



Patrick Paterson's monograph, *Training Surrogate Forces in International Humanitarian Law: Lessons from Peru, Colombia, El Salvador, and Iraq*, leverages the author's vast experience in Latin American history to examine how U.S. Special Operations Forces (USSOF) train surrogate forces. He argues that it is necessary to employ United States Special Operations Command's (USSOCOM) indirect approach to grow and build partnership capacity through foreign internal defense (FID) and to find a balance with international humanitarian law (IHL). Paterson also examines the legal issues and restrictions on training and equipping foreign forces and the impact of these exchanges with our partners. His research methodology includes extensive interviews and incorporates a historical case study approach, examining FID efforts in Peru, Colombia, and El Salvador for lessons learned, and then compares and contrasts USSOF train and equip efforts in Iraq.

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Training Surrogate Forces in International Humanitarian Law

Paterson

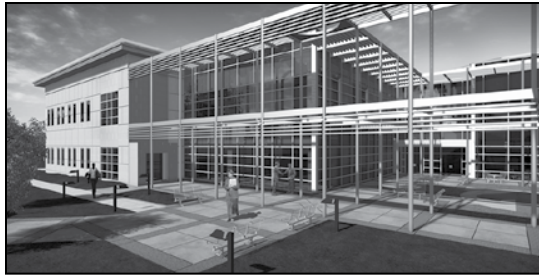


JOINT SPECIAL OPERATIONS UNIVERSITY



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Patrick Paterson
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*Training Surrogate Forces in
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El Salvador, and Iraq*

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On the cover. An Army Special Forces non-commissioned officer trains a Senegalese soldier in Mali, Africa, during a Flintlock exercise. Flintlock is a biennial exercise intended to enhance African nations’ abilities to patrol and control their own territory and borders and to develop regional and military relationships. Photo by Technical Sergeant Victoria Meyer.

Back cover. A Marine with U.S. Marine Corps Forces, Special Operations Command, gives feedback to Commandos with a Dominican Republic counterterrorism unit known as Secretaria De Las Fuerzas Armadas Comando Especial Contra Terrorismo, on their combat tactics at Ciudad Del Nino, 9 March 2009, during U.S. Special Operations Command South’s Exercise Fused Response. Photo by Corporal Richard Blumenstein.

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Foreword

Patrick Paterson's monograph, *Training Surrogate Forces in International Humanitarian Law: Lessons from Peru, Colombia, El Salvador, and Iraq*, leverages the author's vast experience in Latin American history to examine how U.S. Special Operations Forces (USSOF) train surrogate forces. He argues that it is necessary to employ United States Special Operations Command's (USSOCOM) indirect approach to grow and build partnership capacity through foreign internal defense (FID) and to find a balance with international humanitarian law (IHL). Paterson also examines the legal issues and restrictions on training and equipping foreign forces and the impact of these exchanges with our partners. His research methodology includes extensive interviews and incorporates a historical case study approach, examining FID efforts in Peru, Colombia, and El Salvador for lessons learned, and then compares and contrasts USSOF train-and-equip efforts in Iraq.

Paterson begins his monograph with a historical review of FID—an indirect approach. He notes three key operational benefits of the indirect approach: training foreign forces keeps USSOF from doing the job as part of a larger, costlier direct-action operation; training and educating foreign forces in security and defense tactics can increase USSOF military capacity; and U.S. values concerning civilian authority, human rights, and rules of warfare in IHL can be instilled. At the same time he captures why it's critical for USSOF to know who they're training and what their allegiances are. Paterson then moves into the issue of modern warfare and IHL, and the difficulties of navigating the complexities of those we seek to support and how modern warfare has evolved to include some aspects traditionally considered police work.

His discussion also addresses the ethical and legal considerations of training surrogate forces in what he calls the "murky legal realm," and the need to ensure a level of understanding and responsibility of IHL. In chapter 4, Paterson reviews USSOCOM's doctrine on human rights and IHL guidance from the first formal policy in the late 1990s to current guidance. His next chapters address joint combined exchange training and how IHL is addressed during these training efforts, followed by an excellent discussion on the Leahy Law

and the vetting process for security assistance. Paterson then discusses the selected historical case studies of USSOCOM successful engagement with international partners. The author concludes with recommendations for the way ahead for USSOCOM and the Department of Defense to ensure training military partners and human rights go hand in hand.

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Director, Center for Special Operations Studies and Research

About the Author

Patrick J. Paterson is Professor in Practice of National Security Studies at the Center for Hemispheric Defense Studies. A 1989 graduate of the U.S. Naval Academy in Annapolis, MD, he retired from the U.S. Navy as a Commander in 2009. His last assignment was as the Political-Military Advisor and Senior Foreign Area Officer on the Fourth Fleet staff in Mayport, FL. He has a Master's degree in National Security Studies from the Naval Postgraduate School in Monterey, CA, a Master's equivalent from the Argentina Naval War College in Buenos Aires, Argentina, and a Master's degree in Political Science from the American University in Washington, DC. As part of those studies, he has researched and written on numerous topics about Latin America, including civil-military relations, U.S. foreign policy, democracy, rule of law, human rights, social movements, political violence, and counterinsurgency. He is the author of numerous defense and security related articles in journals such as *Military Review*, *Armed Forces Journal*, *Proceedings Magazine*, *Joint Force Quarterly*, *Naval History*, *The Journal of International Affairs*, and *Security and Defense Studies Review*, and has appeared on BBC Radio. His principal areas of expertise include civil-military relations, human rights, rule of law, counterinsurgency, and U.S. and Latin American history.



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Introduction

The mission of training the security forces of other countries is of growing importance to the United States Special Operations Command (USSOCOM). This mission, commonly referred to as foreign internal defense (FID), or the indirect approach, offers an alternative to direct-action missions by U.S. forces. U.S.-led operations inside foreign countries, like the recent efforts to seize wanted terrorists in Syria and Somalia, are dangerous missions that put U.S. Special Operations Forces (USSOF) at risk if things go awry. By successfully implementing FID, U.S. forces can train and empower host nation forces to conduct their own security operations to staunch the expansion of radical extremists—saving U.S. lives in the process.

The indirect approach represents an important operational opportunity with three benefits. First, training foreign forces in military tactics prevents USSOF from having to enter the country to do the job as part of a direct-action mission or as part of a larger, costlier operation. Second, USSOF can improve the military capacity of partner nation forces by training and educating them in security and defense tactics. And third, FID training can help professionalize a foreign military force by instilling U.S. values of subordination to civilian authority, respect for human rights, and adherence to rules of warfare entailed in international humanitarian law (IHL).¹ This small footprint approach is critical as the U.S. faces diffuse threats from numerous countries. It also minimizes the chances that the U.S. will have to intervene militarily, an expensive last resort as demonstrated by the nation-building experiences of the U.S. in Iraq and Afghanistan during the last 14 years.²

USSOCOM's indirect approach is part of a larger U.S. Government effort to establish a network of partners to respond to complex 21st century challenges. The strategy has grown in urgency as the U.S. addresses a dispersed terrorist threat from the Islamic State in Iraq and Syria (ISIS) and al-Qaeda factions. In the global war on terror, U.S. allies in the Philippines, Yemen, Libya, Afghanistan, Iraq, Syria, and Nigeria are under fire from radical extremist groups.³ As President Obama stated during his 28 May 2014 address at the U.S. Military Academy, "We have to develop a strategy that matches this diffuse threat—one that expands our reach without sending forces that stretch our military too thin, or stir up local resentments." In

support of the new strategy, President Obama announced he is seeking up to \$5 billion to “facilitate partner countries on the front lines.” This comes on top of about \$2.2 billion the Department of Defense (DOD) has spent in more than 40 countries since 2006 to train and equip foreign troops in counterterrorism operations.⁴

This strategy also involves some risk. Foreign military units, especially those with poor professionalism or a history of political intervention in their country, may use their new capacity to challenge civilian leaders or use excessive force that leads to human rights violations. This is particularly likely to occur in military forces without advanced training or in areas that have mixed ethnicities, tribes, or religions where there may be historical rivalries or animosity among groups. Training and equipping these forces without providing accompanying education on human rights standards and IHL invites the improper use of force. The shoot-down of Malaysia Airlines Flight 17 on 17 July 2014, allegedly by Russian surrogate forces in eastern Ukraine, is just one recent example of the consequences of providing arms and training to forces without adequate oversight or training. All 298 civilians on board the plane were killed.⁵

The reasons for incorporating human rights and IHL training into USSOF training programs are compelling. They are critical to win strategic, operational, and tactical advantages over opponents in contemporary warfare. First, human rights and IHL violations alienate civilian populations from military forces. Atrocities committed by a surrogate force will jeopardize the functional legitimacy of the surrogate force among the affected population.⁶ The military forces may risk losing critical intelligence provided by cooperative civilians if they are perceived to be illegitimate forces operating outside IHL standards. Simultaneously, if the host nation forces lose legitimacy in the eyes of the people and consequently become militarily ineffective, U.S. forces may lose a potentially important Special Operations Forces (SOF) partner. Second, U.S. military forces are forbidden by law to provide training or education to foreign military units or individuals with a history of human rights violations. This inhibits U.S. interaction with a number of nations who may otherwise provide important assistance to the U.S. in the global fight against terrorism. Hundreds of potential partners in the war on terror are blocked from U.S. aid. In many of these cases, the reason is simply because the units have never received adequate training or education on human rights and international law. As a result, the U.S. may lose an ally

in a strategically critical area. Consequently, this puts U.S. military service members in danger by necessitating U.S. involvement in costly and dangerous overseas operations. Third, the U.S. has a moral obligation to ensure the training it provides to foreign forces is in keeping with U.S. values on democracy, human rights, and civil-military relations. Providing military training on lethal force tactics, for example, should be accompanied by training that also describes the legal and moral constraints of using such tactics. Such training on the proper application of force will maximize the chances that our partner forces will not commit gross violations of human rights.

Balancing the need to have access to a partner nation’s security forces and the need to abide by IHL presents a conundrum for U.S. operators and senior USSOF leaders. The United States needs the assistance of other nations to combat terrorism and ensure stability in those countries. But working with foreign military forces that do not have a well-developed culture of military professionalism presents a difficult predicament when foreign forces commit human rights violations. The majority of the countries where USSOF conduct training fall into the category of developing nations with autonomous militaries that frequently lack a tradition of subordination to civilian authorities. Many of these troops have not received formal training in the use of force or in aspects of IHL. They may be more loyal to familial or tribal allegiances than they are to the central government of the country.

