

Highlighting the Protection of Civilians Through U.S. Security Cooperation

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Introduction

This document identifies areas where the U.S. could leverage its security sector assistance to improve civilian harm mitigation (CHM) and protection of civilians (PoC) in partner countries. The analysis is based on inferences from three case studies conducted in partnership with the Security Assistance Monitor (SAM) and Brown University's Center for Human Rights and Humanitarian Studies (CHRHS), focusing on U.S. security in **Ethiopia**, **Mali**, and **Nigeria**. In addition, it offers recommendations for applying PoC and CHM strategies more effectively in U.S. security cooperation programs.

The case studies explore the complicity of U.S. security partners in violations of International Humanitarian Law (IHL) and International Human Rights Law (IHRL) across different contexts within the same continent. The selection of these cases allows for a comparative analysis of the actions of U.S. security partners, considering variations in the type and amount of U.S. security assistance investment. The research analyzes information collected from public sources and online interviews of past and ongoing civilian harm and humanitarian concerns, including key facts, data points, and issues related to U.S. security cooperation, while highlighting the potential scope of the U.S. influencing partners to better protect civilians. It is important to note that specific information on U.S. actions to promote PoC and CHM in its security sector assistance was not always available.

The Protection of Civilians in U.S. Security Sector Assistance

U.S. security cooperation programs and activities often include an element of IHL and IHRL promotion. Across agencies, the U.S. has attempted to counter civilian harm caused in countries where military institutions systematically suffer from weak PoC and CHM capabilities. The Department of Defense (DoD), overseen by its Defense Security Cooperation Agency (DSCA), generally funds and executes trainings for security partners, including training on the protection of civilians, international law compliance, and appropriate use of weapons to mitigate civilian harm. As evidenced by the three case studies, the U.S. did attempt to focus on PoC and CHM issues in its security cooperation programs in Ethiopia, Mali, and Nigeria, even if those efforts did not always result in reduced civilian harm.

The scale of U.S. security assistance investment in **Ethiopia** reflects the country's strategic importance in the region and its centrality to U.S. engagement with the Horn of Africa. The U.S. laid out several sub-objectives under the broad goal of advancing regional peace and security, which included ensuring that Ethiopia's National Defense Force (ENDF) respects the rule of law and establishes policies, procedures, and practices to meet international standards. The U.S. further leveraged its position as a major security assistance provider to disincentivize the government from violating IHL and IHRL through suspension of security aid, public condemnation, and sanctions. The sanctions were in response to reports of the national forces' involvement in mass atrocities and violations against civilians in 2021 and 2022, though these efforts did not appear to alter the decision-making of **Ethiopian** authorities.

In **Nigeria**, U.S. trainings have included a focus on international law compliance and the appropriate use of weapons to mitigate civilian harm. For instance, training for Nigerian pilots of the Super Tucanos included a human rights component along with precision targeting skills and air-to-ground integration. The training also emphasized the Law of Armed Conflict and civilian casualty mitigation, which are fundamental principles of the Nigerian military's professional education and training. The U.S. has also made some efforts to engage the Nigerian military on civilian harm and humanitarian access concerns outside of trainings through bilateral dialogue.

In the case of **Mali**, U.S. training to national forces was described by multiple experts as often IHL-focused and targeted at senior leadership. In 2020, the U.S. military provided Malian troops with civil-military cooperation training to assist them in interfacing with civilian populations to build community relations, enable better cooperation, improve security toward stabilizing conflict-affected populations, and mitigate civilian harm more effectively.

The case studies suggest that despite these efforts to integrate IHL and IHRL components into security assistance trainings, CHM objectives of country-specific U.S. strategic frameworks have not been fully realized in the security partner countries. Each case differs and there is limited information specific to the extent to which U.S. security assistance to these countries emphasized IHL/IHRL compliance and PoC, or how the implementation of said trainings was monitored. The following takeaways and recommendations are based on general trends observed in security cooperation programs and various initiatives by several U.S. Government agencies to promote PoC and CHM priorities, respectively.

