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PARTNERED MILITARY OPERATIONS

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P R O C E E D I N G S

MR. O'HANLON: I am Michael O'Hanlon with the Foreign Policy Program and I have the distinct privilege today of moderating a discussion with Peter Maurer of the International Committee of the Red Cross, and President John Allen, the leader of Brookings.

This is an event that will be simultaneously telecast remotely. We thank those who are joining us from the comfort of your homes, and we certainly thank those of you who are helping us get back in the building and speaking together face to face. It's really a privilege, Mr. Maurer, to have you here.

Peter Maurer is a Swiss Foreign Service Officer by background, although he also has a background in the Swiss Military, as do most Swiss, and that serves well I think in this regard. He has an illustrious and distinguished career in the Swiss Foreign Service, including really establishing their presence in the United Nations in New York a decade ago or so, or even longer than that, excuse me, because he's now been with ICRC for a full decade and served their remarkably, all around the world, with the mandate of the ICRC to really be an impartial guide to proper respect and protection of civilians in warfare. And that of course leads us to our discussion today.

But first let me say a word about John Allen. John Allen, in addition to being a long-standing friend, remarkable public servant, distinguished Marine Corp Officer, and now the President of Brookings, also has a remarkable set of experiences in the field where he has often worked with the ICRC and tried to implement guidelines that are long standing but also continually try to improve the way in which the United States, its allies and its partners try to mitigate the inevitable but tragic harm that results to civilians in times of war, and can always be further reduced, further mitigated by proper care.

The subject for today's discussion, and I'll start to wrap up here briefly

because you didn't come to hear me, you came to hear these gentlemen as well as Sarah Kreps, who I should briefly note is remote with us from Cornell University. She is a distinguished author and Professor, and a retired Air Force Officer who worked on issues concerning the use of force, mitigation of harm to civilians, in her military career, and continues to write about those topics, including *Mitigating Harm to Civilians in Combat*, which you can find on the Brookings blog and elsewhere.

So let me now highlight, and I'm not sure you can see it, but I'll read the title of the document we're going to be discussing today, *Preventing Civilian Harm in Partnered Military Operations.* So today's conversation has a broad perspective on humanitarian law and treatment of civilians, but also a more specific focus on this new document that the ICRC has produced, which identifies a number of challenges in working with local partners in the kinds of operations that we see around the world. And I'm going to ask Peter in just a minute to explain and gives some examples of the kinds of operations that would fall under this broad categorization. It could be anything from a big partnered operation like John Allen commanding forces in Afghanistan but working with the Afghans, to many other things. But there are a lot of guidelines in here about how we can do better at protecting civilians in time of war.

So with that long introduction complete, Peter, let me, on behalf of John and myself and everyone, thank you very much for your work and for joining us today. Maybe we can even begin with a little round of applause for what your organization does around the world.

MR. MAURER: Thanks a lot, Michael, John, Sarah, it's great to be with all of you here today at the occasion of the presentation of that handbook.

I should maybe start with a small story why we are here today. Because a couple of weeks ago John and I were second guessing at the margin of the Munich Security

Conference, what would happen in Ukraine. And as a sideshow of this discussion we were going a little bit more profoundly on what we saw as transformation of the conflict landscape that we have with witnessed over the last couple of years.

And those who follow us may have seen that more than a year ago we had presented this study on allies, partners, and proxies, in which we tried in a first round to analyze the transformation of the conflict landscape with which we are confronted as a humanitarian organization on the ground and just recognize that wars are not fought alone.

That each and every place in which we were were fraught with some sort of partnership, either open, behind military, economic support. It covered training, execution of mandate, support in terms of materials and weaponry, a broad range of support which basically we analyzed as a sort of a new template to look at the environment in which we were trying to assist and protect populations according to the norms and principles of the Geneva Conventions

And from there I think many thought this was a right analysis, but so what. What is the next step and how do we empower commanders in a field to look in a systematic way of leveraging partnership for the positive, for the respect and ensure respect for international humanitarian law.

That's what this handbook here is. It's not a recipe book which tells commanders what to do and what not to do. It's a template of questions to ask individually in each context and to break out to the context and to find solution in response to those questions.

And unsurprisingly you will find in that book that some of the key issues which are core preoccupations of ICOC as recurring issues of application of international humanitarian law are coming here as a framework to look at these partnerships. It's the conduct of hostilities. How do I influence partners in order to respect the principles of the

conduct of hostilities, precaution proportionality distinction? How do I transmit what I have learned on my side to the partner in terms of lessons learned of accuracy and details and training and review, in order to improve the conduct of hostilities of the partners? What do you do in order to prepare for detention operations when you are in the field?

One side of the partner has all these experiences, how to transmit the positive experiences on how you deal with an organization like ICRC in terms of holding, transferring, and managing a detainee population in theatres of conflicts? How do I best protect civilians in military and civilian landscapes with which we are confronted in today's complex environments?

So these were some of the recurring questions. But then there are broader issues of course, how do we define military strategies in densely populated areas? And what kind of weaponry is the best field to apply in order to protect the civilian population in a densely populated area in urban areas? Because one of the recurring issues is of course on how to respect proportionality distinction precaution in those specific situations?

So it was basically it started with looking at how do we leverage partnership instead of having them in a logic of sanctioning the partners for all the bad things they do. But rather in terms of leveraging positive experience in order to transmit it to partners. That's the mutilation of the book. But of course the questions then still remain and that are the top questions are addressed towards the end of the book. What do you do when the partner doesn't behave?