USSOF are prohibited by law from training partner nation forces suspected of committing human rights violations; specifically the 1997 Leahy Law forbids U.S. assistance to foreign military units that have been found to be credibly implicated in serious abuses of human rights. Assistance is denied until the host nation government takes effective steps to bring the responsible persons within the unit to justice. Previous breaches of this law by USSOF, whether intentional or accidental, have generated intensive scrutiny from the U.S. Congress, the press, nongovernmental organizations (NGOs), and government watchdog groups.⁷

USSOF are composed of highly skilled professionals with extensive experience in the proper use of force, both in legal theory and in practice. Their interaction with foreign forces represents an excellent opportunity to demonstrate the strategic payoffs of respect for human rights and adherence to IHLs. However, the training opportunity is limited by the type of personal rapport USSOF develop with their host nation counterparts. As a result, USSOF do not adequately address human rights or IHL issues when

training foreign forces. When they do, the training is ad hoc, developed by individual USSOF units without any central coordination from USSOCOM headquarters or the components. In addition, USSOCOM does not have a doctrine or significant guidance on human rights or IHL for the 66,000 U.S. service members under its control. Without sufficient guidance on how to articulate modern rules of warfare in complex operating environments, many USSOF operators are unknowingly providing inadequate instruction. Operationally, such a conspicuous absence of guidance from higher headquarters could ultimately prove counterproductive if partner militaries lose the guise of legitimacy from their citizens or are legally forbidden from receiving U.S. assistance.

Research Objective

This report examines how USSOF train surrogate forces. Specifically, it will focus on the elements of IHL training that foreign forces receive. In particular, it considers the legal and ethical challenges associated with such interaction. The study includes an examination of the USSOCOM and DOD doctrine on IHL. The analysis includes U.S. legal restrictions on training and equipping foreign forces and how that has affected USSOF relations with foreign forces.

The indirect approach raises a number of important questions. What type of IHL training do USSOF provide during joint combined exercise training (JCET) and mobile training teams (MTT)? How does one ensure professionalism and obedience to IHL by indigenous or surrogate forces trained by USSOCOM personnel? How do USSOF emphasize respect for human rights in societies that may not have due regard for such values? What legal consequences may USSOF face if the surrogates they are training commit gross violations of human rights? What actions should be taken by USSOF if they witness a violation of international law? What are the constraints of the Leahy Law?

This monograph uses three historical case studies from Peru, Colombia, and El Salvador to demonstrate how the U.S. and other governments tried to ensure the forces in those countries complied with IHL standards. The use of militias or self-defense forces are a common feature in each of these three cases. Despite those commonalities, these examples present three unique cases of how to manage surrogate forces. In Peru and Colombia,

governmental armed forces enlisted the assistance of self-defense forces and militias in remote parts of the country where the military had little access or presence. The case of El Salvador offers important lessons of how the U.S. provided security assistance to an important ally involved in an internal political insurgency.

Methodologically, the three cases are not intended to provide a comparative analysis. Rather, they demonstrate the diversity of situations that U.S. forces may face when applying the indirect training approach—and the lessons learned. This author uses the evidence drawn from the three case studies to examine the contemporary challenges faced by USSOF while training security forces in Iraq. The analysis provides important policy insights for USSOCOM as it develops its strategy and doctrine on the issue.

As part of the research for the three case studies and their implications for FID training in Iraq, the project involved extensive interviews with USSOF personnel at USSOCOM headquarters in Tampa, Florida. It was critical to tie the theory of security assistance and FID to the practical experiences of USSOF operators. Almost 40 representatives of the USSOF community (including a number of very experienced operators) contributed to the content and precision of the information in this report. The author is sincerely appreciative of their contributions to the project.

1. A History of Foreign Internal Defense and the Indirect Approach

FID is a core mission of USSOF, and is defined by the U.S. Government as an operation in which an indigenous government force is trained, equipped, organized, and supported “to free and protect its society from subversion, lawlessness, insurgency, terrorism, and other threats to its security.”⁸ FID is often referred to in USSOF parlance as the indirect method, working “by, through, or with” security forces from foreign countries.⁹ A surrogate is any member of a foreign security force that receives training by U.S. forces.

The U.S. trains at least 100,000 foreign police and soldiers from more than 100 countries each year. In 2012 alone, that amounted to \$25 billion on training and equipping foreign militaries and law enforcement agencies. USSOF conduct a big portion of that training. Since 1998, USSOF have conducted more than 2,000 training missions and trained almost 150,000 foreign troops. In 2014 alone, USSOF conducted 176 JCET events in nearly 70 countries and trained over 15,000 partner nation forces.¹⁰ By training other nations’ security forces, the U.S. hopes in the future to avoid the costly, large-scale military involvement like that in Iraq and Afghanistan.¹¹

There is a political and financial cost to sending U.S. forces to fight overseas, and the U.S. public is weary of such long-term commitments.¹² At the same time, a low-visibility, small footprint of USSOF is much more palatable for local leaders worried about the political fallout of permitting foreign troops on sovereign territory. For those reasons, many U.S. policymakers find the indirect approach a more attractive option than direct military involvement. As former Secretary of Defense Robert Gates put it,

Where possible, U.S. strategy is to employ indirect approaches—primarily through building the capacity of partner governments and their security forces—to prevent festering problems from turning into crises that require costly and controversial direct military intervention. In this kind of effort, the capabilities of the United States’ allies and partners may be as important as its own, and building their capacity is arguably as important as, if not more so than, the fighting the United States does itself.¹³

USSOF's ability to operate in remote locations with little support makes the indirect approach particularly suitable for USSOCOM. Former USSOCOM Commander Admiral William McRaven, implemented a command-wide approach to building a "global SOF network" after his experience as the commander of U.S. Special Operations Command Europe in 2007. Admiral McRaven, in testimony before Congress, explained that, "the direct approach ... only buys time and space for the indirect approach ... [and] in the end, it will be such continuous indirect operations that will prove decisive in the global security arena."¹⁴ It is an idea echoed throughout other U.S. strategic documents. The 2014 Quadrennial Defense Review calls for a "greater emphasis on building partnership capacity." An entire chapter of the 2006 Counterinsurgency Manual (FM 3-24) is dedicated to the use of surrogate forces. Former Secretary of Defense Leon Panetta called this global partnership "one of America's greatest national security assets."¹⁵

The U.S. military has a long history of relying on surrogate forces and the advantages they bring to the battlefield. During the U.S. Indian Wars in the late 19th century, the U.S. Army employed 1,000 Native American scouts who knew the methods of their indigenous counterparts. In the Philippines, U.S. Army officers organized the Macabebe Scouts, an indigenous group of surrogates who knew the local terrain and could move relatively unnoticed among the villages and communities in the Philippine countryside while they gathered information on insurgents. In the Vietnam War, National Security Adviser McGeorge Bundy advocated for the use of armed paramilitaries in other countries that would be "supported and controlled by the U.S."¹⁶ During the war, the U.S. used the Hmong militia as a surrogate army in the fight against Vietnamese communist forces. The Hmong also helped rescue downed U.S. aircrews, gather intelligence, and monitor enemy supply chains moving along the Ho Chi Minh trail.¹⁷

However, the effort to professionalize surrogate forces or self-defense groups often is difficult.¹⁸ Foreign military units without professional training or a well-developed military doctrine—especially junior or conscripted forces—are unlikely to have the depth of training on contemporary warfare matters, including the use of force, and principles of IHL such as distinction, moderation, necessity, and proportionality. As a result, these forces may be more apt to use excessive force, to treat both combatants and noncombatants as enemies, and to abuse detainees—all of which are human rights violations that could jeopardize continued collaboration with USSOF.¹⁹

One example is the U.S. military's recent efforts to bolster the military proficiency of its counterparts in African nations, part of a counterterrorism campaign against radical Islamic forces springing up in the region. Part of this effort includes millions of dollars spent on training counterterrorism units in Niger, Mali, and Mauritania. However, military forces in some of these countries may not be as subordinate to civilian elected officials as forces in developed Western countries. In April 2012, Malian soldiers revolted and overthrew the president. In that incident, members of the elite army units trained by USSOF reportedly also defected to Islamic extremists operating in the north of the country. Malian soldiers were subsequently accused of committing atrocities including summary executions of at least 11 people suspected of being insurgents as well as sexual abuse of its own conscripted soldiers.²⁰ In response to the challenges faced by working with foreign forces, Major General Patrick J. Donahue II, the commander of United States Army soldiers operating in Africa, said, "You have to make sure of who you're training. What are his allegiances? Is he true to the country, or is he still bound to his militia?"²¹ An international military force, led by the French, was required to intervene to oust the Islamic radical forces from Malian territory.

2. Modern Warfare and International Humanitarian Law

Throughout history, civilians frequently have been caught in the middle of the hostilities. This has never been truer than in the recent era of civil and religious wars, ethnic conflicts, and the fights against powerful organized crime cartels. As modern warfare has evolved, fewer conflicts are state-on-state disputes involving conventional armies. More often, conflicts arise from internal disputes among competing factions within the same nation, as groups fight over political, economic, or religious differences. Frequently, one side of the conflict consists of non-state irregular forces not wearing military attire and often operating among population concentrations. Former Secretary of Defense Robert Gates testified to the permanency of irregular warfare when he said, “we can expect that asymmetric warfare will remain the mainstay of the contemporary battlefield for some time.”²² Contemporary warfare against irregular enemies is complex and often uncontrollable.

One of the principal military objectives in these conflicts is winning the support of the population, as civilian backing produces many valuable advantages. The countries that have learned this—Colombia, the Philippines, and Great Britain, to name a few—reap the benefits. As civilian cooperation with security forces increases, the maneuverability and operating space of the insurgents or criminals decreases, along with the likelihood of attacks on security forces. Meanwhile, the government gains valuable actionable intelligence on militant activities. Governments that do not adopt this strategy are forced to fight against a shadowy criminal or insurgent network that often operates with the protection or cooperation of the civilians.

As the Center for Systemic Peace demonstrates, the numbers of formal combatants in modern wars have decreased substantially. At the same time, the number of noncombatants as a percentage of victims has increased significantly. Hence, U.S. partner-nation forces need to be prepared for a full spectrum of conflict scenarios in which civilians become involved: organized crime, drug traffickers, insurgencies, political protests, and indigenous rights issues.