Key Findings and Recommendations

1. Given the protracted nature of conflicts in some countries, the U.S. may become associated with a range of harms caused to civilians by partner forces, including casualties, forced displacement, gender-based violence, forced disappearances, and other threats to civilian safety, security, health, and livelihoods.
 - a. In 2022, Congress passed its annual defense policy bill, the National Defense Authorization Act (NDAA), legislating several provisions (Sections 1056, 1067, 1082, 1209, and 1221) advancing priorities to protect civilians in armed conflict. Section 1209 emphasizes the requirements to review DoD security assistance policies in consultation with the commanders of geographic combatant commands, assess credible information regarding foreign units committing violations of IHL and IHRL, and initiate necessary remediation processes. As such, across agencies the U.S. should conduct a comprehensive review of the U.S. security assistance policies, guidance, and processes for DoD-wide implementation of **Section 362 of Title 10, U.S. Code**.
 - b. The U.S. should consistently monitor partner conduct and capabilities with respect to PoC, anticipate changes in partnerships, and take appropriate remedial measures in bolstering partner capacity in terms of CHM, IHL, and IHRL compliance throughout the cycle of hostilities as well as during peacetime.
 - c. The U.S. should effectively utilize the information acquired and relationships formed through security partnerships to create early warning systems that can evaluate the risk of mass atrocities and take proactive measures to prevent their occurrence (in accordance with the **U.S. Strategy to Anticipate, Prevent, and Respond to Atrocities**).

2. Important objectives within country-specific U.S. security cooperation strategic frameworks, which could have resulted in improved PoC, do not seem to have been achieved. These include a failure to advance regional peace and security, promote the rule of law, or enhance the professionalism of partner countries' national forces as observed in **Ethiopia** and **Nigeria**. Taken collectively, this implies a lack of common vision and agreement between the U.S. and its partners.
 - a. Recognizing deficiencies in its PoC approach within equipping, training, and advisory services, the DoD **Civilian Harm Mitigation and Response Action Plan (CHMR-AP)** has outlined new measures to be taken to build CHM capacity of partners and allies and apply tailored conditionality to promote these efforts. Referring to CHMR-AP Objectives 9 and 10, the U.S. should set a minimum standard and develop tailored conditionalities to make sure all security partners understand PoC and have the political will to apply CHM policies.
 - b. The DoD, in collaboration with the Department of State (Embassy country teams; Bureau of Political-Military Affairs; Bureau of Democracy, Human Rights, and Labor; and relevant regional desks), should perform an assessment of a prospective partner's capacity, willingness, norms, and practices to adhere to IHL and IHRL and to prevent and mitigate harm to civilians in the course of military operations before a partnership commences.
 - c. DoD should establish—jointly with the prospective partner—PoC benchmarks to reflect a common vision and understanding of the partner's CHM that will be incorporated into the security cooperation strategic framework. The DoD should regularly monitor and evaluate progress toward these benchmarks and adapt and condition security sector assistance accordingly.
3. DSCA has initiated a program focused on CHM that includes developing foundational curricula, enhancing system-specific capabilities, providing advisory services, and conducting risk assessments related to CHM for U.S. security partners. However, as in the case of **Mali**, incorporating PoC issues into U.S. trainings (particularly regarding IHL) may not be sufficient to effectively enhance knowledge and compliance among security partners. This could be due to the lack of streamlined and integrated trainings across all relevant units within the national forces of partner countries. In many instances, Non-Commissioned Officer (NCO) training has been relatively neglected, partly because only a few militaries have an established NCO corporation.
 - a. The U.S. government should avoid adopting a checkbox approach to CHM efforts and instead focus on a holistic, tailored approach to building the capacity of its security partners to protect civilians and mitigate civilian harm. For example, training of foreign air force pilots for precision targeting should not be considered “civilian harm mitigation” without a corresponding package of training and coaching on international law compliance and best practices to mitigate harm (including civilian casualties and damage to civilian infrastructure).
 - b. The U.S. should integrate fixes that address the misidentification of targets (i.e., civilians assumed as combatants) and ‘confirmation bias’ (i.e., the tendency to seek and interpret information in a way that confirms pre-existing assumptions) into trainings provided to security partners (in accordance with the **CHMR-AP**).
 - c. Given the heavy focus that the U.S. has on IHL training of the upper echelons of the military, low- and mid-level officer training should be given greater priority. There seems to

be a gap in trainings at the NCO level, with senior staff often unable to operationalize the training they received. As such, even if the higher echelons of military leadership understand IHL, learnings from training may not be translating through the ranks into changed military behaviors that could practically reduce civilian harm. This requires ensuring IHL training is incorporated into the partner's own training programs, undertaking trainings of trainers as necessary.