What do you do with your weapons export when you have precautionary measures in legislation and practice for responsible weapons transfer and your partner didn't respect some of the basics? How do you enshrine accountability structures, what are redlines, what are walk away points? These are all questions which we want to look at in a much more systematic way. So that book is a tool to systematically leverage partnership for

the better. And eventually also ask some hard questions.

Now, Michael, you asked me some examples. And of course as I mentioned, it's definitely the whole bandwidth of types of relationships and context we are looking at. Much of what is here is inspired by the decade-long engagement with the United States and NATO in Afghanistan. It's obvious that this was in terms of example, Afghanistan and Iraq were those issues over the last 15, 20 years which have shaped ICRC's way of thinking in a practical way on how to improve the performance of the belligerent and how then to improve also and to transmit to partners.

But we are also looking at the context like Yemen where none of our traditional partners with whom we have developed those frameworks were suddenly, we had a new landscape of actors which were not used to those discussions, and how do we bring in the Saudi-led coalition in Yemen, how do we bring these thinking into the coalition and how do we enshrine some responsibility and responsible action, and how do we shape the discussion within the coalition by engaging with all members of the coalition.

And it can be much more targeted at specific moments when we look for instance at the specific weapons export arrangement into certain regions. But I just wanted to just mention that this is a whole bandwidth of issues that we looking at.

My last point maybe, Michael, if I may add this. I think at the core of what we are trying to do here is to put responsibility back on the table. Because what we do believe in our observations of all kinds of partnerships that we have observed, the real weak link is that it leads to diffusion of responsibility.

Partnerships are used to defer responsibility further onwards and not to take responsibility. This handbook should allow us to move and turn the tide back and say there is responsible behavior and responsible action and we need to enshrine it again in the middle of the table of partnership operations in today's conflict.

MR. O'HANLON: That's fantastically helpful. Before I go to John Allen let me please ask you just one more clarifying question. You've noted that because of the Saudi coalition and its role in Yemen, that war would fall under the category of a partnered military operation. You mentioned Afghanistan, presumably the campaign against ISIS would also fall in this category, and there there's been some controversy about our use of air power and whether we were careful enough in avoiding civilian fatalities. Sarah will speak to that I think pretty soon.

But I wanted to ask about Ukraine. Does Ukraine count as a partnered military operation where NATO countries and European countries in general are channeling a lot of weaponry into Ukraine but not actively fighting? Does that still fall under your handbook?

MR. MAURER: Well we would consider this in the broad sense a partnered military operation even not the whole bandwidth of what a partnership can include would be represented in single places. You can really have partners use this framework also for limited activities and support structures. And you'll rightly say, yeah, one of the big challenges is of course not only in partnered military operations in terms of coalitions like Afghanistan and Yemen, but it is also in coalitions of state and non-state actors.

And I think whether it is Ukraine or whether it is a fight against ISIS, whether it is the Sahel and the Horn of Africa, we see increasingly conglomerates of partnerships which are not limited to state-to-state partnerships but which are conglomerates of partnerships. Which include certainly non-state armed groups, which may include private military and security companies, which may include other forms and formats of armed actors. And we would consider that under partnered military operation. We don't need to see a framework agreement and a signed agreement between allies to wage war in a certain context against a certain adversary. We would look at the realities of those partnerships and

look at the details and then see what are the leverages that we can build upon.

MR. O'HANLON: I'm going to go to John Allen, who I'm sure has a lot to react to. I'm going to give you a particular questions in a second though, John, pretty broad, to elicit whatever point you want to make.

But let me again remind folks we're discussing preventing civilian harm in partnered military operations, an ICRC publication. You can Goggle it and find it on the Web. And it discusses a number of categories of cooperation. There are six in particular. I divide in my own mind into three that are sort of the mundane but crucial way of waging war, generating forces, training, and logistics. And then there's three that come closer to the use of lethal military force, which involve intelligence, detention, and kinetic operations. So you'll find discussions of each of those categories.

But, John, I wanted to turn to you and just remind folks before you offer whatever reactions you'd like, that you've had a wealth of experience in your military career, everywhere from Columbia when a young officer to East Asia where you were responsible for Pentagon security cooperation and well, policy at least toward the East Asian region.

And then of course famously to your commands in Iraq and then Afghanistan, as well as the coalition against ISIS after you had taken off the uniform. So you've seen this from a lot of vantage points, and I just wanted to offer you the opportunity to reflect in whatever way you want about where the ICRC has been a helpful partner, but also where there's still more to do.

GENERAL ALLEN: Well, first, Peter, it's so good to see you again. This friendship goes back a long time, 10 years I think, in Afghanistan. And I always saw you and I always saw the ICRC as a great ally in the context as a commander waging war, the ICRC is helping us during this moment of human catastrophe. Because this is, war is the ultimate human inflicted catastrophe.

In helping commanders from democracies for whom human rights and the rights of civilians and the sanctity of civilian life for whom that's important, you were of enormous help to me as a commander and to my command in helping us to continue to remain true to our values as a partner in that process. And I can't thank you enough.

This document is a very important document because we can't do enough, in my mind, again among the democracies, and we're watching unfold before our very eyes what happens when an autocracy goes to war versus a democracy defending itself. We can't do too much to prepare our individual troops and our young officers and our commands more broadly, for the reality of war and our absolute intense moral obligation, if we must wage war, to wage that war with the greatest amount of humanity possible.