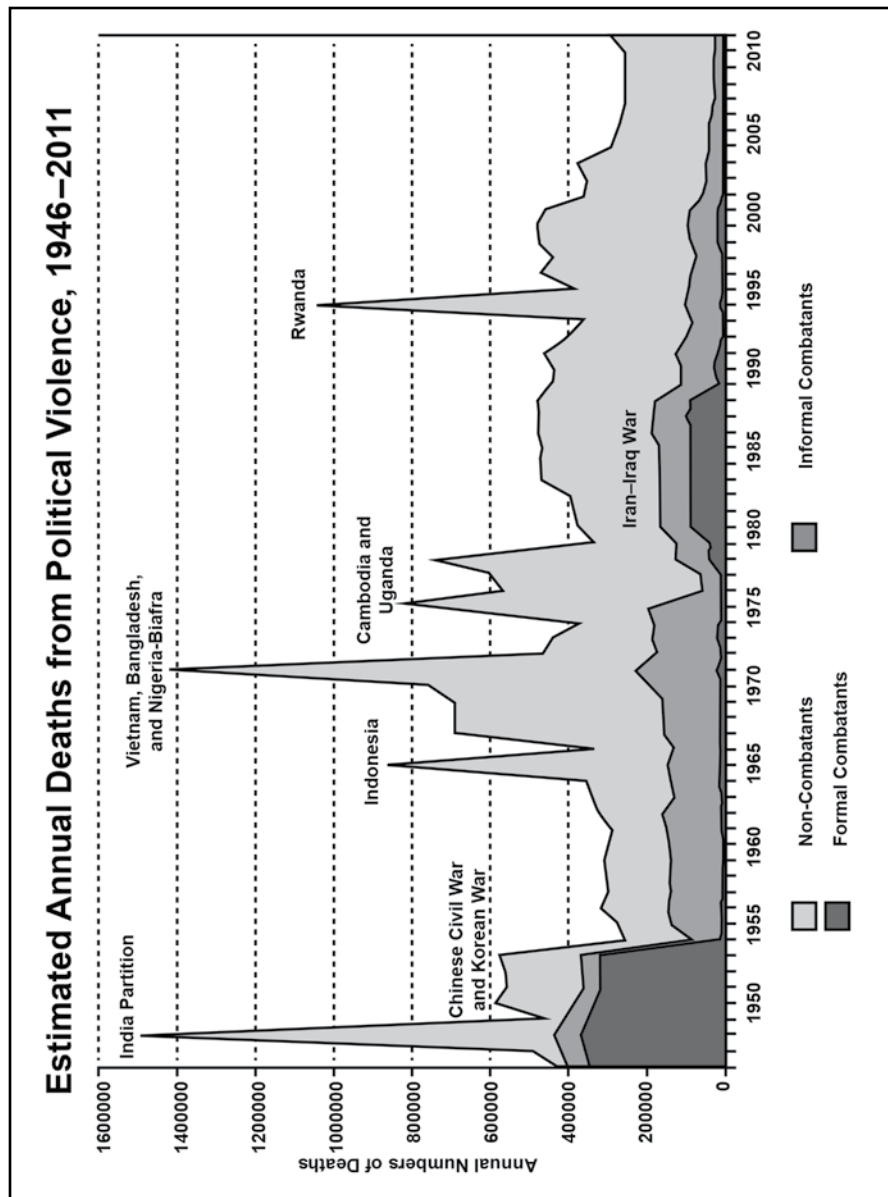


Figure 1.
Estimated
Annual Deaths
from Political
Violence,
1946–2011.
Source: Center
for Systemic
Peace, Link:
<http://www.systemicpeace.org/conflictrends.html>

In many ways, modern warfare is more like police work than a series of battles to be won. The enemy frequently comprises irregular forces that mix among the population rather than a conventional force easily distinguishable from civilians. For this reason, contemporary operations require a mix of law enforcement operations very different from conventional military training. Domestic law enforcement operations require a vast amount of discretion and diplomacy, and a practical understanding of levels of force. Conventional military warfare, on the other hand, involves frequent use of lethal force and very little communication or engagement with either the enemy or with civilians. One of the most challenging aspects of this new operating environment is how to distinguish between combatants and noncombatants. The enemy does not wear regular uniforms and is often indistinguishable from civilians. In the words of one scholar, “discrimination becomes more difficult in the context of postmodern counter terror war.”²³

Most militaries rely upon firepower against militants or criminals. However, using the military in law enforcement operations is a dangerous solution, one fraught with complications. Soldiers, normally trained to defeat an enemy using maximum lethal force, need extensive retraining to learn to fight an enemy that is mixed among the people. Soldiers without the proper training or education may commit human rights violations and jeopardize their legitimacy among the civilian population. Hence, the deployment of the military in these instances carries serious risks for civilians in crime-affected regions as well as for the reputation of the military institutions and the governments that they represent.

Young soldiers from partner nations don’t know what they don’t know. That is, unless they are informed of the operational benefits that come from respect for human rights and adherence to IHL, they will not understand the advantages of such doctrine. They may not be operationally experienced enough to recognize it for themselves. Exposing them to the complex decisions they will face on the battlefield through scenario-based training will help them make the right choice when they have those encounters for the first time.

The Geneva Conventions and numerous other international treaties are designed to govern internal conflicts against insurgents or organized criminal gangs. Internationally recognized principles of warfare designed to protect noncombatants during wartime also apply to these cases of ‘non-international armed conflict.’ In formal terms, IHL that governs the use of

Vignette: Indigenous Protests in Guatemala

On 4 October 2012, Mayan indigenous protesters blocked roads in Totonicapán, Guatemala, to protest new government education reforms that required expensive new credentials from local teachers. Guatemalan police, in charge of security of the event, left the area because of the increasing hostility of the crowds toward them. Guatemalan soldiers, called to support the police, arrived on the scene a few minutes later unaware the police had fled the scene. When the protesters confronted the soldiers, rocking their truck and cursing at them, the Army soldiers opened fire in fear for their lives. Eight protesters died and 30 more were wounded. The Army colonel in charge and eight soldiers were arrested and put on trial for murder.²⁴

force once hostilities have begun is known as *Jus in Bello*, the law governing the actions of states once conflict has commenced. Regardless of the level of the conflict, principles of warfare that protect civilians and their property are universally accepted as customary international law. The United States has ratified the Geneva Conventions and most of these international treaties. In cases of treaties it has not ratified, U.S. policy is to follow the spirit of the laws.²⁵

The most well-known elements of IHL include the principles of discrimination, necessity, humanity, and proportionality. Discrimination (also referred to as distinction) is the most important principle. It requires that participants only use force against combatants and military objectives. They must take precautions to ensure they do not target noncombatants or civilian property. Necessity requires combatants to only use the amount of force necessary to ensure the defeat of the enemy. Humanity requires that conflict participants not use excessive violence to achieve military objectives. In other words, tactics that cause unnecessary suffering are prohibited. Likewise, weapons that cause needless suffering—such as projectiles with glass, plastic, or poison—are also forbidden. Proportionality requires combatants to avoid excessive loss of life or property in relation to the desired military objectives.²⁶

Professor Rosa Brooks, former legal counsel to the DOD and the Department of State (DOS), summarized the significant moral responsibility for security forces to employ the law of war conscientiously and within the parameters established by IHL. In 2013, in testimony before the Senate Armed Services Committee, she said:

It is important to recognize that the law of armed conflict permits a wide range of behaviors that would be unlawful in the absence of an armed conflict. Generally speaking, the intentional destruction of private property and severe restrictions on individual liberties are impermissible in peacetime, but acceptable in wartime. Even actions that a combatant knows will put civilians at risk of death or injury are legal when taken in accordance with the principles of necessity, humanity, proportionality, and distinction.²⁷

Security forces follow these rules in order to avoid causing violations of human rights, but it becomes harder to do under the austere circumstances caused by fighting irregular forces. The opponent is often mixed among the population, and many members of the community might be colluding with the criminals or militants, who do not wear uniforms and cannot be easily distinguished from innocent civilians. In these conditions, soldiers have to accept additional risk to avoid harming noncombatants. When there is an encounter with criminals in an urban area, soldiers must often hesitate to confirm identification of their target before deciding what action is appropriate—and hesitancy can mean the difference between life and death. Undisciplined military forces, at this moment of decision, may resort to force protection rather than the self-restraint necessary to prevent civilian casualties.²⁸

I recognize that the carefully controlled and disciplined employment of force entails risks to our troops ... But excessive use of force resulting in an alienated population will produce far greater risks.—General Stanley McChrystal, Commander of U.S. Forces in Afghanistan, 2010–2011.²⁹

A hostile act—the use of force against one’s unit—is relatively easy to distinguish. It occurs when a unit or something the unit is tasked to protect is taking fire from a criminal or enemy. What is far more difficult to determine in these situations is hostile intent. Hostile intent is defined as “the threat of the imminent use of force against one’s unit or something the unit is tasked to protect.”³⁰ In contemporary warfare, a vast array of hostile intent scenarios is possible. Soldiers may encounter enemy actions that they would not normally experience during a fight against regular forces. Soldiers may be required to set up checkpoints and roadblocks, conduct house searches,

or perform direct-action operations against known enemy forces. What if a vehicle does not follow directions or slow at a checkpoint or roadblock? What actions are permissible in this situation? What if a suspect is fleeing? Can soldiers fire on him? What if a perpetrator flees after engaging a military unit? Can soldiers fire on him if he no longer presents a direct threat to the unit? Can soldiers fire at a suspected enemy if civilians are present and are at risk of being hit? Can soldiers fire on protesters throwing stones? Bricks? Molotov cocktails? What level of force is permissible under these circumstances?

Vignette: The U.S. Investigation of No Gun Ri

At the request of the South Korean government, the U.S. Army Inspector General conducted an investigation into an alleged massacre of South Korean civilians that occurred 50 years earlier in the South Korean hamlet of No Gun Ri. The Army's report, released in January 2001, concluded that the "under-trained, under-equipped and unprepared" U.S. soldiers had, in fact, fired on Korean civilians. According to the Army, the American soldiers at No Gun Ri were "completely unprepared for the stark reality of dealing with the numerous, uncontrolled refugees who clogged the roads and complicated the battlefield to an unexpected degree." Lieutenant General Bernard E. Trainor, a retired Marine, was part of the investigation. "What did surprise me was the allegation that the killings appeared to be deliberate; I found it difficult to believe that American soldiers would kill unarmed refugees," he wrote. "In the months that followed, however, as one of eight outside observers asked to monitor a Pentagon investigation of the issue, I came full circle. The investigation confirmed the news report's central charges."³¹

Another difficult challenge in these conditions is what constitutes direct participation in hostilities. Civilians, normally protected by international law from military attack, are considered lawful targets if they take a "direct participation in hostilities." It is a definition that confounds lawyers and experts in the field.³² For example, does a civilian lookout who reports U.S. troop movements to and from garrisons constitute direct participation in hostilities and, therefore, can be considered a lawful target? What about the financier providing funding for weapons and explosives purchases? The driver transporting weapons to the insurgent stronghold? What about the family storing food and supplies for insurgents in their house?³³

In many Latin American countries during the Cold War, the armed forces were vilified for attacking civilians who were suspected of supporting communist insurgents. The counterinsurgency doctrine of the period called for "draining the swamp" by removing the insurgents' popular support network. This, in theory, would force the insurgents to abandon the area or isolate them from needed supplies and arms. In some cases, Latin American armies declared areas in which insurgents operated as "free fire zones." Anyone in this area—villager, woman, child, news reporter—was considered an 'enemy' and a legitimate military target. On a number of occasions during the 1970s and 1980s, the U.S. cut off military aid to partners in the region for such types of indiscriminate action.³⁴

In Iraq, an estimated two-thirds of U.S. casualties were the result of roadside bombs. Most veterans of the Iraq war would argue that the owners and operators of an improvised explosive device factory were lawful targets. Would U.S. factories creating weapons also be considered fair game? What about the U.S. contracted truck drivers transporting the arms to the battlefield in a civilian vehicle?³⁵

3. Ethical and Legal Considerations in Training Surrogate Forces

A layer of complexity is added when the indirect approach encompasses unconventional forces, which often present greater legal risks than working with conventional troops. Unconventional indirect activities occur when USSOF work with rebel or insurgent forces against another government. According to U.S. doctrine, unconventional operations may include “advising and assisting guerrilla forces to raid, ambush, sabotage, and otherwise interdict the adversary in ways designed to drain that hostile power’s morale and resources through military activities up to and including combat.”³⁶ For example, a recent Pentagon initiative involved an effort to train moderate Syrian rebels to fight against ISIS terrorists in Syria.³⁷ These types of rebel forces may not meet the definition of legitimate or professional military forces because they do not represent a central government nor are they governed by IHL treaties of a country.³⁸ In some cases (e.g., the Northern Alliance forces in Afghanistan in 2001), USSOF may even fight alongside these irregular forces.

