e.g. IMAS, IATG and MOSAIC)?
- How do you promote common standards, including restrictions and limitations, on the use of explosive weapons in populated areas in line with IHL?
- During PMOs, how do your personnel establish rapport with their counterparts?



Detention

- Can you encourage the partner to engage in a constructive, confidential and bilateral dialogue with the ICRC to ensure detainee treatment and detention conditions comply with international law and standards?



The dead

- Do you engage with your partner on the need to ensure the dignified management of the dead, including those of enemy forces?
- Have you engaged with your partner on the international laws and customs applicable to managing the dead?
- Have you and your partner considered the importance of establishing a dedicated unit for recovering and transferring the dead with dignity?
- Do you encourage your partner to agree on the transfer of remains to opposing forces?
- Do you encourage the parties to the conflict to document and record where civilians, combatants and fighters have died?
- Do you emphasize for your partner the need for gravesites resulting from armed conflict to be protected?



Health care

- Can you encourage your partner to avoid conducting military operations involving medical facilities or medical transports, as that could cause them to lose their protected status under IHL?



Landmines and explosive remnants of war

- Do your partner's policies or military doctrine address detecting, marking and removing mines and ERW in accordance with humanitarian standards?
- Have you engaged with your partner on acceding to and implementing international instruments prohibiting the use of certain weapons about which there is longstanding concern in humanitarian terms (e.g. the Convention on Conventional Weapons, the Anti-Personnel Mine Ban Convention or the Cluster Munitions Convention)?
- Is your leadership in a position to urge your partner not to use anti-personnel mines or cluster munitions under any circumstances?
- Can your leadership help partners to develop tools for collecting and managing data in support of humanitarian mine action?

Questions for supporting actors



General

- Is the support you provide accompanied by a parallel diplomatic effort to encourage supported parties to ratify regional and international legal frameworks and obligations?
- Do you encourage and help your partner NSAG to develop its own codes of conduct?
- Do you identify and share good practices for mitigating the risk of civilian harm in urban armed conflict, including restrictions and limitations on the use of heavy explosive weapons in populated areas?
- Does the rapport between your armed forces and your partner's forces enable your armed forces to engage with your partner's forces on IHL issues?



The dead

- Are your personnel, including combatants or fighters, aware of the laws, customs and other standards on recovering and managing the dead with dignity?
- In your combined, joint and partnered operations with the supported party, do you emphasize the need to ensure remains are collected, disposed of and transferred with dignity?



Health care

- Do you remind the supported party that, under IHL, medical care must be provided to wounded enemies without any adverse distinction?
- Do you remind the supported party that, under IHL, the tasks of collecting and caring for wounded enemies are never considered military functions?

Questions for supported parties



General

- Are your personnel, including combatants and fighters, aware of IHL rules protecting civilians and others not fighting, and of the consequences resulting from non-compliance?



The dead

- Have you informed your partner of local laws and customs governing how the dead are to be managed?



7.1.3 ASSESSMENT AND FRAMING OF THE RELATIONSHIP

- Have you accurately assessed your and your partner's respective intent, leadership and capacity?
- Are any gaps in intent, leadership and capacity able to be addressed through the planned support?
- What are the conditions that define a successful support relationship?
- How will you transition out of the support relationship when: (a) your objectives are met or (b) your objectives are not met?

General questions



General

- What criteria do you apply to vet and select possible partners?
- Has your partner integrated IHL into its training, doctrine and rules of engagement?
- Is there an obvious leadership that issues orders?
- Do the leadership's orders appear to be followed?
- Are there visible signs of hierarchy and discipline, such as uniforms, saluting, and the consistent use of ranks throughout the group?
- How does your partner relate to the local community?
- Does your partner receive political, social or economic support from the local community?
- Who or what are the sources of political, social, economic, spiritual or other types influence over your partner?
- How does your partner exert its authority?
- Do your partner's actions reflect its ideology?
- How are the group's rules socialized and reinforced within the group (e.g. through training, rituals, speeches by influential figures, or violent practices)?
- Do any units within a large partner force engage in rituals or practices that are at odds with the group's doctrine and stated purpose?
- Have you conducted a technical needs analysis of your partner to evaluate its level of military competency (e.g. in the use of indirect weapon systems)?
- Does your partner have a civilian harm tracking mechanism, and what does it entail?
- Does your partner have the capacity to conduct an assessment of the effect of attacks and to identify whether an attack may cause incidental civilian harm?
- How is the local community informed of the division of roles and responsibilities between actors?
- Are there effective legal and administrative measures in place to prevent and combat corruption?
- Does the PMSC have all requisite licenses/authorizations?
- Is the requirement to comply with applicable legal frameworks included in the contract with the PMSC?
- Does the contract with the PMSC provide for the PMSC to be fined or the contract cancelled if the PMSC violates the applicable legal framework?
- Under your national legal framework, can PMSCs and their personnel be held accountable for violations committed extraterritorially?



Detention

- Does the partner apply adequate procedural safeguards for persons deprived of their liberty?
- What are your legal responsibilities with regard to detainees captured or arrested by your partner in a partnered operation?
- Does your partner have the intent and capacity to handle those arrested and/or detained in relation to the conflict?
- Do partner forces have the necessary facilities, personnel and expertise to take and hold detainees?



The dead

- Which laws and customs apply to the collection and disposal or transfer of those killed, regardless of their status, in the armed conflict in the area where you and your partner are operating?
- Are legal frameworks that apply to the protection of the dead integrated into your support agreement?
- Under what circumstances will you, or alternatively your partner, be responsible for collecting and managing the dead?



Missing persons

- Does the support agreement set out obligations on preventing people from going missing?
- Are legal frameworks that apply to the obligation to account for missing persons integrated into your support agreement?
- Does your partner have protocols in place to collect and safeguard all relevant data on the wounded and sick they evacuate (i.e. personal data and the place, date and time, and by whom, the person was evacuated)?



Health care

- Are legal frameworks that apply to the protection of the medical mission integrated into your support agreement?
- Which actor is responsible for ensuring the supply and quality of medical goods?
- How are medical supply lines maintained, and are mechanisms put in place to verify the quality of medical supplies (facilities, equipment and medications) and safeguard inventories?
- What types of health-care delivery are expected to be provided, and to whom?
- How are civilians informed of how health-care services are run?
- How will you and your partner prevent the local health-care system from being disrupted?
- What is the impact of military medical clinics in an area, and how can you ensure that they will complement – and perhaps enhance – existing medical facilities?



Landmines and explosive remnants of war

- Is there a national mine action authority in your partner's State?
- What are the role and responsibilities of the national mine action authority in your partner's State?
- Have you assessed your partner's capacity to engage in humanitarian mine action, explosive ordnance disposal and PSSM measures?

Questions for supporting actors



General

- What laws permit or limit the decision to support a party and the type of support that can be provided?
- Do you regularly assess your partner's conduct through the prism of IHL before, during and after the support relationship?
- How is a partner's conduct in armed conflict and IHL compliance factored into decisions to provide and continue support?
- Has the partner State ratified any IHL instruments (i.e. the four Geneva Conventions of 1949 and their Additional Protocols of 1977, treaties that expressly prohibit or limit transfers of specific weapons, or other key IHL treaties), and has it acceded to international or regional human rights instruments?
- Does the partner State have national legislation that prohibits and punishes grave breaches and other serious violations of IHL and human rights law?
- Has the partner State joined the Arms Trade Treaty or any regional arms transfer instruments?
- Has the supported party implemented the measures required by the IHL and human rights law instruments to which it is party, including the adoption of internal doctrine and national legislation and regulations?
- Do your partner's armed forces have an effective and transparent military disciplinary system?
- Have you agreed with your partner on the definition of civilians, civilian objects, and military objectives?
- Have you agreed with your partner on the definition of direct participation in hostilities?
- Is the partner a party to CCW Protocol V?
- Does the partner comply with its reporting obligation under CCW Protocol V?
- Does the recipient educate and train its military personnel at all levels in applying IHL (e.g. during military exercises)?
- Does the recipient educate and train its military personnel at all levels in applying the rules of human rights law (e.g. during law enforcement operations)?
- Does the recipient train police and law enforcement officials in applying the rules of human rights law?