And Peter's already listed it off several times. He listed it off very quickly, but let me just take a moment to make sure you understand. As a commander I took very, very seriously and I held people accountable, to include putting them in prison. Very seriously, the three prerequisites of a commander for the application of force in conflict or combat, which is first the necessity to employ that force; second, the capacity of distinction, to be able to tell the difference between combatants and noncombatants so that that force is never applied against innocent civilians; and then the third is proportionality, to use just enough force to accomplish the inherent need for that force and not any more than that.

And those three things are inherent to who we are in democracies, and particular in the U.S. in the context of how commanders should be thinking about the application of force. And it's not just how we think about it going in, it's also how we think about it in holding people accountable when they have not been assiduous in employing those three dimensions of the law of armed conflict.

But it's even more broad than that, and I'll just use a couple of examples. In Afghanistan I commanded a 50-nation coalition. And it was important to me, as the

American commander but also as the NATO commander, that with only in those days we called it NATO at 28, 28 NATO members and 22 non-NATO partners, that every single nation in the coalition embraced a commitment to international humanitarian law and the law of armed conflict, just as I did.

So this is the major partnered operation. And nobody got a by on this. Everybody signed up to our commitment to international humanitarian law if you were going to be part of this coalition, number one.

Number two, when I was commander of Afghanistan at the time I had about 302,000 Afghan military in an army that was beginning to form, was going to be 358,000, it was 302,000 at the time. But one of our principal thrusts with regard to our training of the Afghan military was to imbue them with a similar commitment to international humanitarian law as we were. Because eventually the intention was that as we shrank the NATO force down from 150,000 or so to an advisory force which would be capable of sustaining our presence on the ground for a long period of time to support the Afghans, perhaps forever, until just last year, that part of our inherent responsibility to train them to take over operations in Afghanistan was to train them and educate them in their inherent moral obligation to protect civilians. And if they didn't, then I held them accountable for that.

So that was inherent to the training and it was inherent to my training as an advisory. Mike, you talked about Columbia, it was inherent to my obligation to the tribes along the Euphrates in Al Anbar Province. It was inherent to how we talked about the formation of the coalition when we fought the Islamic State. That if America was involved, if NATO was involved, it came with an inherent obligation by us to wage this conflict, this human catastrophe, in the most humanitarian way possible, humane way possible for the civilians, to protect them as much as we could.

And, Peter, you may remember this in Afghanistan, when the UN did a

report on the treatment of Afghan detainees of Afghans, the Afghan authorities, how they treated Afghan detainees that we were capturing and handling over to Afghan authorities. When I got wind of the fact that, this is not about me, it's just my personal experience so it's illustrative here.

When I got wind of the fact that as we captured Afghan detainees and handed them over to Afghan authorities, there were huge depredations that were being inflicted on these detainees. And our reaction was, and in many respects it was because of our relationship and what you represented for us on the battlefield, I immediately stopped the transfer of any Afghan that we captured to Afghan authorities. And I worked with the Afghan government to hold those Afghans who had been responsible for the just blatant widespread torture, to hold them accountable. And we never handed back another Afghan detained to the Afghans until that detention center went through a complete inspection to include the quality of the facility, the training of the Afghans, and a system of accountability holding Afghan authorities accountable in the event that we gave a detainee over again.

Now I think we would probably have figured that out without the ICRC, but the clarity that you brought to us and your ICRC team and our constant conversation about this, and the things that you brought to my attention, both from your inspection of my own detention facilities plus now our own attention to the Afghans. If we wanted the Afghans ultimately to take over the war from us part of that was about holding detainees. And we couldn't possibly turn the war over to the Afghans if in the course of that war they were torturing their detainees and murdering them in an extrajudicial manner.

And the last thing I'll say is that I had a whole countrywide laydown of surgical hospitals across the entire country. And again, to the point of trying to limit the inherent horror of conflict, all of those facilities were open to treating Afghans. And so when I visited the hospitals, wherever I went I always went to the hospitals to make sure that my

troops were being well taken care of, etcetera. But the hospitals always had some number of Afghan civilians that had been harmed, most of who had been harmed by the Taliban but some of whom had been harmed by our own troops. But we always took care of them.

So it was about us acting in a proper way, it was about those who ultimately would take over the war from us that we were training, acting in accordance with international humanitarian law, and it was our demonstrating our humanity by taking Afghans into our medical facilities. And so much of that came from our relationship on the ground.

MR. O'HANLON: It's very inspired history and very inspiring, John. And, Sarah, I wanted to go to you and invite any reactions you'd like to make at this juncture in the conversation before I come back here to the panel, the panel sitting in the auditorium. But I wanted to also ask specifically where you've seen us do better and where you still think we struggled and have a lot of work left to do, whether it's in the U.S. role in various Middle Eastern wars or this problem set more generally.

But thanks for joining us today from Cayuga Lake, New York, and over to you my friend.

MS. KREPS: Thank you so much for letting me join remotely. I had to teach this morning and I apologize for not being there in person.

This is such an important topic, important discussion, and important book, so I'm really grateful to have a chance to be part of it. And I think it connects to so much of what I've worked on, both as an Air Force Officer but as an academic. I wrote my first book on multilateral coalitions, military coalitions. And I teach international law and the use of force at Cornell Law School so it really integrates a lot of the things that I think and work on a lot.

And I was trying to think about as I read this really important document, it struck me as both long overdue and again important. And I was trying to think about why

when some of the threads of this have been things that we've thought about for decades now since the end of the Cold War, why now we're kind of bringing these together the way we are in this document. And then three kind of themes really emerged to me that I wanted to touch on a little bit.