Actions by these irregular forces often enter into a murky legal realm, where it becomes hard to determine whether or not they constitute legal military operations according to international law. Militias and self-defense groups also operate in a

gray area of legitimacy. There is a fine line between self-defense forces that provide security in remote parts of a country on behalf of a central government, and illegal armed groups whose loyalty lies with local warlords or regional strongmen. These groups often operate outside the law and, without



Figure 2. U.S. Air Force Special Operations Forces train with irregular forces in Africa. Source: Author

formal training on arms or the use of force, may commit abuses against the population.

Despite the uncertain ethics of working with such groups, many governments rely on and even provide arms for these groups. In Peru, self-defense forces in remote areas of the Andes Mountains were considered a vital extension of the armed forces, instrumental in the government's eventual success against violent leftist insurgents. In Michoacán, Mexico, self-defense forces emerged in 2014 to provide local security against violent narco-traffickers and cartel members. At first hesitant about operating with such forces, the Mexican government later announced their support of the group as a proxy force and conducted joint patrols between militia, police, and military forces. In Afghanistan, the government is desperate to extend security into remote areas where the Afghan police and army are under frequent attack from Taliban forces. In 2015, the government in Kabul wrestled with the idea of enlisting the aid of militias under local warlords.³⁹

Critics of the indirect approach contend that providing tactical training to surrogate forces without sufficient education on IHL or the use of force is ethically and legally irresponsible. According to some scholars, this invites violations of the Geneva Conventions by the surrogate forces. Surrogate forces, especially irregular forces that may not represent a central government or organized group, may commit human rights violations with little regard for consequences. One well-respected legal scholar has even called for states' use of surrogate forces to be "included in the prohibition against mercenarism."⁴⁰

By training foreign forces, the U.S. is inserting itself into another country's politics. This insertion demands a level of responsibility—ethically and operationally—to ensure those forces comport themselves in accordance with IHL and standards of human rights. As USSOCOM has increased its reliance on the indirect approach, this issue has gained more urgency.

4. U.S. Special Operations Command Doctrine on Human Rights and IHL

USSOCOM does not have an up-to-date instruction on human rights and IHL. Of all the Service components to USSOCOM, only the Naval Special Warfare Command has an instruction detailing the requirement to include such training when working with foreign forces. During JCET, the primary means of interacting with foreign security force units, the topic is rarely covered in depth, instead receiving only passing reference in a manner that is inadequate to cover the myriad complex issues associated with the use of force in contemporary conflicts.⁴¹ Based on an analysis of USSOF publications and field manuals, IHL receives very little emphasis between USSOCOM and its subordinate commands.

This inattention to the issue of human rights is particularly surprising considering the frequency in which foreign security forces commit human rights violations during operations. Partner nation forces in Latin America, Asia, and Africa are frequently criticized for using excessive force, abusing the rights of civilians and their property, torturing detainees, and committing extrajudicial killings. Consequently, USSOF are forbidden from working with military units in dozens of countries around the globe, significantly hindering USSOCOM efforts to establish a global SOF network and the U.S. effort to combat violent extremist organizations. In a number of important allies in Latin America and Africa, almost one-third of military units in the countries are banned from receiving U.S. military training because of human rights violations.⁴²

The first formal effort to establish a USSOCOM policy on human rights and IHL occurred in the late 1990s. Then commander of USSOCOM, General Peter Schoomaker, issued a human rights policy memorandum in June 1999 that placed an emphasis on human rights and IHL. "SOF understand the critical role of human rights in our national security strategy, in USSOCOM's mission, and in the regional CINCs' [commander-in-chiefs] engagement strategies," General Schoomaker wrote. "Human rights awareness, concepts, reporting requirements and themes will be integrated into all SOF pre-deployment training," with the intention of preventing USSOF from training with forces that have committed human rights violations. General

Schoomaker also ordered that the “promotion of human rights will become a core concept in the education and instruction programs during interactions with the civilian population of the host nation.”⁴³

In 2005, USSOCOM issued a terse new human rights directive. Although very brief—the policy and procedures section is a short 420-word summary—the directive contains important requirements for USSOCOM’s subordinate commands. The policy addressed U.S. Government policy on human rights as an important element of foreign policy. In particular, it reiterates U.S. policy not to provide training to units who have committed gross violations of human rights. Most importantly, it directs USSOCOM units to “develop tailored human rights themes to be incorporated into scheduled training plans for host nation personnel, preferably with ‘hands-on’ application.” It also states that, “human rights awareness, concepts, reporting requirements, and themes will be an integral part of SOF training with foreign forces,” and that “SOF will be prepared to teach and demonstrate by word and deed that the protection of human rights is imperative for military success in any environment.”⁴⁴

Despite the clear guidance from USSOCOM commanders, only the Naval Special Warfare Command in Coronado, California, has an instruction on human rights requirements. None of the other military service components require their units to conduct human rights or IHL training. Army Special Operations Command, the Air Force Special Operations Command, and Marine Corps Forces Special Operations Command have no requirement to train foreign forces on human rights or IHL. Few of the USSOF personnel interviewed for this project knew of the existence of the USSOCOM instruction. Nor do any of these commands have a program of instruction (POI) to provide to deploying units.⁴⁵

Current USSOCOM doctrine does not provide adequate attention to these complex issues on the use of force and respect for human rights. USSOCOM has developed field manuals and instructions on a whole array of tactical and operational issues. A content analysis was conducted on manuals and publications on FID, unconventional warfare, and joint doctrine for special operations. Of nearly 20 USSOF-oriented manuals, few made reference to human rights or IHL. For example, the U.S. Army manual on Army SOF⁴⁶ makes little mention of the repercussions of IHL violations by surrogate forces. Instead, the training agenda is devoted to tactical techniques and procedures—each important in their own right. The Joint Doctrine for Special



Figure 3. U.S. Special Operations Command and its Subordinate Commands.
Source: Author

Operations (JP 3-05) publication is no better, mentioning IHL training only once. In an astonishingly brief single sentence, the manual says that the staff judge advocate should “support appropriate law of war training for all personnel.”⁴⁷

Of the 20 USSOF-centric manuals reviewed for IHL references, only the FID manual mentioned the importance of human rights. It describes the ability of the U.S. military to influence the professionalism of partner nation forces as “considerable.” Military success, according to the manual, is dependent on the ability of U.S. forces to help eliminate or reduce corruption and human rights abuses.⁴⁸ Most importantly, it captures the operational benefit that comes with winning the support of the population.

Strict adherence to respect for human rights must be maintained. This includes U.S. forces as well as forces from the host nation and other participating multinational forces. Repression and abuses of the local population by the legitimate government will reduce the credibility and popular support for the host nation government and also may cause the President to consider withdrawing U.S. support; therefore, commanders must consistently reinforce human rights policies. In many FID combat situations, the moral high ground may be just as important as the tactical high ground.⁴⁹

Reference Title	Date	HR/IHL Content Amount
AFDD 2-3.1, Foreign Internal Defense	01 Nov 2011	None
CJCSI 3121.01B, Standing Rules of Engagement/ Standing Rules for the Use of Force for US Forces	13 June 2005	Significant
DOD 5105.38-M, Security Assistance Management Manual (DISAM Green Book)	Aug 2015	Significant
DODD 3000.07, Irregular Warfare	28 Aug 2014	None
DODD 5132.03, DOD Policy and Responsibilities Relating to Security Cooperation	24 Oct 2008	None
Fleet Marine Force Reference Publication 12-15, Small Wars Manual	22 Dec 1990 (republished in 1940)	Minimal
FM 3-05, Army Special Operations Forces	31 Aug 2012	None
FM 3-05.137, Army Special Operations Forces Foreign Internal Defense	30 June 2008	Moderate
FM 3-05.202, Special Forces Foreign Internal Defense	02 Feb 2007	Minimal
FM 3-05.401, Civil Affairs Tactics, Techniques, and Procedures	23 Sept 2003	Minimal
FM 3-07.10 Multi-Service Tactics, Techniques, and Procedures for Training Security Force Advisor Teams	10 Sept 2009	Minimal
FM 3-24, Insurgencies and Countering Insurgencies	2 June 2014	Significant
FM 3-24.2, Tactics for Counterinsurgency	21 Apr 2009	Moderate
JP 1, Doctrine for the Armed Forces of the United States	20 Mar 2009	Minimal
JP 3-05, Joint Special Operations	16 July 2014	Minimal
JP 3-05.1, Unconventional Warfare	15 Nov 2015	Minimal
JP 3-22, Foreign Internal Defense	12 July 2010	Moderate
MCWP 3-33A, Counter guerrilla Operations	29 Aug 1986	Minimal
Navy Warfare Publication (NWP) 1-14M, The Commander's Handbook on the Law of Naval Operations	Oct 1995	Moderate
TC 18-01, U.S. Army Special Forces Unconventional Warfare	30 Nov 2010	Moderate
Methodology: Manuals were measured by the amount of human rights or international humanitarian law (HR/IHL) content that they include. "Minimal" content was considered brief mention of either HR or IHL but no more than two paragraphs. "Moderate" content was defined by at least one written page or more than two paragraphs on HR/IHL. "Significant" content was defined as more than two pages dedicated to HR/IHL.		

Table 1. Content Analysis of Selected USSOF Manuals and Instructions

The conspicuous absence of instruction to USSOF units was noticed by the U.S. DOS. In late 2012, senior DOS representatives visited Tampa, Florida, to confer with USSOCOM senior officials. The representatives encouraged USSOCOM officials to develop a human rights doctrine as part of a broader effort to advance human rights as a core U.S. foreign policy goal.⁵⁰ According to representatives who attended the meetings, senior USSOCOM officials acknowledged the benefit of an IHL doctrine and agreed to work with DOS to develop an instruction that would ensure that USSOCOM and its subordinate commands included human rights and IHL training during its interaction with foreign security forces. DOS and USSOCOM agreed on the need to develop a POI that could be distributed to its theater special operations commands and service components.⁵¹ As of the publication of this report, no instruction or guidance has been developed. According to USSOCOM and DOS personnel, the initiative seems to have been suspended or cancelled.

The inattention given to human rights training and IHL training at USSOCOM is representative of the DOD as a whole. Forces deploying for operations or training to other regions of the world remain under the operational control of the specific theater special operations command but, at the same time, abide by theater-specific directions and requirements of the geographic combatant commanders—the regional military commander in charge of U.S. military efforts in that part of the world. DOD instructions require each combatant command to “institute a comprehensive program to prevent law of war violations” and to “include specific law of war scenarios in exercises to improve lawful implementation.”⁵²

However, United States Southern Command (USSOUTHCOM) is the only one of six geographic combatant commands that has a dedicated human rights office. The Foreign Clearance Guide lists pre-deployment requirements for U.S. military personnel entering each geographic area. Only USSOUTHCOM requires U.S. military personnel traveling into the command's area of responsibility to undergo mandatory training on human rights before they deploy.⁵³

USSOUTHCOM's tenant units offer significant training and education opportunities on human rights and IHL. The Western Hemisphere Institute for Security Cooperation in Fort Benning, Georgia, graduated 2,000 students in 2014. The school offers 15 courses that range from three weeks to 47 weeks in length. Each course has a mandatory human rights and IHL component that is at least eight hours in length. It also offers a four-week course on international operational law that is offered four times per year.