- Has IHL been incorporated into military doctrine and military manuals, rules of engagement, instructions and orders?
- Have IHL considerations been integrated into the processes of target selection and target verification?
- Does your partner have the capacity to ensure that weapons will be used in accordance with IHL?
- Does the supported party have the capacity to use weapons systems correctly (and thus accurately)?
- Does the supported party have adequate systems in place for WAM and PSSM in the theatre of operations?
- Have relevant human rights rules and standards been incorporated into the manuals and instructions used by police and other law enforcement officials?
- Have relevant IHL and human rights rules and standards been incorporated into the manuals and instructions used by weapons bearers (e.g. armed forces, police and other law enforcement officials, and PMSCs)?
- Are legal advisers trained in IHL available to advise the armed forces?
- What is the general degree of concern and respect shown for the situation of civilians?
- Have grave breaches or other serious violations of IHL been committed in the partner country?
- Have violations been committed by actors for which the partner is responsible?
- Are there policies or practices by which serious violations of IHL and of human rights law are treated with impunity or tolerated?
- Have serious acts of gender-based violence against women, men, boys or girls, including serious acts of violence targeting women and children in the context of an armed conflict, been committed in the recipient country?
- If violations of IHL are known to have occurred, has the partner taken measures to prevent and suppress such violations by its nationals, by people under its command or on its territory?
- Has the partner State failed to investigate grave breaches and other serious violations of IHL allegedly committed by its nationals or on its territory?
- Has the partner State failed to search for and prosecute (or extradite) its nationals or those on its territory responsible for grave breaches and other serious violations of IHL, or has it failed to cooperate with other States or international courts in connection with criminal proceedings relating to grave breaches and other serious violations of IHL?
- Is the partner open to dialogue on IHL concerns?
- Has the partner agreed to external or other forms of independent monitoring and/or investigations of alleged IHL violations?
- Has the partner committed serious violations of human rights law?
- What is the nature of the violations or the harm suffered (including across diverse groups of women, men, girls and boys)? What is the scale of the violations? Are certain groups affected disproportionately?
- Have serious acts of gender-based violence against women, men, boys or girls, including serious acts of violence targeting women and children, been committed in the partner State by that State or its agents?
- Has the partner State taken appropriate measures to end human rights violations and prevent them from recurring?
- Is the partner State open to dialogue on human rights concerns?
- Has the partner State agreed to external or other forms of independent monitoring and/or investigations of alleged human rights violations?
- To what degree does the partner State cooperate with international and regional human rights mechanisms?
- Are military commanders required to prevent and report grave breaches and other serious violations of IHL and to take action against those under their control who have committed such violations?
- Has the partner State put in place mechanisms, including disciplinary and penal sanctions, to ensure armed forces and other weapon bearers are held accountable for any violations of IHL?
- Are there similar mechanisms to ensure the police and other law enforcement officials, as well as other State agents, are held accountable for violations of human rights law?
- Does the partner State's national legislation allow the State to cooperate with international tribunals?
- Does the supported State cooperate with other States, ad hoc tribunals or the International Criminal Court in connection with criminal proceedings relating to grave breaches and other serious violations of IHL, genocide and crimes against humanity, and serious violations of human rights?

- If the supported party is a NSAG, has it committed to comply with IHL and international human rights standards, for example through a unilateral declaration or an agreement?
- What frameworks, systems or processes does the supported NSAG have in place to ensure its personnel respect IHL?
- Is the partner known to have recruited children or to have used them to participate in hostilities?
- Has the partner State ratified legal instruments establishing a minimum age for the recruitment of children and their participation in hostilities (Additional Protocols I and II, and the Convention on the Rights of the Child and its Optional Protocol on the Involvement of Children in Armed Conflict)?
- Is there an established minimum age for the recruitment (compulsory and voluntary) of people into the armed forces (or the armed group or PMSC)?
- Is there an independent and functioning judicial system in the supported party's territory, capable in particular of prosecuting or taking disciplinary action (as appropriate) in response to violations of IHL or human rights law?
- Does the recipient State have an effective national arms control system and procedures in place (for import, export, transit and trans-shipment) that conform to international norms, including the arms transfer instruments to which it is party? Does the system include decision-making criteria based on IHL and human rights law?
- Does the end user have the knowledge and capacity to use the arms or related items in accordance with IHL and human rights law?
- Does the end user have the capacity to maintain and deploy the arms or related items?
- Are the type, quality and quantity of arms or related items in keeping with the stated end user's military requirements (e.g. its existing inventory and force structure)?
- Have you conducted a technical needs assessment of your partner's capacity with regard to PSSM?
- Does the arms transfer recipient have in place a national system for licencing and controlling international transfers of conventional arms, ammunition and military equipment?
- Does the arms transfer recipient have legislative, regulatory or other measures to govern brokering within its jurisdiction, and does it apply these measures?
- What measures has the arms transfer recipient taken to prevent or combat the illicit trade in conventional arms and to prevent their diversion?
- Does the arms transfer recipient have the capacity to ensure that the weapons will not be diverted to the illicit market, to unauthorized end users or to a situation in which serious violations of IHL or of human rights law could occur?
- Does the recipient have a history of diversion of arms?
- Are previous transfers of arms, ammunition or military equipment to the recipient known or suspected to have been retransferred or diverted to a third party when there was a clear or substantial risk that they would be used to violate IHL or human rights law?
- Does the recipient country have a good record of providing authentic and reliable end-use documentation?
- Does the stated end user have adequate stockpile management and security procedures in place, including for surplus arms and ammunition?
- Are theft and leakages from stockpiles or corruption known to be a problem in the recipient State?
- Is the illicit trafficking of weapons a problem in the recipient State?
- Do groups involved in illegal arms trafficking operate in the recipient State?
- Are there adequate border controls in the recipient State, or are the borders known to be porous?
- Is the recipient the actual end user of the arms, ammunition or military equipment? Have guarantees been given in this regard (e.g. commitment to end-user or end-use certification that confirms that transferred items will not be re-exported without the agreement of the exporting State or used in a manner other than that described in the certificate)?
- Does the recipient agree to this being verified and to not transfer the arms, ammunition or military equipment to third parties without the authorization of the transferring State?
- What limitations exist under applicable national and international law on the type of service you wish to contract a PMSC for?
- What are your criteria for ending each type of support provided to your partner?

- When your support is drawing to a close, will the forces you support need to be integrated into other armed forces or disarmed, demobilized and reintegrated?
- When arms are provided to recipients, other than State entities, that operate in situations of armed conflict (e.g. armed groups or PMSCs), have they taken measures to ensure that the arms will be used in accordance with IHL (e.g. by adopting and distributing IHL-compliant codes of conduct, standard operating procedures and rules of engagement; by providing training in IHL; and by establishing internal disciplinary procedures)?
- Is there a risk of a sudden or unexpected change of government or authority structures (e.g. overthrow of the government or disintegration of State structures) that could undermine the supported party's willingness or ability to respect IHL and human rights law?
- Do you have a plan to manage the withdrawal of support when the end-state criteria are met?
- What safeguards will be in place to ensure compliance with IHL in case the support is suddenly halted or withdrawn?
- If concerns have been raised about an existing relationship, have effective remedial measures been taken to address these concerns?
- Has consideration been given to the supported party's exit strategy when they cease operations?
- Does the PMSC you wish to hire have sufficient financial means to pay fines and compensation if necessary?
- Do you have a process or necessary preconditions for your partner's requests for fire support?
- Do you verify targets independently when providing fire support?
- Does the end user (e.g. armed forces or armed group, police or other law enforcement officials, or PMSC) operate under clear and accountable lines of command and control?