The first is that we know that since the end of the Cold War the United States is not fighting wars on its own. It's always fighting with local partners, it's fighting as part of a multilateral operation. And so I think that, and Peter mentioned this changing landscape. And I think that's part of the change in landscape, but I think that conversation about multilateral operations was really about kind of inner operability, and I think about kind of my first experience in the Air Force was in the Kosovo War. And it seemed that really kind of the sort of nexus of discussion was about how to make decisions about targets. So that seemed to occupy a lot of the conversation and debate about multilateral operations, which brings me to my second point about sort of why now we're kind of bringing these things together.

We were I think after the Cold War, and especially with the experience of the Gulf War in 1991, a little bit under the illusion that our smart bombs and precision guided munitions were going to solve this problem of civilian harm. And so I think that comes back to this point that Peter mentioned as well, putting responsibility back on the table. And I think that's something that my research with U.S. counterterrorism strikes with their use of drones suggests that there was this almost illusion that precision munitions could address this problem. And I think what we saw in the 2000 teens that we needed to do better.

And I think we saw this as recently as August, 2021 in Coble is that we can't rely on precision munitions, we need better intelligence.

And I think that gets to my third point is that now there is this shifting. I mean there's always been an awareness and attentiveness to civilian casualties, but I think

our Secretary of Defense has really shined a light on the need to do better in that area.

And so what I think this document does is bring all of those ideas together. We can't take for granted that just because we have precision munitions we're going to be able to solve the civilian harm problem. We're going to be fighting multilateral operations, we need to be better at civilian harm and how can we do that. And I think this document helps shine the light and bring awareness to that responsibility across these different partners to figure out how we can do this better. And I think that conversation is really important in terms of thinking through, okay, we studied the law of armed conflict one way, we need to all be on the same page so that we can, you know, and in this inner operable way address this really important problem of civilian harm.

MR. O'HANLON: Sarah, thank you very much, including for the work you did as an Air Force Officer, as well as your writings there at Cornell.

And what I'd like to do for the remaining half hour based on the agreements we've reached before, is roughly as follows. I want to come back to Peter, who I'm sure has probably a couple of additional points he'd like to make just based on the flow of conversation, maybe some examples of places we can still work to get better. But whatever is on your mind.

And then I'd like to pose a question about future warfare to the full panel. Something that I know that everyone on this panel has thought a lot about, including autonomous weaponry and armed drones and other kinds of systems that further complicate the challenges before us.

And then in the remaining minutes we'll come to the audience for any questions you have, and maybe remote questions. We'll try if we can to channel them into the conversation as well. So if you're listening at home and something strikes you, feel free to email us, and the address would be Events@Brookings.edu and we'll see if we can get a

question or two from the remote audience here as well.

But, Peter, I'm sure there's some other points you'd like to make at this juncture, so over to you.

MR. MAURER: Just a very few ones, picking up where Sarah ended just a minute ago. I think I don't reveal any secrets to say that yesterday afternoon when I saw the Secretary of Defense (inaudible) in harm mitigation and ICRC's contribution to that process was very much center stage and it very much reflected also what is in the template here. And definitely this is a learning process which we understand is one of the most concrete sort of processes in the U.S. government now moving forward in which some of our lessons learned from the past, from the strategic environment, from the concrete experience that Sarah and John were alluding to are somehow converging in one important process.

And I think the Secretary of Defense was really very supportive of us contributing as a humanitarian organization to that process. And I think it's important to highlight that.

The second point I wanted to make, and it hasn't been mentioned now from any of us yet, but when we talk about partnerships it's also good to look at the structure of each one of the partner. And it's not very often unified structures. The sort of situation where you have the armed forces as the key partner of other armed forces is not anymore the dominate template we are looking at. We are looking at much more complex relationship within each one of the partners and in between the partners.

And we know, John, from Afghanistan and other places, that you can do as much with the sort of regular forces and engagement and partnerships between regular forces and other regular forces when within the same partnership you have also special operations, you have secret services, you have all kinds of other weaponized structures, civilians weaponized in situations of conflict. So we are looking at the much broader context

of complexity.

And Ukraine is a good example where the Ukrainian government has mobilized the whole of the country and has mobilized the civilian population to fight this war. And this of course goes into new forms of complexity also which relates to the fact how you shape the relationship, how you define your responsibility, how you structure your dialogue in terms of weapons transfers, precautionary measures on what happens with a huge amount of weapons going into theatres of conflicts and how do we ensure that control over weapons and the use of weapons is ensured in that broader complexity that we are looking at.

So when we started to discuss this issue, we started with military-to-military idea of partnerships and we saw that, as I mentioned in the first round, the state to non-state and state to private military and security company are part of this partnership as well as the state agencies to other state agencies, which adds to the complexity of what we are looking at.

And the last point I wanted to make is that we certainly look today at partnership as a very dynamic sort of relationship. It's not that once the partnership is there that it is always the same. Partnerships are evolving and you may be happy at a certain moment with partnering with somebody, and you may be quite unhappy some years or even months down the line.

And I think it's important that we include this in our template, in our reflection, that partnerships are evolving partnerships and we need to adapt the framework to concrete circumstances, to see where the exact leverage are.

And maybe the very last point is, and it always strikes me. Here again ICRC has made a little bit of an evolution in parallel to that book of allied partners and the commander's handbook. And I think for decades and almost centuries, we have been

focusing on compliance with the law. And we have developed all kinds of mechanisms which we have defused into compliance and into partnership operations. How do you comply with the law?