The William J. Perry Center for Hemispheric Defense Studies is USSOUTHCOM's regional academic center. Located in Washington, DC, it offers specialized human rights and IHL training during resident phase courses as well as during downrange events with nearly 35 Latin American and Caribbean government countries. Its two-week long residence phase course touches on important topics such as IHL, regional and international human rights organizations, the rule of law, and transitional justice.

None of the other geographic combatant commanders have a human rights instruction or requirement for training for U.S. military personnel entering the region. That means there is no official DOD requirement for human rights or IHL awareness when conducting operations or training in over 150 countries in the world.

Each of the military services is also remiss in developing updated IHL doctrine for its forces that address the complexity of contemporary warfare. Until recently, the U.S. military had very few up-to-date publications or guidance on the use of force. *The Law of Land Warfare* manual, the primary reference guide on the use of force by the U.S. Army, is dated from 1976. The Air Force's manual on armed conflict—*The Conduct of Armed Conflict and Air Operations*—is from 1980. The U.S. Navy has a more recent law guide. Its *Commander's Handbook on the Law of Naval Operations* is from 2007.⁵⁴ In light of the absence of legal manuals from the military services, the judge advocate general (JAG) schoolhouse in Charlottesville, Virginia, produced two helpful reference guides for military operators that described modern warfighting rules. The International and Operational Law Department of the JAG produced the *Law of War Deskbook* in 2011, and the *Operational Law Handbook* in 2014. Both are available online.⁵⁵

Recent DOD initiatives seem to acknowledge the conspicuous absence of formal guidance on this important issue. In June 2015, the DOD Office of Legal Counsel published its Law of War Manual, a 1,200-page account of modern war-fighting rules that reportedly took a decade to develop. The new manual was welcomed by many who had sought clarification on contemporary conflicts. It covers important legal issues such as the rights of combatants, treatment of detainees, how to protect civilians during conflict, and non-international armed conflict. Perhaps most importantly, it dedicates a chapter to each of the spheres of warfare: land warfare, naval warfare, air and space warfare, and cyber warfare. This provides important policy guidance to make up for the absence of guidance from the military services.

5. Joint Combined Exchange Training

USSOF's main tool for interaction with friendly foreign forces is the JCET. Small units of teams deploy for a few weeks or months to train forces of a partner nation. The main objective of these JCETs is to improve USSOF training techniques, not to provide training to foreign forces. Hence, in the strict definition of the term, JCETs are not a form of security assistance. Of course, the foreign forces also benefit from the training, but improving the proficiency of USSOF to hone mission-critical skills (e.g., unconventional warfare or FID) is the primary goal. This includes enhancing their cultural and language proficiency, learning how to operate in diverse geographic conditions, and assessing the abilities of foreign forces.⁵⁶

JCETs are normally conducted by a U.S. Army Special Forces Operational Detachment-Alpha (ODA), a Navy Special Warfare element, or by an Air Force Special Operations Command unit. Team composition may vary depending on the scope, purpose, and length of the JCET. For example, an ODA is normally composed of a 12-man team led by a junior officer or senior enlisted and supported by a group of noncommissioned officers (NCOs). Each member of the team has a specific function, ranging from operations and intelligence, to weapons, engineering, medical duties, and communications.⁵⁷

JCETs also provide USSOF with an orientation that proves valuable during future operations in or with a foreign country. USSOF learn about the foreign government and its operations and do an assessment of the foreign forces, not as an adversary, but as an ally that may need to improve any number of tactical and operational skills. For example, USSOF may assess the surrogates' level of tactical proficiency, operational knowledge, and military professionalism, details that may help assess the operating environment during future operations, such as the evacuation of American citizens.

According to DOD directives, USSOF are required to conduct all operations in accordance with the law of war. U.S. law and DOD policy require U.S. forces to "comply with the law of war during all armed conflicts, however such conflicts are characterized, and in all other military operations." This includes operations that do not rise to the level of an armed conflict.⁵⁸

USSOF are also required to report violations of human rights that they witness. The Department of Defense Law of War Program directive states,

All reportable incidents committed by or against U.S. personnel, enemy persons, or any other individual are reported promptly, investigated thoroughly, and, where appropriate, remedied by corrective action. The on-scene commanders shall ensure that measures are taken to preserve evidence of reportable incidents pending transfer to U.S., allied, or other appropriate authorities.

If serious violations occur, USSOF are compelled to report the event and withdraw from the training. U.S. military personnel who do not report violations of surrogate forces that they witness may be held legally liable for failing to comply with their duties.⁵⁹

It is unusual for USSOF to conduct surrogate training in areas where they may encounter enemy forces. Rather, most JCETs are conducted on military bases or facilities far from the front lines of a conflict. For example, Iraqi SOF were trained in Jordan until facilities could be constructed in Iraq. However, a number of USSOF personnel interviewed reported having conducted training near the combat front lines where host nation forces were deployed. In a number of instances, USSOF and their surrogates inadvertently had combat encounters with enemy forces. In these circumstances, USSOF may be drawn into battle. In other cases, even if prohibited from accompanying host-nation forces on operations, USSOF participated in these operations as a means of building rapport and credibility with their counterparts.⁶⁰ During these situations, USSOF may join in the fight as part of their self-defense efforts, and under certain circumstances may need to direct host-nation forces in order to defend themselves. According to a former USSOCOM legal advisor who has published extensively on these conditions, USSOF may actually be held liable for inappropriate uses of force if a team “exercises *ad hoc*, limited tactical control over movements by the surrogates for purposes of maneuver and deconflicting fires.”⁶¹

The second circumstance when USSOF may be liable for surrogate actions occurs if U.S. forces have direct control over the host-nation forces. Direct control of the surrogate forces is defined as when USSOF has the ability to prevent and punish the commission of the alleged offenses. Hence, USSOF who fail to intervene in the face of violations of human rights may be criminally liable if they fail to “exert proper influence over others upon whom

effective control already exists.” But again, under most normal JCET circumstances, these two pre-conditions only occur under exceptional circumstances. A more likely scenario is if USSOF willingly knew of the criminal intent of the surrogates and, despite that, continued to aid and abet the surrogates while they committed the crime. The situation would be exacerbated if USSOF knew the surrogates had a history of criminal violations and chose to continue to provide military training and equipment.⁶²

As part of their training, USSOF undergo scenario-based exercises to capture real world examples of the nuances and complexities of modern warfare. For example, the U.S. Army Special Forces’ Robin Sage exercise scenario is a useful tool to present ethical dilemmas operators may face when working with surrogate forces.⁶³ USSOF instructors role-play surrogate forces intent on committing violations of human rights and IHL. USSOF are tested by the unethical actions of the surrogates and have to decide how to respond. The training tests the personal honor and integrity of the USSOF team. U.S. personnel who have developed a deep rapport with the surrogates may be reluctant to intervene because of the camaraderie established up to that point of the training. Likewise, USSOF who may have invested months to gain the trust of surrogates in a strategically vital area may risk losing the access they have acquired. The unit leader, for example, may subtly offer to ignore human rights violations as he attempts to gain the confidence and cooperation from the surrogates. Or he may fail to intervene in the face of impending violations. If violations persist despite warnings to the surrogate forces, the team leader is required to break off contact with the surrogate forces and report the incident to his superiors.

Most JCET events do not devote formal training to human rights or IHL. In fact, these issues were rarely a part of the hundreds of training events USSOCOM hosted in Latin America and the Caribbean. For example, from 1998–2014, USSOF conducted 437 JCETs in countries in the region. Of those, human rights were a topic of training only 2 percent of the time. Instead, tactical arms and combat training received the lion’s share of the training. This included training on weapons marksmanship, demolitions, sniper techniques, light infantry tactics, close quarter battle, reconnaissance, land navigation, and breaching. It is possible that elements of human rights and the law of armed conflict were included in other types of training conducted during these JCETs. Training topics such as prisoner handling, mission planning, and troop leading procedures were also occasional topics. But in the

detailed reports of JCETs conducted in Latin America during this 17-year period, human rights and the law of armed conflict were rarely mentioned.⁶⁴

Few of the USSOF personnel interviewed for this project knew of the existence or the requirements of the USSOCOM directive or could locate a copy of the memorandum. When asked about the techniques of training surrogate forces in other countries on the use of force, few of the operators could describe or recall any significant human rights training they conducted. In the opinion of many of the operators, most foreign forces are too inexperienced in even basic weapons skills or military tactics to be considered qualified to receive more advanced topics like the use of force, subordination to civilian authorities, detainee handling rules, and the strategic benefits that come from respecting human rights.⁶⁵

Nearly all the USSOF operators remarked that one of their primary techniques was to build rapport and camaraderie with foreign soldiers. By modeling ethical behavior and good weapons tactics, they felt they could better demonstrate military professionalism. USSOF members interviewed for this project were reluctant to instruct their host nation counterparts on respect for human rights and principles of war. They considered the idea of lecturing foreign units on human rights and the use of force as patronizing, something that might jeopardize the rapport they were trying to generate. This was unusual in light of the poor level of military proficiency and tactical experience of the foreign units they were training. When asked how they would recognize human rights violations if they were committed by foreign units, many responded that they “would know it when they see it.”

Admittedly, IHL rules are advanced and complex rules of engagement. Significant operational experience is required to understand them, and military discipline is needed to follow the rules of warfare. Some USSOF operators thought they should not teach IHL because the issues were so complex that they might “get something wrong.” Unfortunately, there are currently few other options to provide training on IHL to host-nation forces; no organic capacity exists within DOD or USSOCOM to export large numbers of training events on IHL.