Detention

- Are there similar mechanisms to ensure accountability for violations of human rights law by other State agents or private actors tasked to perform security-related functions?
- Does the support agreement include a specific guarantee by the supported party that it will treat all detainees in accordance with its international legal obligations?
- Does the support agreement specify which steps the transferring party may take if transferred persons are not treated in accordance with international law?
- Do you have clear procedures on the lawful transfer of detainees in accordance with the principle of *non-refoulement* under international law?
- Does your partner apply fair trial guarantees for people deprived of their liberty?
- Do partner forces have a judicial or administrative framework to detain people and hold them lawfully?
- Does the supported party train weapons bearers in applying the rules of IHL (where applicable) and human rights law?
- Have the same measures been taken to ensure IHL compliance by other weapons bearers (e.g. the police) who may operate in situations covered by IHL?
- Has the supported party agreed to allow the ICRC to visit people deprived of their liberty?



The dead

- Has your partner designated particular departments or personnel to organize the collection and management of the dead?
- Do your directives on the collection, disposal and transfer of the dead conform with local laws and customs?
- Does the supported party have a system for managing the dead in an armed conflict?
- Does the supported party have the capacity, either within or outside its armed forces, to properly manage the dead?



Missing persons

- Does the supported party issue identity tags to its combatants or fighters?
- Does the supported party take DNA samples of its combatants or fighters?

- Does the supported party have a mechanism to notify the families when they evacuate the wounded or sick?
- Does the supported party have a mechanism to ensure that people admitted to medical facilities under their responsibility can restore and/or maintain contact with their family members?



Landmines and explosive remnants of war

- Have you conducted a technical needs assessment of the supported party's capacity with regard to humanitarian mine action?
- Have you conducted a technical needs assessment of the supported party's capacity with regard to explosive ordnance disposal?
- Does your partner have the capacity, either within or outside its armed forces, to properly survey and, where necessary, clear ERW or other weapon-related hazards that can hinder the ability to recover and manage the dead?

Questions for supported parties



General

- Have you agreed with your partner on a protocol to investigate allegations of IHL-related misconduct or violations?
- What laws permit or limit your ability to receive support?
- How do you factor your partner's conduct in armed conflict and IHL compliance into your decision to accept and continue accepting support?
- Have legal or other measures been adopted prohibiting and punishing the recruitment or use in hostilities of children?
- Does the supporting actor have a post-conflict transition plan?



Missing persons

- Have obligations to account for missing persons been integrated into the support agreement?
- Have you shared with your partner the practical techniques you use to identify the remains of members of your armed forces?
- Has your partner established a system for families to report missing persons and receive information on their fate and whereabouts?



The dead

- Have you shared with your partner your system for collecting and transferring or disposing of remains with dignity?
- Are there gaps in your capacity to collect, record, dispose of or transfer the remains of people killed in armed conflict?

7.2 IMPLEMENTATION



7.2.1 INSTITUTIONAL CAPACITY BUILDING

- Do the partner's institutions apply a framework and use systems and processes that support and ensure the proposed conflict-related support activities are in compliance with IHL and other relevant legal standards?
- Are partner armed forces selected and vetted effectively?
- Does the partner have the capacity to manage the aftermath of hostilities?
- When the proposed support draws to a close, will the partner's institutions have the capacity to continue IHL-compliant operations on their own?

General questions



General

- Do your partner's institutions have the organizational capacity, rules and procedures to facilitate the proposed military operations and associated activities in compliance with IHL and other relevant legal standards?
- Does your partner have a system for identifying lessons and incorporating them into subsequent operations?
- Does your partner have the capacity to carry out pattern-of-life assessments?
- Does your partner have an effective system for communicating information to civilians (e.g. evacuation orders and advance warnings of attack)?
- Does your partner have a system for receiving allegations of misconduct from the public and from you, and for addressing those complaints?
- Does your partner have a mechanism for a person deprived of their liberty to seek review of the lawfulness of their detention?



Health care

- Is consideration given to following up on the delivery of health care, either by the military medical partner or civilian medical providers, following the initial provision of care?



Landmines and explosive remnants of war

- Does your partner have the capacity, rules, policies and procedures needed to undertake non-technical and technical surveys and reporting in relation to mines and ERW, marking and fencing, accident reporting, minefield rescue, risk-awareness and safe-behaviour programming, trauma management in emergency medical care systems, and explosive incident investigations (e.g. post-blast and post-strike)?
- What in-theatre "licencing" procedures do you have in place for explosive ordnance disposal operators, ammunition stockpile areas and ammunition managers?

Questions for supporting actors



General

- What legal frameworks regulate the conduct of your partner's armed forces?
- Does your partner have a system for investigating and, where appropriate, prosecuting alleged serious violations of IHL by its armed forces?
- Do you effectively vet the supported party's armed forces, the armed group or the personnel of the PMSC?
- Does the supported party have the know-how and resources to manage the aftermath of hostilities?
- Does the supported party's government coordinate the relevant bodies in providing the agreed support?
- Do you contribute to broader capacity-building activities in the military or security sector in the normal course of your relationship?
- What rules and procedures regulate the conduct of the supported party's armed forces?
- Are the measures you take to strengthen the supported party's institutional capacity enough to mitigate the risk of IHL violations or other civilian harm in an ongoing or potential armed conflict?

- Does the supported party have a learning system in place that is distinct from the processes it uses to investigate and prosecute criminal conduct and from its disciplinary measures?
- What is the scope of the supported party's learning system?
- Does the intended end user have appropriate stockpile management processes?
- What are the supported party's rules of engagement?
- Do your partner's rules of engagement differentiate between conducting combat and security tasks?
- What mechanisms does the supported party have in place to implement international standards and guidelines on weapons management (e.g. IMAS, IATG and MOSAIC)?
- What procedures does the supported party have in place to vet its combatants or fighters?



Detention

- In relation to possible detainee transfers, does the support agreement provide for the transferring party to visit transferred individuals in order to monitor their treatment and the detention conditions?
- Will the supported party's judicial system be able to cope with the number and type of cases it is likely to receive?
- Does your partner have clear procedures for all matters related to the protection of people deprived of their liberty, including as regards lawful transfers in accordance with the principle of *non-refoulement* under international law?
- Do you train and help the supported party to establish a proper system for registering detainees and notifying families of their arrest, detention and transfer?
- Do you train and help the supported party to set up a way for detainees and their families to communicate, allowing for a regular exchange of family news?



The dead

- Has the supported party considered the impact that an urban conflict has on recovering the dead and the added complications this entails?
- How will the supported party address the risks to those who recover the dead?
- Can you help the supported party to set up a grave registration service?
- How will your personnel supplement the supported party's system and techniques in recovering and managing the dead?



Missing persons

- How can you help the supported party to establish a national bureau of information (or an equivalent system to gather, centralize and safeguard information on captured, wounded, dead and missing people and transmit that information to the other parties to the conflict) before or at the outset of the conflict?
- Does the supported party have a national information bureau (or equivalent system to gather, centralize and safeguard information on captured, wounded, dead and missing people and transmit that information to the other parties to the conflict)?
- What system does the supported party have in place to help prevent combatants or fighters becoming unaccounted for as a result of the conflict?
- Before deploying them, does the supported party provide its combatants or fighters with identity cards or discs?
- Before deploying them, does the supported party record its combatants' or fighters' medical identifiers (e.g. fingerprints, DNA or dental records) to identify them if they die?
- Does the supported party have a mechanism to systematically register people deprived of their liberty in their custody and record their transfer?
- Can you help the supported party to set up one or more mechanisms to systematically register people they take into custody and record their subsequent transfer?
- Does the supported party have a mechanism to notify families when it detains people and subsequently transfers them?
- Does the supported party have a mechanism in place to ensure that detainees can restore and/or maintain contact with their family members?