But we see increasingly that this is only one side of the equation. We need to try to influence behavior. And influence behavior has a multiplicity, and here the partnership element comes into fruition. It's about influencing, it's about relationship building, it's about who you want to be, as you said, John, and who you want to be in that partnership and not necessarily only a mechanical compliance issue, which is of course the basis but not sufficient.

MR. O'HANLON: Excellent. John, I'd like to go back to you if I could and then maybe go to Sarah and then back to Peter for this round as well. And I do want to put the question of future warfare on the table and what new challenges will arise as we increasingly see militaries around the world, not just our own, but many, use drones, weaponized drones for example, and artificial intelligence, autonomous weapons of various types in combat.

But I also wanted to invite you in what I think is a related question, to comment on the counter ISIS air operations of the United States and whether there were certain specific problems that arose there in working with partners because in that case, of course, we didn't have people on the ground, nearly the kind of numbers you had in Afghanistan, and there's been criticism of some of the results and some of the effects on civilians.

As Sarah pointed out, having precision weapons doesn't solve the problem if you don't really quite know always who you're shooting at or should be shooting at. And so I wanted you to maybe, if you could, comment on that. But then also look to the future, please.

GENERAL ALLEN: Let me get that latter part first. I have less experience perhaps than Sarah might have and who's been studying this. Because I left the counter ISIS coalition as we were really beginning to expand our air operations.

But there's this thing called CDE, Collateral Damage Estimate, which is the willingness of, in this case the United States, in the application of force to tolerate collateral damage through the application of force. And early along in my experience with the coalition as we were conducting air operation, it was very interesting that Iraqis were quite willing to have a much more liberal collateral damage estimate. We were at zero.

So in other words if you applied ordinance off that aircraft you had to have perfect target identification. And you had to be certain that there would be no collateral damage, no civilians would be harmed and no serious damage to key infrastructure. So it was not uncommon at the beginning of the air campaigns against the Islamic state that airplanes would go out fully loaded and they'd come back fully loaded because the pilots, mostly Air Force pilots at this point, but the pilots couldn't get a clear shot and they did what they should have done, which is not release ordinance with the possibility of harming innocent civilians or destroying infrastructure.

I don't know whether we changed CDE or whether other partners had a different view, we clearly drove what the CDE was, and Sarah perhaps has a different, has more in-depth information on that for us. But it is a matter of how you intend to engage the target, your capacity to take the information that's given to you for target acquisition, your capacity to identify the target with high levels of confidence that it is the target, and then ultimately to apply the weapon system.'

And I had to change on the battlefield in Afghanistan a couple of times when we would apply ordinance to structure where we didn't know what was in the structure, frankly, and we were taking down buildings because we thought that there was Taliban in

those buildings, and sadly would kill civilians.

And eventually I issued the orders of the entire NATO force that we would no longer engage a structure unless the fire from that structure was inflicting casualty on the NATO force. And there was a huge uproar over that, that I was somehow hobbling the force and potentially creating an unnecessary vulnerability to the force to the enemy.

Well it turns out we did the statistical analysis and the vast majority of occasions where we had casualties inflicted on our troops wasn't from fires that was received from structures, it was from IEDs and combat, close combat in open terrain.

So taking the structures off the target list inherently preserved civilian life and didn't inherently increase the risk to us. And part of the process was thinking our way through that was exactly as a result of these conversations that we've having here. So, you know, I wanted to get to that first.

The second thing is, and Sarah has also been studying this. As we see the introduction of artificial intelligence into military operations it's going to be the result of the introduction of artificial intelligence is going to be that the speed with which military operations will be possible to be conducted, is going to increase. And as that speed increases we have to ensure that our capacity to do the three things Peter and I have talked about, which is to both orchestrate the necessity for force, establish the distinction between combatants and noncombatants, and ultimately apply force in proportionality, in proportionate to the need. All those things need to continue because we will always adhere to the law of armed conflict.

But as we move forward with the application of artificial intelligence in both intelligence collection analysis and target development, and in decision support and decision assistance, the speed is going to start to pick up. And as we begin to contemplate the application of systems in the battle space, you'll hear the term LAWS, Lethal Autonomous

Weapon Systems. As we begin to hear the conversation about the application of force through the Lethal Autonomous Weapon Systems, that creates real ethical issues for us as we move forward.

And the issue is how do those three tests of a commander, how are those tests preserved when it's a Lethal Autonomous Weapon System that's been introduced into the battle space. In terms of first if you've introduced the weapon systems into the battle space you have determined that there's a necessity. But that weapon system having the capacity through its AI algorithm to make the distinction between combatants and noncombatants becomes problematic almost immediately.

And then of course how does that weapon system determine ultimately the proportionality of the attack. And all those things become difficult almost immediately.

So you hear our conversation when we potentially consider apply this kind of system. The conversation revolves around the human in the loop. Is there going to be a human in the process to prevent that system from applying the kinds of force that might take human life or destroy critical infrastructure.

And a human in the loop inherently means that the human is going to check the system to ensure it's right. That means you're now moving slower than your opponent if your opponent has no human in the loop. And frankly, the people that we're potentially going to be opposing are going to have no druthers about whether there's a human in the loop or not.

And then the other alternative is a human on the loop, which is observing the process unfolding and only intervenes in the event that there is a problem. The human in the loop checks it every time, the human on the loop simply lets it go.