Providing tactical training on lethal force to foreign units that don’t have rigorous professional military standards is ethically and legally irresponsible. Saying nothing about the use of force during JCET training may be erroneously perceived by the partner nation forces to mean that ethical considerations are not important and that mission accomplishment—even at the cost

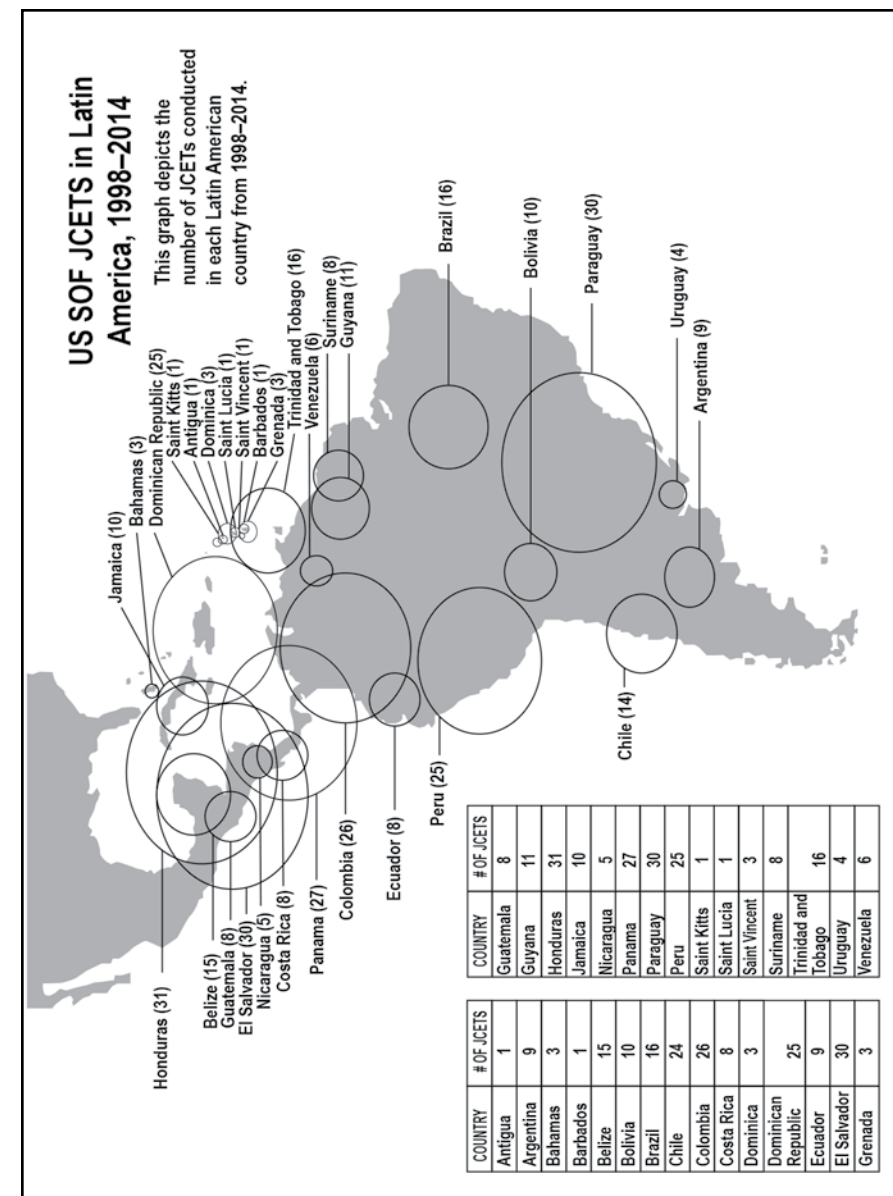


Figure 4. USSOF JCETs in Latin America, 1998–2014. Graphic developed by William J. Perry Center research assistant Kathy Kim. Statistics don’t include data from 1999 or 2001, which were not cleared for public release.

of collateral damage—is the utmost priority. USSOF should present these rules of modern warfare in the same way that they would any other tactic or technique. A point of emphasis during such training sessions should be that respect for human rights and adherence to IHL standards generates popular support. Support from the population increases the perception of legitimacy, which in turn produces intelligence on insurgent and criminal activities. In that sense, respect for human rights and IHL is as important as teaching other basic military tactics such as maneuver, patrolling, and operational planning.

U.S. law requires the Secretary of Defense to submit an annual summary of JCETs to Congress each year. The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict collects the JCET info from the regional commands and submits it to Congress on behalf of the Secretary of Defense. The report is submitted to the Armed Services and Foreign Relations Committees of the Senate and the Armed Services (National Security) and Foreign Affairs Committees of the House of Representatives. The requirement was generated by perceptions among some Congressional members of a lack of oversight by legislators and concern that the JCETs could generate major problems for U.S. foreign policy.⁶⁶

6. The Leahy Law

During the 1980s and 1990s, a number of instances of USSOF training of foreign surrogate forces brought the issue to the attention of U.S. lawmakers. In some well-documented instances, foreign militaries trained by USSOF went on to commit human rights violations. In two cases in particular, Colombia and Indonesia, the foreign forces trained by USSOF used the military skills they received to conduct brutal repression during internal civil disturbances. The issue generated significant criticism from human rights groups, and intense scrutiny from the press and NGOs.⁶⁷

As a result of the attention, Congress passed legislation that constrained USSOF's ability to work with foreign forces. Senator Patrick Leahy (D-VT) introduced legislation that prohibited U.S. forces from providing assistance to foreign military units if they commit human rights violations. The Leahy Law, as it became known, was an amendment to the 1997 Foreign Operations Appropriations Act. Congress approved the bill and extended an existing restriction on counter-narcotics programs that prohibited assistance to foreign security forces to nearly all DOD-funded training programs.⁶⁸ In 2013, the legislation was further expanded to other types of DOD assistance including equipment, support services, grants, loans, and exercises.⁶⁹

The Leahy Law prohibits training or equipping any foreign security force units that are credibly believed to have committed a gross violation of human rights.⁷⁰ The legislation is considered by many as an important element of U.S. foreign policy because it emphasizes human rights with partner nations, encourages foreign governments to bring to justice members of their security forces when they commit crimes, and prevents the U.S. from being associated with brutal security partners. Advocates of the law contend that it makes partner forces more professional and accountable because, as a result of the requirement, partner forces are encouraged to adopt better practices in human rights tactics and doctrine. Senator Leahy describes the law as punitive for security forces that abuse the rights of civilians but also declares it as an incentive “to build professional, disciplined, transparent, and accountable security forces who are sustainable and effective partners of the United States.”⁷¹

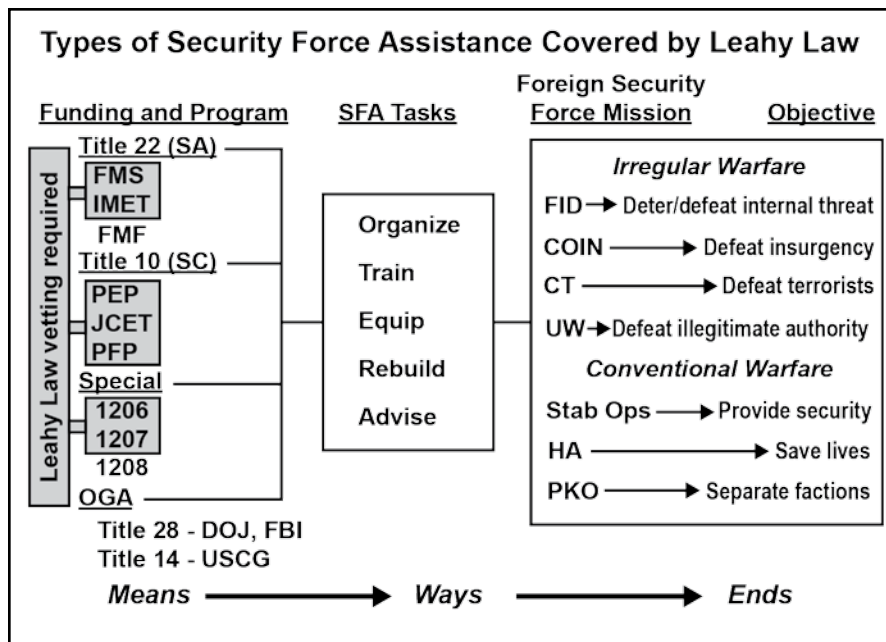


Figure 5. Types of security force assistance covered by Leahy Law restrictions⁷²

Before receiving training, the U.S. Government agency sponsoring the training requests the U.S. embassy to vet candidates for the event. As part of the vetting process, U.S. embassy personnel in the country collect information from news sources, host-nation forces, and civil society to determine if there is credible evidence of violations. The embassy must evaluate any negative reports to determine if the information is credible. Civilians are generally not vetted. However, nearly all members of the country's military and police forces, to include prison guards, armed game wardens, coast guard, border patrol, and customs officials, are subject to vetting. Once the information collection process is completed, embassy personnel determine whether to approve, reject, suspend, or seek additional information. The information is managed through a computer software program called International Vetting and Security Tracking system.

Each year, DOS vets about 160,000 training candidates. On average, only about 1 percent of all vetted individuals are denied assistance. Investigations into 9 percent of other training candidates are suspended until more information can be collected or because of other alleged criminal activities such

as corruption and money laundering. This might amount to denying military assistance to individuals or units in dozens of countries. In 2011, for example, 1,766 individuals and units from 46 countries, out of a total of nearly 200,000 cases, were denied assistance because of alleged human rights violations.⁷³ Hundreds of other units and individuals are not submitted because U.S. embassy personnel know they have committed human rights violations and will not pass vetting. Colombia and Mexico are the two countries with the most vetted candidates each year.⁷⁴

Removing individuals or units from the list of tainted foreign groups is problematic, however. In order to remediate accused individuals or units, the host nation must take "effective steps to bring responsible members of the security forces units to justice."⁷⁵ 'Effective steps' are defined as a credible investigation and that the alleged perpetrators face disciplinary action or impartial prosecution if they are found guilty. In some instances, when it is difficult to determine which members of a unit are guilty of human rights violations, the entire unit may be listed as tainted. It is not enough to simply transfer individuals out of the unit. The military must conduct an investigation and, if the perpetrators are found guilty of gross violations of human rights, level the appropriate punishment. According to DOS records, prior to 2015, no country had ever taken sufficient remediation steps to clear units once they are deemed ineligible for human rights violations. In other words, once a unit is tainted, it was difficult to redeem their reputation.

New Leahy Law instructions and policies introduced in 2015 may help alleviate the problem and permit USSOF to train units that were previously restricted from U.S. assistance. The DOD and DOS released a joint policy that specified the steps required to remediate units accused of gross violations of human rights. The senior DOD official in each U.S. embassy submits the remediation request to DOD via the combatant command and the Joint Chiefs of Staff. The request is reviewed by both DOS and DOD personnel. If the host nation has conducted a credible investigation, adjudicated, and, if appropriate, punished the perpetrator, the DOS and DOD can conduct a review of case and lift sanctions against that unit or individual. The final decision is made by the Under Secretary of State for Civilian Security, Democracy, and Human Rights.⁷⁶

In August 2015, the first remediation panel authorized a military unit to be eligible for military assistance after years of being on the banned list. During a drunken spree, a number of individuals from the military unit

ransacked a police station and assaulted a number of police officers to free one of their colleagues who had been arrested for public intoxication. Once they freed their fellow soldier, the inebriated soldiers went into a local town and raped a number of prostitutes and women in a crime rampage. As a result, the soldiers' unit was banned from receiving U.S. military assistance. Once the country tried, convicted, and sentenced the soldiers, the U.S. embassy officials requested the unit be eligible for military assistance again.⁷⁷

The Leahy Law is not without its critics. To some, there are doubts whether the law actually encourages foreign partners to improve their human rights practices. Critics of the law contend that it blocks opportunities for USSOF to train important allies through FID programs. Restrictions on U.S. assistance over human rights issues, they say, provide an opening to competitor nations to provide training and material in place of the U.S. forces. Others say foreign policy is too multifaceted and that considering just one component above all others may jeopardize other more urgent issues.