- Can you help the supported party to set up a mechanism to ensure that people in their custody can restore and/or maintain contact with their family members?
- How can you help the parties to an armed conflict to gather, centralize and safeguard information on possible locations of gravesites and to share this information with other parties to the conflict?
- Can you help the supported party to set up protocols to collect and safeguard all relevant data on the wounded and sick they evacuate (i.e. personal data and the place, date and time, and by whom, the person was evacuated)?
- Can you help the supported party to set up a mechanism to notify the families when they evacuate the wounded or sick?
- Can you help the supported party to set up a mechanism to ensure that people admitted to medical facilities under their responsibility can restore and/or maintain contact with their family members?
- How can you help the supported party to establish a system for families to report missing persons and receive information on their fate and whereabouts?



Health care

- Can you help the supported party to develop and implement procedures and rules to govern behaviour during search operations, prioritize the wounded and sick at checkpoints and limit to exceptional circumstances the denial of medical evacuations, searches of health-care facilities or the removal of patients from them?
- Can you help the supported party to develop and implement targeting rules and procedures aimed at protecting medical personnel, facilities and transport?



Landmines and explosive remnants of war

- Can you help the supported party to develop a national mine action authority?

Questions for supported parties



General

- Do you have an arms import control regime?
- Do you have a system in place to monitor the impact of your military operations on civilians and to systematically collect data on any resulting civilian harm, including the reverberating effects of damaging or destroying civilian objects?
- Can you provide intelligence and information to your partner to improve its understanding of civilian considerations relevant to IHL, e.g. cultural norms, patterns of life, and positively identifying targets?



The dead

- For each military operation, do you have dedicated personnel for recovering and managing the dead, including those of enemy forces?
- How can the supporting actor supplement your system for recovering and managing remains?



Missing persons

- Do you have a national information bureau (or equivalent system to gather, centralize and safeguard information on captured, wounded, dead and missing people and transmit that information to the other parties to the conflict)?



Landmines and explosive remnants of war

- Can your partner help you to develop a national mine action authority?



7.2.2 INTERNATIONAL HUMANITARIAN LAW TRAINING

- Do you incorporate training on IHL and other relevant laws into your support relationship?
- Do your personnel have the appropriate skills, including an understanding of the trainees' language and culture, to provide training?
- Is your training programme adapted to the partner in terms of content, methods and materials, timing and frequency, and audience?
- How do you evaluate the effectiveness of your IHL training and incorporate that assessment into subsequent training cycles?
- Is IHL training integrated across your broader training programme, such as in combined exercises?
- Will you supplement training or instruction with mentoring?

General questions



General

- Do you share best practices in civilian harm mitigation techniques with your partner?
- Do you provide advice to your partner on developing and implementing a no-strike list in order to ensure that civilians, civilian objects and other specially protected objects are protected from attack?



Detention

- When conducting PMOs, what training do you provide to partner forces in terms of protecting people deprived of their liberty and administering places of detention?



The dead

- Can you provide your partner with advice on addressing gaps in its system for recovering and managing the dead with dignity?

Questions for supporting actors



General

- Do you incorporate training on IHL and other relevant laws into your support relationship?
- When supporting a party to a conflict, do you also provide IHL training?
- What are the minimum training requirements that other armed forces must fulfil for you to provide support to them?
- How do you factor the specific circumstances of the planned operational context into the IHL component of your training package?
- Do you adapt training programmes to the specific tasks partners will perform?
- When providing military equipment to partner forces, do you systematically train those forces in the IHL-compliant use of that equipment?
- How do you instruct, prepare and/or train your supported partner on taking feasible precautions when conducting hostilities?
- Do your personnel have the appropriate skills, including an understanding of the trainees' language and culture, to provide training and advice?
- What events, legends, personalities and values are part of the trainees' identity and can shape formal and informal socialization?
- Do any overlapping identities (e.g. religious or ethnic) among the trainees create entry points for messages on restraint?
- How much influence do junior and non-commissioned officers have on unit members' behaviour and viewpoints?
- What trainer profile would be most credible with particular training audiences?
- Will you supplement training or instruction with mentoring?
- Is there a process for developing a training programme for partner forces that is tailored to their specific capacity and needs?
- How are the curriculum and materials translated so that language and cultural differences are well-integrated into the training?
- Do you have a programme to repeat partner training at regular intervals?

- How do you incorporate civilian protection and IHL compliance into your training for the supported party?
- Do you incorporate IHL into your practical training exercises with partners?
- Do you train partner armed forces on IHL as it relates to precautions, distinction and proportionality?
- Have you included a training package on the appropriate and responsible use of the weapons and other military resources that you provide to your partner?
- Is the supported party trained in using means and methods of warfare in such a way as to avoid or minimize civilian harm (e.g. trained to understand and anticipate the effects of weapons and to be as accurate as possible when using indirect fire)?
- Do you train partners on selecting targets in accordance with IHL and on verifying they are not civilians, civilian objects, or specially protected objects?
- Do you train partners on applying IHL rules in urban warfare?
- Do you train partners on applying human rights law in law enforcement operations?
- Do you train the supported party in collateral damage estimation methodologies?
- Do you train the supported party to conduct battle damage assessments?
- If you provide the supported party with explosive weapons with a wide impact area, do you also train it to ensure that its armed forces know and understand the direct and indirect effects of such weapons in populated areas?
- If you provide the supported party with explosive weapons with a wide impact area, do you also train it to ensure that its armed forces implement good practices to mitigate the risk of civilian harm, including restrictions and limitations on the use of explosive weapons in populated areas, as recommended by the ICRC?
- Do you share, with partner forces and/or supported parties, good practices and lessons learned in relation to the use of explosive weapons in populated areas?
- Do you train partners on the safe storage of, and accountability for, weapons and other military resources?
- Does the supported party have the resources necessary to use the training materials you provide?
- Who is responsible for setting up an investigative or audit body to review how the training was provided?
- Does your training programme suit the supported party in terms of the curriculum, methods and materials, choice of trainers and choice of trainees?
- Does the training you provide to partner forces include practical exercises?
- Are the materials you use for training partner forces translated into their language and otherwise adapted to their needs?
- How do you monitor the performance of units trained by your personnel and/or contractors during their actual military operations?
- How do you evaluate the effectiveness of your training and incorporate the results into subsequent training cycles?
- How are your training programmes adapted during an operation to take into account the trained units' observed performance and other feedback?
- Can the supported party's behaviour lead to a change in the IHL training you provide?
- When hiring a PMSC to provide security-related services, which legal standards do you train them on?
- When hiring a PMSC to maintain and assist in operating weapon systems, including those of a partner, do you train them on their legal responsibilities?
- How do you ensure that the personnel of a PMSC you hire know when their conduct might aid or abet a war crime?
- If you hire a PMSC to train your partner's forces, how do you ensure that the training it delivers meets your armed forces training standards?
- If you hire a PMSC to train your partner's forces, how do you ensure the training focuses sufficiently on relevant legal obligations?



Detention

- Do you train your partner's armed forces on the humane and dignified treatment of those they capture or detain?
- Would it be pertinent to mentor or advise partner forces that manage places of detention to ensure they establish and comply with appropriate rules and procedures?
- Do you provide the supported party with support and training on non-coercive interrogation techniques?



Missing persons

- Does your training for the supported party include a section on the ICRC and the role of its Central Tracing Agency?
- Does your training for the supported party include a section on maintaining family links?
- Does your training for the supported party include a section on the national information bureau or similar structures (i.e. a system to gather, centralize and safeguard information on captured, wounded, dead and missing people and share that information with the other parties to the conflict)?
- Does your training for the supported party include processes to ensure that detainees can maintain and/or restore family contact?
- Does your training for the supported party include measures that can be taken to prevent people from going missing during medical evacuations?