But those are difficult conversations for militaries that have at their heart a commitment to the law of armed conflict. Because once these systems are released, I just

had a conversation the other day with a delegation on this very issue, and I won't identify the country. But the scenario went something like this. The commander determined there were no civilians in a particular geofenced area and there were no friendly troops. So two terrestrial, if you will, armed vehicles, they're called Scorpions, were introduced into that area with the idea of eliminating the enemy force that was in the area. Scorpions roll in, gets into a gun battle with the enemy, the enemy ultimately determines it's not going win this fight and elects to surrender.

And now the conversation became very interesting because the author of the scenario said, and now the Scorpion will have the chance to kill them all. At which point we stopped the conversation and said that's not how we will do this. There will never be a moment when a combatant ultimately determines that that individual will surrender and become a noncombatant, or leave the status of being a combatant, that we will not take the surrender. We will always take the surrender.

And if we're talking about Lethal Autonomous Legal Systems there has to be some capacity for that system to recognize that someone has surrendered and be willing to take that surrender.

So I mean this is a very complex issue. And we're guided by, properly and proudly, we're guided by humanitarian commitments here that many of our opponents, frankly, are not going to be so committed to. And we have to think about that as the speed of war accelerates whether we're going to be too slow perhaps to compete with our opponents.

So I'll just let it go there.

MR. O'HANLON: That's a great example. Thank you very much. Sarah, same questions to you for any comments, including on the campaign against ISIS, but especially on the future of warfare and in the contest of autonomous lethal weapons.

MS. KREPS: Yeah. No, I appreciated John's points and I think he distinguished really well between the human in the loop and the human on the loop. And those are a lot of the questions that I've thought about as well because I think technology can kind of create a false sense of security and I think we saw this a lot when we started using drones for counterterrorism.

One of the things I just would like to flag which I think speaks to again these issues of the ICRC book is this shift that was made in U.S. targeting between the reasonable versus near certainty standard of no civilian casualties.

And so early on in the Obama Administration I think one of the reasons why there was a sizeable number of civilian casualties is they were using a reasonable certainty that there would be no civilian casualties. And so one of the things I've been looking at with co-authors here at Cornell is the actual statistical shift in the reduction of civilian casualties when they moved from reasonable to near certainty. And there was an appreciable shift and decline in the number and percentage of civilian casualties.

And the reason why that is important, I mean it should be I think pretty obvious. But what it suggests is that attention to this issue and not just kind of slow walking into and sort of into the faith in technology as an end in itself, I think what it suggest is, look, there was, and Obama said this in a number of his interviews at the end of his Administration, that it became all too easy to use this technology, you know, just felt like it was an easy solution to this counterterrorism problem that he faced. And with greater scrutiny of the target in process we saw that there was an improvement in this important problem.

So I think that certainly technology is evolving and that it's incumbent upon us not to slow walk into these outcomes but rather to kind of update our thinking, including on this question of how do we think about the attention to civilian harm, again which is the

topic of this book and the topic of our panel, how do we think about that as it now intersects with emerging technologies. And I think this question of autonomy is really important because I think it is the next step.

And one of the things I think we can really focus on here is the norms of use. Because we don't have international law on autonomous weapons. But what I think we can do, especially from the perspective of the United States and its allies, is demonstrate and create kind of a conventional legal understanding of the appropriate use of the autonomy in wartime. And it's not to suggest that our adversaries will follow suit, but I think it does at least kind of set the bar higher so that we're not inviting uses of this technology down the road that might then be used against us in ways that we're not supportive of.

So I think just again, kind of being aware of the way the technology is shifting but staying anchored to these key principles and continuing to update as the technology shifts is kind of the important awareness in this broader context.

MR. O'HANLON: Great. John's got a two finger, then we'll come to Peter and then to the audience. Please, John.

GENERAL ALLEN: And Sarah really said what I was going to say. And that is there will never be a time, at least in our military or the militaries with whom we serve typically in the democracies, there will never be a time when the Lethal Autonomous Weapon System would be employed in the battle space without somebody being held accountable.

So if I'm a commander and I have an area of responsibility and I am aware of the, or have chosen to employ a Lethal Autonomous Weapon System, and I frankly don't see that for the foreseeable future, I am still responsible for the actions of that weapons system.

For example if you fire an artillery piece, fire an artillery round, that round is

now in the air, I can't get it back, it is autonomous in the context of where it is going and how it's going to land. I'm responsible for the outcome of that. I'll also be, as a commander, responsible for the outcome of a lethal autonomous weapon if that weapon inappropriately engages and inflicts bodily harm or death upon civilians or destroys critical infrastructure.

And to Sarah's point, we can never permit accountability to be fuzzy on this issue. Commanders need to be, first need to understand that they have accountability and responsibility, and then they need to understand they'll be held accountable also.

MR. O'HANLON: So, Peter, I guess at some point we'll need to see a revised updated version of the handbook. But I'm sure you have thoughts to offer even today on where this debate is going.

MR. MAURER: Well maybe not as a first more revised version of the handbook on the day it was presented. But what strikes me in the discussion, listening to John and Sarah, is of course the discrepancy that we have in the responsibility chain.

GENERAL ALLEN: Right.

MR. MAURER: I think we have all these kinds of sophisticated reflections on the use of force, the conduct of hostilities and all the examples that John and Sarah have highlighted. And I think to bring it back to partnered operations, how would you ensure that some of this sophistication gets down the line of your partnership?

And that's where I think we are in a kind of double jeopardy, John. On the one side when you made the examples of your adversaries eventually become faster, that's the one side of the metal. The second is your partners getting rogue. And I think this book is about trying to prevent that the partners get rogue. It doesn't solve your problem of the adversary getting faster.