Senior USSOF officials claim that foreign forces improve their military professionalism just by association with USSOF.⁷⁸ Certainly, foreign forces witness USSOF expertise and advanced military proficiencies. But professionalism, according to scholars of Latin American militaries, is broadly defined as respect for human rights, subordination to civilian elected officials, and support for democratic institutions. In that sense, for surrogates to improve their professionalism, JCETs must include human rights training and IHL training as part of their mandated program. Under most of these JCETs, foreign forces don't get to see the U.S. demonstrate human rights, demonstrate democratic principles, or show respect for civilian officials in a real-world situation. The JCETs are often remotely located, confined to military bases, and away from real-world interactions with civilians or elected officials. Furthermore, only a small fraction of the JCET training (less than 2 percent by this author's calculations) contain any elements of human rights, IHL, or civil-military relations training.

At least one former USSOF leader is skeptical of the rule to ban entire units from U.S. assistance because of the actions of a few individuals. As then USSOCOM commander, Admiral McRaven indicated in testimony before Congress that the law was somewhat counterproductive because it inhibits USSOCOM's ability to train and equip partner-nation security forces needed to fight terrorist organizations in many parts of the world. "We absolutely want to ensure the forces we're working with understand and appreciate their

requirement to maintain appropriate human rights," he said. "Unfortunately, it has restricted us in a number of countries across the globe in our ability to train units that we think need to be trained," the admiral added.⁷⁹

Other senior military leaders contend that the ones who are committing human rights abuses are the ones in most need of training and professionalization. Vice Admiral Charles Leidig, Jr., the deputy commander of U.S. Africa Command from 2010 to 2013, called the Leahy Law a "conundrum" because "the nations whose militaries have had human rights violations perhaps are the ones that need U.S. engagement the most."⁸⁰ General James Mattis, the former commander of U.S. Central Command, said that the Leahy Law has perhaps exceeded its original intent by preventing the U.S. from training foreign units that urgently require human rights training.⁸¹

Nigeria may be one of the best modern examples of the dilemmas associated with the Leahy Law. The armed forces in the African country have been fighting a vicious war against Boko Haram. A DOS designated terrorist organization, the group is internationally condemned for massacres, suicide attacks, and the April 2014 mass abduction of nearly 300 schoolgirls. In August 2011, the group exploded a suicide vehicle in the United Nations (UN) headquarters in the capital Abuja, killing or injuring nearly 100 people. More than 17,000 Nigerians have died in the violence and 1.5 million have fled the country. Portions of the northern half of the country have been under



Figure 6. USSOF conduct training with Nigerian Army units.
Source: Author

a state of emergency since 2012. In 2014, Boko Haram severed its ties with al-Qaeda and instead swore allegiance to the Islamic State.

In the past, USSOF conducted frequent JCETs and MTTs with Nigerian security forces to help develop tactics and capacity to combat extremism. However, since 2011, when the Nigerian military went on the offensive against Boko Haram, the security forces have been accused of “extrajudicial killings and engaged in torture, rape, arbitrary detention, mistreatment of detainees, and destruction of property,” according to the U.S. DOS.⁸² In June 2015, Amnesty International released a scathing 133-page report that contended the Nigerian security forces were responsible for thousands of deaths by extrajudicial execution and from brutal conditions in detention facilities. At least 20,000 others have been arbitrarily arrested, part of the crackdown on crime and radicalism in the country. Nine of the country’s highest ranking military leaders are named in the report, some of whom should be investigated for war crimes, according to the NGO. President Muhammadu Buhari, a former Nigerian Army general who seized power for two years in the 1980s after a military *coup d’état*, fired all his top military officials a month after the Amnesty report was released.

In late July 2015, President Buhari criticized the United States for its ban on military arms sales and training because of the Leahy Law. In a speech at the U.S. Institute of Peace in Washington, DC, Buhari denied the claims of human rights violations against his armed forces and criticized the Leahy Law. “The application of the Leahy Law has aided and abetted the Boko Haram terrorists in the prosecution of its extremist ideology and hate, the indiscriminate killings and maiming of civilians, the raping of women and girls and other heinous crimes,” he said.⁸³ The speech caught U.S. officials by surprise.

7. Peru and the *Rondas Campesinas*

The next four chapters provide examples of how central governments have provided training or received assistance from surrogate forces during internal conflicts. The case studies—Peru, Colombia, El Salvador, and Iraq—demonstrate the challenges of training proxy forces in IHL. In some cases (Peru and Colombia, for example), the irregular forces were an instrumental part of the success in defeating violent terrorist groups in the country. In other cases (El Salvador and Iraq), U.S. efforts to professionalize the partner nation forces faced considerable resistance and challenges. The security assistance and FID investment by the U.S., and in particular by USSOF, resulted in minimal success at best.

The Formation of *Rondas Campesinas* in Peru

Village defense forces, called *Rondas Campesinas*, have been a feature of the rural Peruvian highlands since the 1970s. The absence of state security forces and an ambivalence about activities in rural Andean communities by the central government officials in Lima created a political void that had to be filled by indigenous elements.

The *Rondas* emerged in the North and Central Andean highlands in Peru, with the recorded examples emerging from Cuyumalca in the northwest Andean department of Cajamarca in December 1976.⁸⁴ The groups were formed as a response to livestock thieves, later organizing themselves into practicing militias fighting government oppression.

In Cajamarca, it was common for informal self-defense units normally to operate at night, guarding livestock from cattle rustlers and bandits that often operated under cover of darkness. At night, livestock (mostly cows and goats) in these rural areas graze in fields and pastures outside of villages, often shepherded overnight by members of the family that own the animals. Patrols of two to six men remained on guard patrolling the pastures outside of villages to protect livestock and property from thieves. These small groups would patrol the areas outside villages where cattle thieves operated. Anyone they encountered who did not have a legitimate explanation for why they were out at night would be detained until the next morning. Suspects were

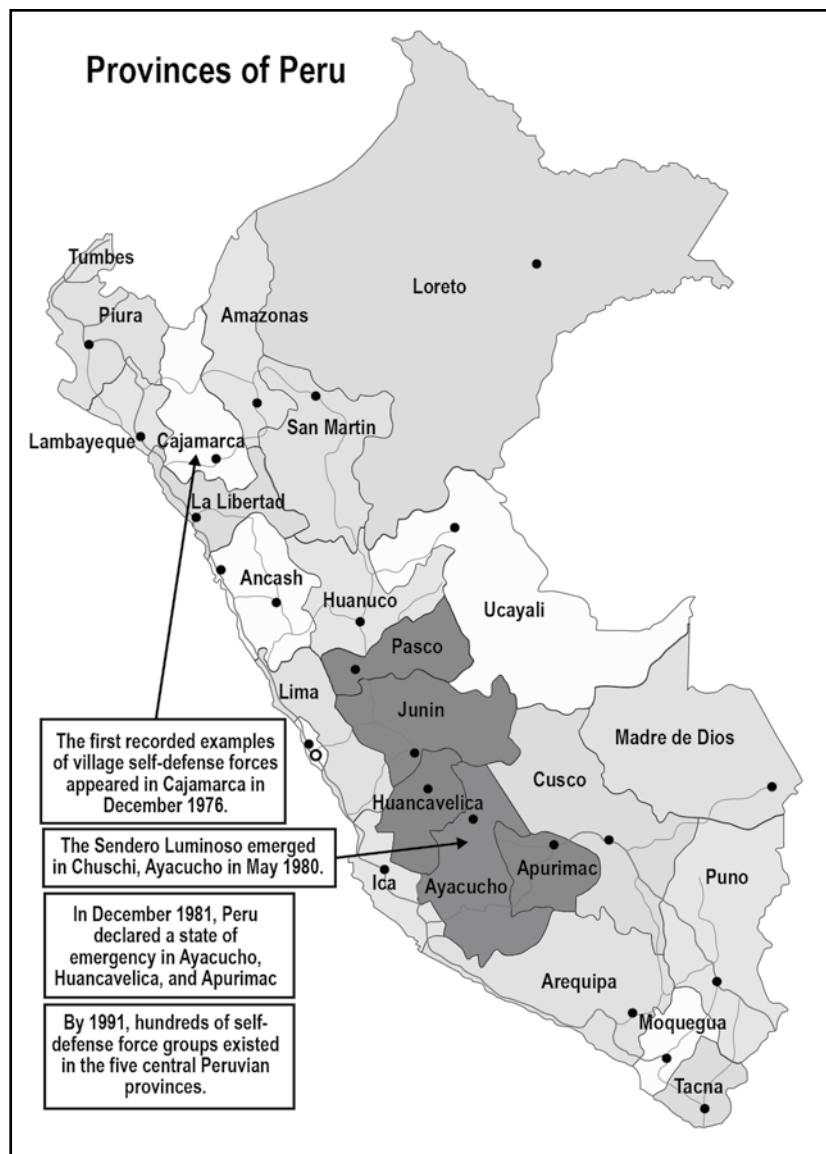


Figure 7. Provinces of Peru map shows the emergence of the village self-defense forces and *Sendero Luminoso* in the country. Source: Author

then turned over to the lieutenant governor in charge of the sub-prefect who would decide what to do with the person.⁸⁵

At first, Peruvian government officials in Cajamarca approved of the Rondas. In fact, the sub-prefect of the province of Chota authorized the use of the Rondas in Cuyamalca almost immediately after he was notified of their creation. Authorities welcomed the contribution of peasant vigilante forces to improve stability and security in these remote areas.

The collective security effort rapidly spread to other villages in the region. Village leaders coordinated efforts with neighboring communities to avoid duplicating patrol areas and to share information of where thieves had struck. The program evolved into a network of village defense forces that ensured a security presence among a constellation of rural hamlets situated within a valley or along mountain plateaus. Within a few years of their establishment in Cuyamalca, there were an estimated 400 village self-defense forces operating in three provinces in the department.⁸⁶

Rural Distrust of Peruvian Police Forces

The strong local enthusiasm for Rondas stemmed from an overall lack of security in the region, as well as a general distrust of Peruvian police forces. Peruvian police forces in these remote locations of the country were at best, ineffective, and at worst, corrupt. To many of Peru's Indian and mixed-race majority living in the Andean regions, police officials were perceived as a tool of repression of the central government, remnants of control over rebellious peasant factions from the era of Spanish colonialism of the 17th and 18th centuries.

Police units in these remote areas often suppressed village and farmer mobilization efforts by breaking up strikes and protests and evicting squatters from *latifundias* (large land estates).⁸⁷ Police used their authority to extort payoffs from locals or were in business with corrupt local officials who bribed the police for their support. Some police were even believed to operate with cattle rustlers. They accepted bribes in return for allowing the rustlers to transport their stolen merchandise past checkpoints en route to meat markets in the cities. Among peasants, these experiences generated a general contempt for state security officials and political leaders that represented the central government.

The absence of state officials, combined with distrust of corrupt police in these areas, meant that the Rondas began doling out their own justice to criminals. There are some indications that government authorities in Cajamarca Department tried to get the Rondas to hand over captured thieves. However, the remote location of many rural hamlets on high plateaus in the Andean cordilleras, many only accessible by footpaths, made it difficult to deliver perpetrators to state authorities. Instead, suspects were frequently beaten and publicly paraded to humiliate and permit the community to identify the culprit. There are also reports of summary executions of suspected thieves by members of the Rondas during this period, but the veracity of such reports is questionable.