The dead

- Can you provide specialized training in the recovery and management of the dead in order to ensure the dead are treated with dignity, to prevent dead bodies going missing and to preserve information that may be needed to identify human remains in the future, in line with applicable data protection standards?
- How is your training on recovering the dead adapted to the supported party's laws and customs?
- How is your training on recovering the dead adapted to the supported party's existing practices?



Health care

- Do you train the supported party on how to avoid or minimize harm to critical civilian infrastructure such as medical facilities?
- Does your training for partners address protecting the medical mission?
- Do you train and advise partner security forces on managing checkpoints in a way that minimizes the delay to the medical treatment of patients?
- Do you train and advise partner security forces on conducting search operations in medical facilities in a way that ensures respect for and the protection of the wounded and sick and minimizes the disruption to the work of medical personnel?
- Do you train the supported party on the impartiality of medical care and the evacuation process, notably during pre-deployment training programmes or briefings?
- Do you train or advise the supported party in updating its maps of local health structures and other protected sites?
- Does your training on targeting clarify the respect and protection due to medical personnel and facilities, including the limited circumstances in which protection might be lost?
- Does your training on search operations clarify the rules governing behaviour during search operations, prioritize the wounded and sick at checkpoints and limit to exceptional circumstances the denial of medical evacuations, searches of health-care facilities or the removal of patients from them?



Landmines and explosive remnants of war

- Can your personnel provide specialized training, in accordance with international humanitarian standards, in detecting, marking and clearing landmines and ERW?
- Do you plan to embed a technical training team with your partner to assess its needs and provide pre-deployment training (in such areas as IMAS Explosive Ordnance Disposal, Explosive Limit Licences and ammunition storage and management in conflict areas)?

Questions for supported parties



General

- What IHL training are the armed forces legally required to undergo?
- Does the supporting actor require training on IHL and the protection of civilians in populated areas?
- Do your armed forces receive regular IHL training?
- Would it be helpful to receive IHL training, or help in delivering IHL training, from the supporting actor?
- What does your leadership do to reinforce the importance of IHL training throughout your organization?
- How are IHL principles incorporated into your military education?
- How does the training your forces receive reinforce the importance of IHL compliance?
- Do your forces receive specific training on rules and standards on civilian protection and IHL compliance during hostilities?
- Do your armed forces receive training on issues relating to the protection of civilians?
- How does their training prepare your forces to comply with IHL during dynamic targeting decisions?
- Do trainees have access to relevant materials in their IHL training, including a copy of the relevant rules?
- Are legal principles incorporated into the operational training delivered to your armed forces?
- Does your partner require specific training in the laws and good practices relating to the conduct of hostilities in populated areas?
- When you receive offensive military equipment from a supporting partner, do you ask them to provide training or instructions on how to use the equipment in line with IHL rules?
- Does the IHL training provided to your armed forces include practical exercises on putting the rules into action?
- Do you have a system for keeping track of the training completed by each unit or group?
- When developing an IHL training course with a partner force, do you allow the course to be adapted in response to issues arising in operations?
- How do you provide input on the IHL training delivered by your partner (e.g. curriculum, methods and materials)?
- When agreeing to have a partner deliver IHL training to your armed forces, do you ensure that the training is adapted to your trainees' language or culture?
- After completing a training partnership, do you monitor trainees' subsequent performance and IHL compliance?
- After a training partnership has ended, do you share the results of post-training performance and IHL-compliance assessments with partner forces?
- Do you have a process in place to receive feedback on training programmes and to ensure that it is used to improve the effectiveness of future training programmes?
- Is there an investigative or audit body in charge of reviewing how the training was provided? If so, who sets up it up and who runs it?
- If you become aware of reports of problematic behaviour by personnel trained by a partner, do you have a system for raising these issues with the partner?



Detention

- Do your forces receive specific training on rules and standards regarding the protection of people deprived of their liberty and the administration of places of detention?



7.2.3 ASSISTANCE IN COMPLIANCE WITH INTERNATIONAL HUMANITARIAN LAW

- Does your partner have gaps in their capacity, functions or resources that impede its ability to fulfil its obligations towards people protected by IHL?
- Can you help your partner to incorporate civilian protection into its military planning and commit resources that address these gaps?
- What contingencies do you have in place if the supported party proves unable to fulfil its obligations towards people protected by IHL?

General questions



General

- Are you able to commit resources to help to minimize the negative humanitarian consequences of the armed conflict?



Detention

- Do you have the resources or know-how required to improve your partner's detention facilities so that they operate in accordance with international law and standards?



The dead

- Do your armed forces have instructions on collecting, identifying and managing the dead following your or your partner's military operations?



Health care

- What level of care are you helping to provide to civilians (e.g. first aid and emergency care, evacuations, routine and follow-up treatments or public health programming)?



Landmines and explosive remnants of war

- Do you share with your partner the locations or coordinates of explosive munitions you launch or emplace, to facilitate the task of detecting, marking and clearing any explosive remnants?

Questions for supporting actors



General

- Could your personnel help the supported party to increase the protection of people affected by conflict?
- Will you assign personnel to advise your partner in matters relating to IHL compliance and civilian protection?
- What contingencies do you have in place if the supported party is unable to fulfil its obligations towards people protected by IHL?
- Are you able to provide your partner with intelligence, surveillance and reconnaissance equipment to improve its capacity to distinguish between civilians or civilian objects and military objectives?
- Can you develop a no-strike list to share with your partner?
- Could your personnel assist by being present during the supported party's target selection process?
- Can you help your partner to set up or improve a civilian harm tracking mechanism?
- Can you help your partner to set up mechanisms to investigate harm caused to civilians and ensure accountability?
- How can you help your partner integrate civilian protection into its military planning?
- Can you deploy intelligence, surveillance and reconnaissance (ISR) support in order to supplement your partner's target-verification process and collateral damage estimates?
- Can you help your partner to organize its checkpoints so as to improve its capacity to distinguish between combatants and civilians?



The dead

- Can you help your partner to recover and transfer the dead with dignity?



Missing persons

- Can you help the parties to an armed conflict to gather, centralize and safeguard information on captured, wounded, dead and missing people, including the possible location of gravesites, and to potentially share that information with the other parties to the conflict?
- Could you provide the supported party with the resources needed to create identity cards or discs and/or to take DNA reference samples?
- Can you help your partner to document and record the location of all fallen civilians, combatants and fighters?
- Can you provide the resources or know-how your partner needs to develop a system that helps to prevent combatants or fighters becoming unaccounted for as a result of a conflict?



Health care

- Do you have the resources or know-how required to improve your partner's ability to care for the wounded and sick?
- Could you assist by carrying out medical evacuations of wounded and sick civilians and combatants or fighters from the front lines?
- Does your partner have the capacity to carry out medical evacuations of wounded and sick civilians and combatants or fighters from the front lines?
- Can you provide direct support to local medical facilities in areas where your partner operates and where medical facilities are impaired by the military operations?
- How do you help to prepare your partner to collect and care for the wounded and sick, including wounded adversaries?
- Is the health-care assistance you provide designed to include civilians?
- Could you help in updating the mapping of local health structures and estimating the humanitarian consequences of military operations involving vital medical infrastructure?
- Could you work with health-care professionals and the authorities to ensure that medical facilities and personnel are respected and protected?
- Can you help to set up a medical supply line?
- Do you have the capacity to help your partner to search for, collect and care for the wounded and sick, including wounded and sick adversaries?