- d. The U.S. should review the eligibility of foreign security forces for security assistance giving full consideration to any credible information relating to violations of IHL and IHRL by such units before designating any training, equipment, or other assistance in accordance with the **DoD Leahy Law**.
4. The criteria outlining the conditions for ongoing security assistance investments by the U.S. in partner countries appear to lack clarity. For instance, the U.S. faced opposition from Nigerian activists and was the subject of a **lawsuit** for supplying weapons to military units in **Nigeria** despite continued reports of human rights abuses and a concerning lack of accountability and response to allegations by the Nigerian Armed Forces (NAF).
 - a. The U.S. should condition, leverage, and sequence security assistance to promote PoC and adherence to IHL and IHRL.
 - b. The U.S. government should devote significant resources to CHM-related staffing positions within relevant agencies—such as the State Department, DoD, and USAID—to ensure there is the capacity for understanding and analyzing CHM risks in U.S. security partnerships and appropriate efforts taken to remedy causes of civilian harm. In some cases, cutting or sharply modifying security assistance may be appropriate where specific programs aimed at reducing causes of civilian harm have proved ineffective, while in others, increased assistance and deployment of additional peacekeepers through Peacekeeping Operations may prove to be more effective.
 - c. In 2022, the State Department launched a new **Human Rights Reporting Gateway** to collect information on gross violations of human rights committed by non-U.S. military force units. The U.S. should reassess the flow of security assistance considering the impact and timing of assistance on the conflict's unfolding and violence against civilians, and suspend assistance if there is credible information regarding foreign units' violations of IHL and IHRL in accordance with **State's Leahy Law**, which should also be applied to arms transfers.
 5. There is little evidence of decision-makers in security-partnership countries adjusting their CHM policies and behavior in response to U.S. pressure, suggesting a lack of political will, capacity, and/or accountability provisions and monitoring mechanisms.
 - a. To the extent possible, the U.S. should leverage its relative influence to encourage security partners to emphasize the protection of civilians and minimize civilian harm through the development of national CHM policies, signing the EWIPA declaration, developing the National Action Plan for Resolution 1325, and more. For instance, Nigeria is in the process of drafting a national policy on PoC-CHM which, if enacted, **would be the first national PoC policy in Africa**; Ethiopia is already party to **multiple international treaties** pertaining to the protection of children and education, arms control, and the women, peace, and security agenda; while **Mali** does not have any CHM policies in place at all.

- b. For countries where U.S. security assistance has been curbed or suspended due to the complicity of national forces in atrocities and violations of IHL and IHRL, the U.S. should make security assistance (if increased or resumed) conditional on the development of a civilian harm mitigation policy.
 - c. The U.S. should continue to engage locally to strengthen civil-military relations and pursue accountability while building relationships with military decision-makers.
 - 6. It is unclear whether the U.S. monitors the implementation of security cooperation programs with the goal of ensuring that foreign military operations promote the protection of civilians.
 - a. The U.S. should review its existing monitoring mechanisms and develop reporting requirement guidelines for security partners, with a view to ensuring gaps at the operational level are addressed, and credible information regarding atrocities and violations of IHL and IHRL are assessed/investigated in a timely manner.
 - b. The U.S. should conduct baseline assessments of security partners with complex security sector architectures, comprising federal, regional, and local troops, who operate without clear lines of command and control to the central government.
 - c. U.S. government staffing and resourcing for CHM in security partnerships should be done with a view to developing strong linkages between various government efforts and initiatives on CHM, as well as thorough information exchanges on CHM efforts and risks relevant between HQ and field-level offices in the U.S.
 - d. HQ offices—such as DoD’s Office of the Secretary of Defense for Policy (OSD-P), DSCA’s Defense Institute of International Legal Studies (DIILs), State’s Bureau of Political-Military Affairs, and State’s Bureau of Democracy, Human Rights, and Labor (DRL)—and regional bureaus, as well Embassy staff, should build a concrete understanding of each context in which the U.S. is a significant external security partner, including the history of these countries’ social and ethnic tensions, land issues, and other driving factors behind political tensions and abuses against civilian populations. From there, they should develop tailored, context-specific models for enhancing CHM capacity of its partners and reducing risks of harm and atrocities.
 - 7. Ineffective security assistance from the U.S. or its allies can lead to power vacuums, which may prompt partner countries to seek military support from other sources, including mercenaries who may have lower willingness and capacity to adhere to IHL and IHRL, as well as implement CHM measures.
 - a. The U.S. should prioritize efforts to foster the willingness and enhance the institutional capacity of its partners to ensure their compliance with IHL and IHRL by actively promoting and supporting training programs, workshops, and initiatives aimed at educating and equipping partner countries, thus minimizing the need for partner countries to seek alternative military support or raise concerns in the event of a potential withdrawal.