But I just wanted to highlight, and I think for the time being many of the questions that I think the dialogue I had with John on autonomous lethal weapons over the

last two, three years, has shown that there is really food for thought in trying to see how we can look at responsibility and accountability chains and how can we bring some of the sophistication which has developed with one partner down the line of other partnerships which are there. Otherwise we are in this uncomfortable situation which is characterizing today's conflict environments in many places.

It's that pretty autonomous but heavily supported actors on the ground get in the lead of the military operations and this, of course, is responsibility and accountability chains broken which then lead to behavior which nobody wants.

MR. O'HANLON: And I would also observe in fairness and in admiration for the handbook, that as you said, you're creating a template, often of the right questions to ask. And those questions can be applied to autonomous lethal weapons even if that's not necessarily going to be, you know, just today's moment, today's capability. Five years from now the framework you provide could still be relevant for getting people to ask the right questions and think through new scenarios that have become possible because of the march of technology.

MR. MAURER: And maybe, Michael, one word. I just wanted to say. You have pushed me a little bit to come with very concrete examples, but that's also one of the dilemmas of ICRC. We have thousands of pages on the basis of which that framework has been created, of dialogue with militaries around the world and looking into experiences. But one of the beauty and pitfalls of this organization is also that we get to those examples because of the confidentiality and the trust many of our partners and interlocutors have to share their specific experiences which they don't want necessarily to share in the public space with us.

So I think we are working with those who have felt the sort of experience phases of this template, to see what we can bring with consensus of their contribution also

to the public space as examples. But I just wanted to highlight why it is so difficult at a certain moment maybe to put the full breadth and richness of the conversations we had over the last three, four years with those engaged in partner to military operations and the best practices and experiences which have translated, and we have translated them into that template.

MR. O'HANLON: Although I still want to thank you, as well as John and Sarah, for the specific examples, where you could talk about, for example Ukraine, Afghanistan, Counter ISIS as three vivid cases where partnered military operations were in fact the reality.

GENERAL ALLEN: So, Mike, just let me come in as well. Yemen is another example --

MR. O'HANLON: Yeah, thank you.

GENERAL ALLEN: -- where we provided very sophisticated precision weapons to a partner, won't use the word ally, but to a partner, who then applied that precision for its own targeting purposes in a way we would never accept it.

MR. O'HANLON: Right. And bearing in mind therefore we have to be responsible.

GENERAL ALLEN: Exactly correct.

MR. O'HANLON: So if we could start with a question here in the room and then I'll go to Natalie to see if there's anything from the remote audience and then we'll come back to the panel.

Ma'am, over here, please. And please identify yourself if you could.

MS. CRAMER: Yes. Hello, thank you. My name is Katherine Cramer, I'm the Senior Manager for Protection of Civilians Interaction. And I used to be the Program Director for Asia for Geneva Call. So nice to see you, Peter Maurer.

I have a question, two questions actually. One is for Peter Maurer. I mean looking, I haven't had a chance to read it fully yet, sorry. But kind of glancing it, it appears that it's coming from the perspective of the actor who has the highest power dynamic within the partnership. And I'm just wondering if you're thinking of also looking at where a partner has a lower power dynamic versus their partners and how they might handle that and move forward on this if they have a keen interest in really reducing civilian harm.

And secondly, for Mr. Allen, you mentioned early on that in your operations with your different partners you had them make a commitment to IHL. If I remember correctly what you were saying. And pretty much all I think but one country in the world has actually already signed and is a party to the Geneva Conventions. So how does this actually work when we could probably say that a lot of countries today kind of more give lip service to IHL than a true commitment to apply?

And this is why this book is out there. And there's a number of other reports and so forth, and now efforts that the U.S. government has made to reduce civilian harm. So I'm just kind of wondering how this plays out when you were talking about some type, you know, this kind of agreement. Thank you.

MR. O'HANLON: Before we come back to the panelists we'll take one more in the room and then we'll go to Natalie for a final round, there aren't any, okay. So we'll go to one more here in the room and then come to the panel if we could, please.

MS. VOSS: My name is Loren Voss, I'm a Senior Advisor for Civilian Harm Mitigation at the Department of Defense. I'm curious, as I read this a lot of it is how a partner would evaluate a potential partner and shape that partnership. I'm wondering if any of you could comment on the additional complexities or factors we should consider when it's not just once force with one force. And what we're seeing is this, you know, range of forces, some of them may not even be state actors. And what extra complexities or if there's other

factors that you would bring to the forefront in those scenarios. Thank you.

MR. O'HANLON: Great. So I want to go Peter, John, and then Sarah, please.

MR. MAURER: Well just starting with the second question, yes, I alluded to a little bit of course we are looking into very different and much more complex partnerships today. State, non-state, non-state, non-state and everything across. So it is obvious that templates are simplification, but I would agree that this shouldn't be read as unilateral or bilateral partnerships but as a tool to look at much more complex partnerships as well.

It's again, it's a template and I would recognize that the full complexity of what comes out also in the bilateral and the sort of multi stakeholder partnerships is not necessarily reflected in that template. That's a different ballgame and a different analytical framework we would have to apply.

I tend to agree that it might be that because the approach is one of best practice, that you have a slight bias in this template towards the better and more sophisticated partner's responsibility towards the other side but not the sort of less sophisticated.

I would like to say though that in the sort of 35 major actors in conflict that we have done in-depth interviews on their partnerships, we have a broad range of actors throughout five continents, state and non-state.