Landmines and explosive remnants of war

- Can you provide support for detecting, marking and clearing landmines and ERW?
- Can you provide support to risk-education programmes in order to reduce civilian exposure to the dangers posed by landmines and ERW?
- Can you provide support for the assistance and rehabilitation of victims of landmines and ERW?

Questions for supported parties



General

- Have you discussed with your partner what type(s) of specialized assistance you need in order to improve the protection of civilians and others not fighting?
- Do you require assistance to improve your target-selection process, such as to increase your capacity to distinguish between civilians or civilian objects and military objectives?
- Can you share with your partner information that can inform targeting decisions, such as the human terrain, geography, critical civilian infrastructure and patterns of life?
- Will you be able to continue complying with IHL if your partner reduces or ends its assistance?



The dead

- Do you require assistance in recovering, identifying, disposing of or transferring remains with dignity?



7.2.4 MONITORING AND EVALUATION OF THE PARTNER

- Do you have visibility on your partner's operations?
- How do you evaluate the humanitarian impact of your partner's operations?
- How do you determine whether the support you provide is used in compliance with IHL?
- What metrics do you use to review and modify the support relationship over time?
- What system do you use to address potential misconduct by the partner, or other problems in the relationship?
- If IHL violations may have occurred, how will they be effectively investigated?

General questions



General

- Do you request a clear list of focal points from the partner in order to exchange information and address potential problems?
- Are there clear communication channels and procedures for engaging with your partner's officials?
- Does your partner have a mechanism for tracking civilian harm resulting from its operations?
- What information-sharing and coordination processes do the actors in the support relationship use to support investigations?
- Do you have a process for conducting joint investigations with your partner?
- Which measures must be taken during operations to allow for potential investigations and prosecutions?
- Does your partner have the capacity to conduct battle damage assessments?
- Does your partner have the capacity to investigate explosive incidents (e.g. post-blast, post-strike)?
- What process do your personnel follow to report possible IHL violations by partner forces?
- Do you have an effective process for discussing credible allegations of misconduct by your partner with its hierarchy?
- How does your partner handle credible allegations of misconduct by its personnel?
- Does your partner have effective mechanisms to ensure accountability for actions taken by them or on their behalf?
- What system do you have for addressing potential misconduct by your partner or other problems in the relationship?
- Do the laws of your State allow you to prosecute and hold partner forces accountable if they commit international crimes?
- Do your monitoring mechanisms ensure sufficient evidence can be collected for possible legal investigations?
- To which actor(s) is the PMSC accountable?
- What system is in place to hold the PMSC accountable for violations of applicable law?
- Is there an independent mechanism to receive complaints from individuals or civil society organizations concerning the activities of either the supporting actor or the supported party?
- Is the independent mechanism to receive complaints easily accessible and safe for individuals to use in view of their possible vulnerabilities?
- How does your partner handle information on potential violations from individuals or civil-society organizations?
- Does your partner have a process for remedying harm caused by its military operations?
- Does the partner's system include the possibility of compensating victims and their families?
- How is the information you record integrated into learning, training and, where appropriate, investigations?



Detention

- Do you have mechanisms to assess the risk of transferring detainees to your partners?
- What measures are there to prevent the use of torture and ill-treatment by your partner?
- Do you have processes to assess how detainees are treated once they are transferred to the supported party and then to channel any credible allegations of misconduct?

- What measures do you take if you receive credible allegations of ill-treatment by your partner of persons whom you transferred?
- Do you conduct post-transfer monitoring visits?
- Do you ensure that independent monitoring bodies, in particular the ICRC, have unimpeded access to all places of detention that hold detainees you transferred?



Health care

- How is the quality of care provided by military medical counterparts monitored?

Questions for supporting actors



General

- Do you have visibility on your partner's operations?
- How do you determine whether the support you provide is used in compliance with IHL?
- What criteria do you use over time to review, modify or terminate a support relationship?
- How will you monitor and review the measures put in place by you and the partner to improve respect for IHL?
- Before transferring arms, do you require your partner to agree to post-shipment verifications?
- Have you deployed sufficient resources to monitor and evaluate what is happening in the conflict, including your partner's conduct?
- Have you instructed your armed forces to monitor and evaluate the conduct of partner forces during hostilities?
- Do the units assigned to training, advisory or assistance missions have the capacity to monitor and evaluate partner forces?
- Are the units assigned to training, advisory or assistance missions instructed and trained to proactively identify, collect and report allegations of IHL violations by their partner forces?
- Are the resources that you have deployed qualified to monitor and evaluate your and your partner's conduct?
- Are the resources that you have deployed qualified to investigate any alleged misconduct by your partner?
- How will possible IHL violations be investigated effectively?
- What safeguards have you put in place to protect individuals or groups that make allegations against the supported party?
- Will you be present when the supported party plans and conducts military operations?
- Have you put in place joint after-action review processes with the authority to evaluate all positive and negative aspects of operations and take concrete measures to adopt remedial measures?
- Will you engage, where appropriate, directly with civilians, people deprived of their liberty and others affected by the armed conflict in order to understand and assess the supported party's conduct?
- Do you maintain some oversight over the measures taken by your partner to address civilian harm?
- Do you require end-user certificates as a condition for your arms transfers?
- Do you have a system to monitor your partner's use or reported use of arms you transfer to it?
- Do you have a system to monitor your partner's use or reported use of the category of arms you intend to transfer to it?
- Do you have a system to ensure that past conduct is factored into risk assessments?
- Does your risk-assessment process take into account past conduct that could potentially amount to a violation of IHL?
- When transferring arms, do your personnel have the capacity to undertake post-shipment verifications in the recipient State?
- What measures have you included in the contract with the PMSC to ensure accountability?
- Is the PMSC you hired covered by any relevant or applicable status of forces agreements?
- Do you have effective measures for monitoring the conduct of PMSCs you hire?
- Does your oversight over civilian harm mitigation measures make good use of your partner's local knowledge?

- Do you deploy personnel to mentor partner personnel in identifying and correcting problematic practices?
- Do you have a quality management system to assess your partner's PSSM?
- Do you have a system of ongoing periodic quality assurance and quality control to assess your partner's PSSM?



Detention

- How is the principle of *non-refoulement* – including pre- and post-transfer responsibilities – integrated into your support agreements?



Landmines and explosive remnants of war

- Do you have a quality management system to assess the supported party's activity in humanitarian mine action?
- When engaging a third party to provide services (e.g. contamination surveys, the clearance of ERW, risk-awareness and safe-behaviour training in affected communities, or stockpile destruction), how does the contract of engagement provide for partnered personnel to receive mentoring?
- Do you have a quality management system to assess your partner's actions in the area of explosive ordnance disposal?
- Do you have an ongoing periodic quality-assurance and quality-control system to assess your partner's humanitarian mine action?
- Do you have a system of ongoing periodic quality assurance and quality control to assess your partner's actions in the area of explosive ordnance disposal?

Questions for supported parties



General

- Does the supporting actor have effective oversight and accountability mechanisms?
- Do you keep complete records of all arms and equipment received from partners?
- How do you ensure that arms and other military equipment provided to your forces are not lost or resold?
- Will you set up a separate programme for compensation for civilian harm of your military operations, or will you integrate it into an existing system?
- Has your partner taken measures to remedy any harm it causes while supporting your armed forces?



Landmines and explosive remnants of war

- Have you taken particular measures to reduce the impact of landmines and explosive ERW on efforts to recover and identify the dead or missing, provide medical care and repair and maintain essential infrastructure?
- How do you manage reporting procedures in accordance with third-party contracts?



7.2.5 INTERNAL OVERSIGHT

- Do you have a procedure for effectively investigating all possible IHL violations by your armed forces or personnel, including in the context of a support relationship?
- What is your process for reviewing your own decisions to provide or receive support?
- Do other parts of the government have the power to check that the support relationship is planned and implemented in accordance with international and domestic law?