So I see your point, the bias may be more biased towards good example and stronger responsibility also with those who have the power to shape the relationship, but I would see it very much as a mutual dynamic that we have to look at, which is complexified then by what she said with regard to the second question we had.

GENERAL ALLEN: My view on the partners was that I just held them accountable for their behavior on the battlefield. I held them accountable in accordance with

the international humanitarian law and the law of armed conflict. If they violated I held them accountable. And their capitals would have to then deal with them in accordance with their application of the law.

U.S. side was relatively simple. If there was a violation of the law of armed conflict by a, I'll just use Marines because I'm a Marine, then the Marine Corp dealt with it at home here. But there was no question, the evidence was gathered, the case was built, it was shifted to the Marine Corp and the service held them accountable.

If another member of the coalition violated the law of armed conflict the evidence would be gathered, the case would be built, it would be transferred to the capital and then the capital had responsibility for dealing with it. But they were still held accountable.

MR. O'HANLON: Sarah.

MS. KREPS: I just want to pick up on two of the comments that were just made. One was Katherine's about the countries that do lip service to the Geneva Conventions. And that was something actually that struck me in this document, but on the opposite side.

So not to get too academic, but on Page 15 where the document talks about the states that have not ratified the additional protocols. And that raises to me some interesting questions about the countries, like the United States in this case, that have not ratified it in part because Senate ratification is a much higher bar than for many other countries because in the U.S. it's two-thirds of the Senate. Which is really hard to get two-thirds of the Senate to agree on what day it is.

And so I think that the important thing in a way is to this point, and to Katherine's point, which is maybe not looking only at ratification, but kind of observance of these additional protocols. And I think in that the U.S. has been very attentive in reinforcing

these additional protocols.

And then the other point, about this being a template, which I think is really important for coming back to these evolving technologies. Which is one of the things I really like about it is that I think this document, this book, the template, will really have an evergreen quality because it raises kind of the set of questions that these forces should be asking. And it almost doesn't matter what type of technology is that's being used or which particular configuration of actors state, non-state, but that these are the kinds of questions that should be asked. And so I think that will give it a much longer shelf life and so we don't need to be concerned too much about how this will be rendered obsolete, because I don't think it will just because new technologies come on line.

MR. O'HANLON: Fantastic. With apologies, if people can stay two more minutes, there was a final question. We'll make it a lightening round question and then we'll wrap here with a final word from each of the panelists if they wish.

MS. KSENIJA: Sasha Ksenija, and I've been working on stabilization reconstruction and CVE environments for most of my career.

And my question is somewhat peripheral but perhaps it's for another session, but if you could speak to where civilian humanitarian assistants' workers fall into this framework. Because you clarify in the intro of the handbook that the relationships are established for the purpose of achieving a specific military aim. But nonetheless there are civilians who are vulnerable, civilian assistant workers who are vulnerable. So if you can say something today about that, I'd appreciate it.

MR. MAURER: Well they are part of the equation in the sense that the core of what we are discussing here is enhancing partnerships to create humanitarian spaces and to respect humanitarian spaces, which is part of what international humanitarian law foresees. Humanitarian workers are civilians and specifically protected through the Geneva

Conventions if they are mutual and impartial humanitarian actors in the field. And this framework basically should service the humanitarian space, the protection of civilians, but also the integrity and safety of humanitarian workers.

That's what it is all about when we put that in place, even if it is not, I would agree, explicated in all the details here, which first and foremost focus on the partnership dimension.

But the objective of the partnership is to create that space for protection and assistance. And humanitarian workers working according to principal humanitarian isn't being specifically protected.

MR. O'HANLON: John and/or Sarah, anything

GENERAL ALLEN: Peter's hit it perfectly for us as military forces in contact with the enemy. The issue wasn't whether we saw them as an important part of the humanitarian operation, they often didn't want anything to do with us. And so consequently would seek to operate independently of us for fear of the appearance that they were part of the military force to the point that Peter was making, that they had to appear to be neutral and unbiased in the application of their humanitarian mission.

And where sometimes injuries occurred or tragedies occurred wasn't because we weren't respectful of their role in the battle spaces, because we simply didn't know they were there. And sometimes that's a bias on their part. We will always embrace them but I think we're much better at that today than we were in the past where we see each other's roles as complimentary in a very important way. But in the past there were tragedies when we didn't know that non-NGOs were out there operating for humanitarian purposes and we just didn't know it, and they weren't going to make themselves known to us.

MR. O'HANLON: Sarah, any final point from you?

MS. KREPS: No, I mean I think that's great. I was actually one of the

actors too that hasn't been brought up that might be relevant here as well and I don't see why they should be outside of this conversation, are private security firms. You know, we have the IGOs and the NGOs and they're sort of a weird kind of actor in this but they're very present and I think in also again coming back to this issue, you know, kind of observations, this as a template, that this should also include, questions should also extend and include kind of their behavior in this setting as well.

MR. O'HANLON: Excellent point.

GENERAL ALLEN: Great point.

MR. O'HANLON: Thank you very much everyone. Thank you to our amazing Coms team that made this happen in the post-compete remote area, but still of hybrid mixed area, Adrianna, Ed, Dan, other, Crista.

And thank you very much to the ICRC team here in Washington and around the world, including in Geneva, and certainly in the field, all those we admire for their humanitarian work. Aid workers as well as NGO workers of all stripes and military forces that do try to comply with these laws of war.

So thank you all for joining us today. Best wishes, and we'll see you in the flesh again, I hope very soon.

GENERAL ALLEN: Thanks, Sarah, thank you.

MR. MAURER: Thanks, Michael, appreciate it.

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