General questions



General

- What mechanisms do you have to identify potential systemic issues relating to IHL and the protection of civilians and others not fighting?
- Do you have the necessary laws and regulations, as well as the capacity, to conduct effective investigations into possible IHL violations and other violations committed in an armed conflict?
- Do you have access to the reports generated by your partner's civilian harm tracking mechanism?
- How are the reports generated by the civilian harm tracking mechanism used in administrative and criminal investigations?
- Do your reporting procedures allow for your personnel to report possible IHL violations while operating in a support relationship?
- What is the process for your partner to report possible IHL violations by your personnel?
- Do you have the capacity to investigate explosive incidents involving your personnel (e.g. post-blast, post-strike)?
- Do you share with your partner the findings of any reports or investigations into possible IHL violations?
- What mechanisms ensure that PMSCs are selected and hired with proper oversight and transparency?
- Does your governance structure (parliamentary or other) have adequate knowledge of the operations being conducted and the authority to request and receive information so that it can shape and frame the way in which support is provided?
- Does your judicial system have the capacity and authority to consider questions of compliance with IHL and other relevant laws and to prosecute serious violations of IHL committed by your nationals or on your territory?



Landmines and explosive remnants of war

- Do you have a national mine action authority?

Questions for supporting actors



General

- What review procedures do you apply to the conduct of special forces overseas?
- Can elected representatives ask questions about the government's decision to provide support?
- What mechanisms do you have to review decisions and conduct relating to the provision of support and its impact on civilians and others not fighting?
- Do you have mechanisms for your governance structure (parliamentary or other) to oversee the behaviour of all forces providing support?
- Does this oversight also cover special, paramilitary and intelligence forces?

Questions for supported parties



General

- What capacity do you have to investigate possible IHL violations committed during joint operations with the supporting actor?
- Would it be feasible to establish a joint investigative and accountability mechanism?
- What mechanisms do you have to review decisions and conduct relating to the receipt of support and its impact on civilians and those no longer fighting?
- Do these review mechanisms apply to all agencies receiving support?

- Does your armed forces' leadership have a way to review their members' conduct during support operations?
- Do you have mechanisms for your governance structure (parliamentary or other) to oversee the behaviour of all forces being supported?
- Does this oversight also cover special, paramilitary and intelligence forces?
- Does it apply to all existing forces and those newly generated by supporting actors?
- Does your judicial system have the capacity and authority to review the conduct of the military and all other relevant agencies and how that conduct is shaped by supporting actors?

7.3 TRANSITION



7.3.1 STRUCTURED DISENGAGEMENT

- Does the supported party depend on the support to comply with IHL, and what can you do to ensure it remains compliant once your support ends?
- What other functions that the supporting actor fulfils to promote the protection of people affected by conflict will need to be assumed by the supported party or another actor when the support ends?
- How will the supported party's intention to comply with IHL and other relevant standards be affected if the support relationship changes or ends?
- Have you agreed on responsible resource disengagement measures (such as DDR programmes or arms management programmes) to put into place?
- How will you assess and mitigate the risk of harm to members of your partner's armed forces and their families or communities once the support or conflict ends?

General questions



General

- What internal coordination is needed with other relevant civilian services and institutions to ensure that people affected by the armed conflict continue to be protected both during and after the transition?
- Has a DDR programme been established by law?
- Is the DDR programme part of a regional peace process that is inclusive of all parties?



Missing persons

- Will your partner's national bureau of information (or equivalent) continue to operate after the conflict?



Essential services

- Is there a plan in place to restore critical civilian infrastructure that was damaged as a result of the conflict?



Landmines and explosive remnants of war

- Has a stockpile destruction phase been included in a third-party contract or operations order?
- Do you have a logistics plan for the stockpile destruction phase, including an appropriate disposal plan for WAM?
- Is there a credible humanitarian mine action programme in place?
- What internal or external agencies will complete the survey and clearance plan?
- What is the projected scope of work for the survey and clearance activities (e.g. expected level of weapons contamination)?
- What are your partner's ammunition disposal capabilities?
- What procedures do you have to manage ammunition inventories, the destruction of stockpiles of opened and unused ammunition and the safe transport and movement of any remaining ammunition stockpiles?
- Does your partner have a data-management system to record, for example, clearance rates (time to clear and territory cleared), numbers and types of weapons cleared, risk-awareness and safe-behaviour programmes and mine victim data?

Questions for supporting actors



General

- Are there parameters in place that will help to determine when the support relationship will end, or has an end date been set?
- Will the supported party's institutions have the capacity to continue operating on its own without your support?
- Have you considered how ending your support will affect the supported party's capacity and willingness to comply with IHL and other relevant standards?

- Can you mitigate transition-related risks through other forms of engagement (e.g. diplomatic efforts or development aid)?
- What other functions do you fulfil to promote the protection of people affected by conflict? How will you ensure that these functions are assumed by the supported party or another actor when your support ends?
- Is there a risk that families or communities perceived to be aligned with your forces or the supported party will face harm from others when you withdraw your support or presence? How will you mitigate this risk?
- How will you assess and mitigate the risks faced by members of your partner's forces and their families or communities once the support or conflict ends?
- Where applicable, have you agreed with the supported party on their inclusion in a DDR programme?
- Does the DDR process take into account the specific needs and risks of the most vulnerable groups, such as children associated with armed groups, foreigners and female combatants or fighters?
- Does the DDR process take into account the specific needs and risks arising from the detention of vulnerable groups such as children associated with armed groups and foreigners?
- Is the DDR programme sufficiently funded and resourced? Is there one body in charge of it?
- How will you monitor the effectiveness of the disarmament, demobilization and reintegration (DDR) programme?
- Are all weapons and other military equipment fully accounted for, as required by the DDR programme?
- Does the supported party have adequate stockpile management processes to prevent its arms stockpiles being lost or diverted?



Detention

- What measures will you put in place to ensure that protective standards governing detainee treatment and detention conditions, especially for vulnerable groups, will be maintained after your support ends?
- Does the supported party have the infrastructure, resources, procedures and training needed to ensure humane treatment and conditions in places where people may be held, including places of detention?
- Will your departure harm the ability of impartial humanitarian organizations to access detainees and places of detention?



Missing persons

- Has your partner established a dedicated mechanism for clarifying the fate and whereabouts of people who went missing during or as a result of the conflict and for attending to their families' needs?
- Does this mechanism include procedures for families to report missing relatives and receive information on the fate and whereabouts of their missing loved ones after the conflict?



Health care

- How will your departure affect the ability of supported parties to collect and care for the wounded and sick?
- How will your departure affect the capacity of local facilities to provide medical treatment to people in need?
- What is your exit strategy when you decide to end assistance to a military medical partner?



Essential services

- Does the supported party depend on your support to provide any essential services? How will you ensure that these services are maintained once your support ends?



Landmines and explosive remnants of war

- What WAM mechanisms do you have with respect to any arms to be sold or gifted to your partner?
- Can you provide assistance with the detection, marking and removal of mines and ERW in accordance with humanitarian standards?

Questions for supported parties



General

- Can your partner's support be redirected from the security sector to other government departments or agencies in order to assist with the aftermath of the conflict?
- What functions does the supporting actor fulfil to promote the protection of people affected by conflict that you will need to assume when its support ends?



Missing persons

- Have you established a dedicated national mechanism for clarifying the fate and whereabouts of people who went missing during or as a result of the conflict and for attending to their families' needs?
- Does this national mechanism include procedures for families to report missing relatives and receive information on the fate and whereabouts of their missing loved ones after the conflict?



7.3.2 LEARNING

- Do you have a process for capturing and managing observations and lessons learned throughout the support relationship?
- Does the learning process allow you to identify issues relating to IHL and the protection of those not fighting?
- Do you have a process for finding root causes and developing remedial actions?
- How do you make sure the lessons identified or learned are correctly implemented?
- Does your learning process allow you to identify, capture and incorporate lessons in order to improve an ongoing support relationship?
- How will you incorporate your partner's feedback in the learning process?
- Do you share your lessons with other partners or allies, or other parties, in order to improve support-relationship practices?

General questions



General

- What lessons have you incorporated into this relationship from previous experience?
- How do you make sure the lessons identified or learned are correctly implemented?
- Do you have a process for capturing and managing observations throughout the support relationship?
- Do you perform after-action reviews?
- What are possible areas for remedial actions?
- Do you share your lessons with other partners or allies, or more widely, in order to contribute to best practices?
- Can you also share lessons learned from PMSCs with partners?
- Do you have a process for finding root causes and developing remedial actions?
- Does your learning process allow you to identify, capture and incorporate lessons in order to improve an ongoing support relationship?
- How do you capture your partner's input on your learning process?
- How do you incorporate your partner's feedback in the learning process?
- How do you keep records of lessons learned?
- Do you have a process for reviewing any lessons learned with your partner?
- How will lessons learned from a support relationship feed into future partnering decisions?

Questions for supporting actors



General

- Do you have a learning process that requires you to review your support relationships?
- Are lessons learned shared among coalition members?
- Do you maintain a repository of lessons learned that go beyond a specific conflict situation?
- Is a central unit in charge of identifying lessons learned at the end of a conflict or of a support relationship informed of missteps by the supported party (misconduct, improper use of support, etc.)?
- How do you share lessons learned from the performance of a PMSC with other government agencies that may hire such companies?

Questions for supported parties



General

- Is a lessons-learned process required under the support agreement?
- Do you have a system for identifying problems that arise during or as a result of your operations?

GLOSSARY

The following terms are defined for the purposes of this document. Although some of the terms used have a basis in law, nothing in this glossary is intended to confer legal meaning to these terms.

Accountability

This term is used in the context of practical measures to describe one of two things: measures by which one actor in a support relationship is held accountable by the other, or measures by which a supporting actor is held accountable by its own stakeholders (e.g. parliament or constituents).

Armed group

An operational term that, for the ICRC, includes a broad range of groups with varying goals, structures, doctrines, funding sources, military capacity and degree of territorial control. It denotes a group that is not recognized as a State but that has the capacity to cause violence of humanitarian concern.

Included in this broad operational category are non-State armed groups (NSAGs) that qualify as parties to a non-international armed conflict (NIAC) and are therefore bound by international humanitarian law (IHL). Other groups in this category include pro-government paramilitaries (both local and national), and local groups (tribal or community) that serve as security forces in a local area.

Arms transfer

A catch-all term for the transfer (including export, import, transit, trans-shipment and brokering) of arms, ammunition, and parts and components of arms and ammunition. Arms transfers include commercial sales, military aid or gifts, loans and leases.

Central Tracing Agency

An organization set up by the ICRC to collect all the information it can, through official or private channels, about prisoners of war and protected persons, particularly those subject to internment, and to transmit that information to their country of origin or of residence or to the Power on which they depend unless transmitting that information might be detrimental to the persons whom the information concerns or their relatives.

Contracting State

A State that directly enters into contracts for the services of private military and security companies (PMSCs), including where the PMSC subcontracts another PMSC.

Explosive weapons in populated areas

Explosive weapons that, because of the large destructive radius of the individual munition used, the inaccuracy of the delivery system, and/or the delivery of multiple munitions over a wide area, have a wide impact area or wide area effects and are thus very likely to have indiscriminate effects when used in populated areas. These categories of explosive weapons include large bombs and missiles, indirect fire weapon systems such as mortars, rockets and artillery, multi-barrel rocket launchers and certain types of improvised explosive devices.

Financial support

A form of support relationship in which an actor provides direct or indirect funding, including through loan agreements and investments, that significantly enables the supported party to engage in armed conflict.

Force generation

A form of partnered military operation (PMO) in which an actor, often an external State, recruits, trains and equips local armed forces.

Home State

The State of nationality of a private military and security company (PMSC), i.e. where the PMSC is registered or incorporated. If the State where the PMSC is incorporated is not the one in which it has its principal place of management, then the State where the PMSC has its principal place of management.

Hosting

A situation in which an actor places its territory or facilities at the disposal of a party to a conflict.

Institutional capacity support

External support for institutions that is often long term in nature. Such programmes are typically relevant to support relationships when they relate to military academies, detention and judicial sector reform.

Intelligence support

A form of partnered military operation (PMO) in which partners share intelligence, i.e. information of military significance to a conflict.

Internally displaced persons (IDPs)

People who have been forced or obliged to leave their homes behind, notably for reasons related to armed conflict or other violence, and who remain within the borders of their country.

Kinetic support

A form of partnered military operation (PMO) where the supporting actor engages in hostilities in support of a party to a conflict.

Logistical support

A form of partnered military operation (PMO) involving the maintenance and transportation of material, facilities and personnel.

National information bureau

An institution operating on the national level to collect information regarding the fate of protected persons. It registers this information, conducts searches and transmits the information through the protecting power, the ICRC or the National Red Cross or Red Crescent Societies of the State concerned.

Partnered detention operations

A form of partnered military operation (PMO) that consists of activities that contribute to the capture- and detention-related activities of a party to a conflict, including capacity building.

Peace forces

Military and civilian personnel deployed on multilateral operations conducted by the United Nations or otherwise authorized by the United Nations Security Council for peace-enforcement or peacekeeping purposes.

Partnered military operation (PMO)

A formal arrangement between partners to achieve a specific military aim in conflict.

Private military and security company (PMSC)

A private business entity that provides military and/or security services, irrespective of how they describe themselves. Military and security services include, in particular, armed guarding and protection of persons and objects, such as convoys, buildings and other places; maintenance and operation of weapons systems; prisoner detention; and advice to or training of local forces and security personnel.⁶⁹

69 The Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict, 17 September 2008, https://www.eda.admin.ch/dam/eda/en/documents/aussenpolitik/voelkerrecht/20192511-montreux-document_EN.pdf.

Political support

Political expressions of support for a party to an armed conflict that affect the party's capacity within the armed conflict.

Populated area

Any concentration of civilians or of civilians and civilian objects, in a city, town, village or non-built-up area, whether permanent or temporary.

Support relationship (in armed conflict)

A relationship in which an actor provides support to a party to an armed conflict that increases the party's capacity to conduct armed conflict.

Supported party

A party to an armed conflict that receives support from another actor that increases its capacity to conduct armed conflict. The supported party may be a State (including within a coalition), international organization or non-State armed group (NSAG).

Supporting actor

A State, international organization or non-State actor that provides support to a party to an armed conflict that increases the party's capacity to conduct armed conflict. The supporting actor may also be a party to the armed conflict, although this is not a defining feature.

Train, advise, assist, accompany (TAAA)

A form of partnered military operation (PMO) in which an actor trains, trains and equips, advises and assists, or accompanies partner forces.

Territorial State

The State on whose territory operations occur. Known in some cases as the host State.

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The ICRC helps people around the world affected by armed conflict and other violence, doing everything it can to protect their lives and dignity and to relieve their suffering, often with its Red Cross and Red Crescent partners. The organization also seeks to prevent hardship by promoting and strengthening humanitarian law and championing universal humanitarian principles. As the reference on International humanitarian law, it helps develop this body of law and works for its implementation.

People know they can rely on the ICRC to carry out a range of life-saving activities in conflict zones, including: supplying food, safe drinking water, sanitation and shelter; providing health care; and helping to reduce the danger of landmines and unexploded ordnance. It also reunites family members separated by conflict, and visits people who are detained to ensure they are treated properly. The organization works closely with communities to understand and meet their needs, using its experience and expertise to respond quickly and effectively, without taking sides.

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