The Sendero Luminoso Gains a Foothold in Ayacucho

A dramatic turn of events on 18 May 1980 occurred in the Peruvian countryside. The *Sendero Luminoso* (“Shining Path”), originally organized as a Marxist student movement in the late 1960s, made their debut on the national political landscape. On that day, members of the group burnt ballot boxes on the eve of the 1980 presidential elections in the Peruvian town of Chuschi, in the province of Ayacucho in south-central Peru.⁸⁸ The group’s philosophical origins stemmed from Abimael Guzmán, a philosophy professor at San Cristóbal de Huamanga National University in Ayacucho. Guzmán sought to foment a Maoist proletariat revolution against the Peruvian government and to install a communist regime that would eventually spread to other Latin American countries. The hierarchy of the guerrilla group consisted of Guzmán as supreme leader (normally referred to by his *nom de guerre* of Comrade Gonzalo), student leaders as his lieutenants, and recruited peasants and villagers as the foot soldiers.⁸⁹

The popular justice and anti-government sentiment of the Sendero Luminoso were initially welcomed by local *campesinos* (farmers). Guerrillas captured and punished social deviants, cattle rustlers, public drunkards, and spouse abusers—and the villagers approved. Guzmán’s strategy, however, required town-wide ‘cleansings’ of anyone who represented the central government, an effort that he claimed could require as many as one million lives. As a result, guerrillas began to apply revolutionary justice techniques: killing mayors, police officers, and peasant leaders. These actions often included macabre forms of torture, massacres, and assassination. Guzmán justified

these tactics as necessary to “annihilate the imperial dominion” of the government and its representatives.⁹⁰

The guerrillas also began trying to curb commerce from the villages to the larger cities. This was a tactical mistake. Many Peruvian peasants relied on markets in the larger cities to sell their goods and produce; the guerrillas were cutting off their primary source of income and livelihood. These actions quickly alienated many peasant groups from the nihilistic revolutionary movement and generated widespread resentment and resistance among peasants to the insurgents.⁹¹

By the end of 1981, Sendero Luminoso guerrillas had effectively driven state authorities from much of the Ayacucho. Police chiefs and mayors resigned their posts and fled with their families to the relative safety of the cities, adding to the vacuum of security that already plagued the region. At the same time, national authorities in Lima were slow to recognize the severity of the problem in the province, instead hoping that the uprising was an isolated event that could be solved by police work. When the police proved unable to suppress the rebellion, however, the government delayed even longer before calling upon the armed forces, primarily because the country had just returned to democracy after 12 years of military rule. State officials were reluctant to cede power to the armed forces again after struggling for so long to restore civilian representative democracy.

The Peruvian Military Steps In

Finally, at the end of 1981, the government mobilized its military. On 29 December 1981, the central government declared a state of emergency in three departments of Ayacucho, Huancavelica, and Apurímac. However, the Peruvian armed forces were ill equipped to launch a counterinsurgency campaign. Approximately 60 percent of Peru’s Army was concentrated on the Ecuadorian border, a result of the Paquisha War between the two countries. “All of our units are prepared for conventional war against our neighbors. We don’t even have manuals for counterinsurgency training,” said Peruvian Army General Juan Manuel Campos Luque.⁹²

Faced with limited units and little familiarity of fighting irregular warfare, the Peruvian military resorted to conventional tactics that failed to differentiate between insurgents and noncombatants. In doing so, the Peruvian armed forces adopted the same shortsighted strategy as that of many other

Latin American armies; peasants perceived to be active supporters of the insurgents were considered legitimate targets for government repression. Villages suspected of providing logistical support, information on military troop movements, or shelter to insurgents were ransacked, burnt down, and residents driven from their homes.⁹³ In some instances, according to the Peruvian Truth Commission, the military employed brutal tactics including torture, forced disappearances, massacres, and arbitrary arrests.⁹⁴

Some areas of the Huanta province in Ayacucho department were reportedly nearly depopulated by villagers fleeing retribution by the armed forces. This empty space subsequently provided the leftist guerrillas with a sanctuary in which to operate unfettered.⁹⁵ In hindsight, historians believe that the repressive and often brutal actions of the Peruvian military against villagers during 1983 and 1984 delayed the development of a crucial alliance: the collaboration between the armed forces and village self-defense forces that consequently would limit the freedom of maneuver by the *Sendero Luminoso* guerrillas and drive the insurgents from their sanctuaries in the Peruvian highlands.

The Military Starts Working with Self-Defense/Paramilitary Groups

Despite the new initiative by the central government, military forces by themselves were ineffective. Forces were too scarce or were garrisoned in compounds within towns in the region, reluctant to conduct patrols in the countryside that would provoke encounters with the guerrillas.⁹⁶ In the department of Ayacucho, rugged geography and remote location of villages prevented the army from providing security in the countryside. “We don’t have enough soldiers to patrol and control the entire countryside. We don’t have the capacity for it,” one Peruvian Army official reported. “For this reason we have to rely on the presence of the Rondas in areas where we cannot always be,” he said.⁹⁷

In response, in August 1983, the Peruvian military started organizing self-defense forces into *comités de defensa civil*, modeled after the Rondas Campesinas of northwest Peru.⁹⁸ However, unlike their counterparts in Cajamarca departments, the peasants in the south-central highlands did not have a history of forming village self-defense forces. The region historically relied more on agrarian revenue than livestock, the police forces were more

plentiful, and large estates owned by wealthy landowners could provide their own security.⁹⁹ In contrast to the autonomy of their northwestern counterparts, the Rondas in Ayacucho were under the control of the armed forces.¹⁰⁰ By 1989, almost 700 self-defense groups existed in five southern Peruvian departments (Apurímac, Ayacucho, Junín, Huancavelica, and Pasco). By 1991, that number had increased to 1,200. By 1997, more than 2,500 groups existed in Ayacucho and Huancavelica alone.¹⁰¹

Because the Army was so unprepared to fight in the rural south, Peruvian peasants were often on their own to combat the guerrillas. To complicate matters further, the Peruvian Army was initially reluctant to arm the Rondas for fear of providing weapons to a force that might later use them against the army. One Peruvian Army general testified:

We are promoting the creation of a parallel army. We would provoke an enormous contradiction; on one hand, the state with its own defense mechanisms, that is the security forces, and on the other hand, the self-defense forces with weapons of war, a parallel state that is not addressed in the political constitution. The consequences of accepting this request would be unpredictable. To accept it would be to recognize the incapacity of the state to provide defense through the mechanisms established in the constitution.¹⁰²

The reluctance of the Peruvian military to provide arms left the self-defense forces vulnerable. Villagers were required to battle the guerrillas with only spears, machetes, slings, and knives, leaving them extremely outgunned by the guerrillas who used Kalashnikov machine guns or FAL rifles.¹⁰³ The few firearms that did exist among the Rondas were often old, in disrepair, and not functional. For these reasons, many villages became reluctant to form self-defense groups because it would invite brutal reprisals by guerrillas. On 3 April 1983, guerrillas massacred 80 villagers in the Ayacucho town of Lucanamarca, an incident that Abimael Guzmán ironically said was necessary to defend the people’s war. In another incident in the Cochabamba province of Ayacucho, guerrillas entered a village to punish collaborators with the Peruvian military. They reportedly slit the throats of 18 villagers including a 4-year-old girl and an 82-year-old woman.¹⁰⁴

By 1985, the military had shifted tactics and adopted an ‘integral strategy’ that included civic action and sociopolitical development in order to win support of the peasants.¹⁰⁵ This was likely the turning point of the conflict,

and civilian deaths at the hands of the military declined by two-thirds after 1983–84.¹⁰⁶ It would take three to four years to win the trust of the peasantry and mobilize the Rondas. However, once the peasant mobilization began, it spread rapidly through the entire Ayacucho department.

In 1991, after 15 years of quasi-legal operations, the Rondas were formally recognized by the Peruvian government. On 8 November of that year, President Alberto Fujimori introduced Legislative Decree 741 that recognized the official existence of Rondas Campesinas. The decree stated that every Ronda group would be “authorized by the Joint Command of the Armed Forces ... and operate under the control of the respective Military Commands [in their region].”¹⁰⁷ The Peruvian Army assumed direct oversight and control of the Rondas. The Rondas were tasked not only to provide security for their own villages but also to support Peruvian military and police operations.

Fujimori would later make the Rondas a central part of his counterinsurgency campaign against the Sendero Luminoso, flying around the country to preside over ceremonies in which the Army delivered weapons to the Rondas and declaring them “Peru’s greatest patriots.”¹⁰⁸ Fujimori also ordered better equipment for the Rondas. In 1991, the Peruvian Army started distributing more than 10,000 Winchester Model 1300 shotguns. In total, according to the Peruvian Ministry of Defense, the armed forces provided 15,179 arms to the Rondas. These consisted primarily of Winchester and Mossberg shotguns and MGP-43 machine guns.¹⁰⁹

Conclusion

The arming of the Rondas and their subordination of the Rondas to the Peruvian military and the arming of the village defense forces marked a significant shift in the capacity and role of the Rondas in Peruvian culture, government, and military in Peru’s internal conflict, notably in two distinct ways. First, the Rondas proved to be a decisive paramilitary force fighting on behalf of the Peruvian government against the leftist guerrillas. The combined operations of military and paramilitary forces were a formidable force against the insurgents. The rapid expansion of the Rondas in the Ayacucho countryside, combined with Peruvian Army support and strategy, drove the Sendero Luminoso into smaller pockets of sanctuary and limited their ability to move freely through the area. By 1993, almost every village along nearly 300 miles of the central Peruvian cordillera—the heart of the Sendero

Luminoso insurgency—had self-defense forces. By the end of that year, the guerrillas were driven nearly completely out of the Ayacucho department.¹¹⁰ Peruvian historian and anthropologist Carlos Ivan Degregori claimed, “The Rondas are the biggest triumph of the state in 12 years of war.”¹¹¹ Second, the arming of the Rondas provided the villagers a military capacity that they had previously lacked. While armed with only knives, slings, and some rudimentary firearms, the Rondas were no match for the heavily armed insurgents. However, with rifles and shotguns, the self-defense forces were able to hold their own against the insurgents.

The Peruvian army had an ethical responsibility—especially after the large-scale arming of the peasantry—to ensure that its paramilitary colleagues were comporting themselves in an ethical manner. Admittedly, this was a foreign concept in a remote region of the Peruvian highlands that had traditionally been ruled by intimidation and repression, rather than by a rule of law. Like all the participants in the war, the Rondas Campesinas were reported to have committed human rights violations against suspected guerrillas without any due process or rule of law. In one instance, captured guerrillas were decapitated and their heads delivered to the local army commander.¹¹² Reports of the lynching of guerrillas were also widespread. The Peruvian armed forces at the time were not much better, employing their own harsh tactics against suspected guerrillas or sympathizers; they were more likely to support the Rondas’ use of intimidation and repression rather than principles of war such as humanity and proportionality.

The Rondas made a critical contribution to the internal conflict in Peru, perhaps the most important of any participant in the war. Despite that, neither the Sendero Luminoso nor the Peruvian Army recognized the importance of winning the support and legitimacy of the citizens of Ayacucho. For the guerrillas, this should have been an imperative; Maoist doctrine preached by Abimael Guzmán required a peasant mobilization to ensure victory for the revolution. Yet it was the indiscriminate slaughter of villagers by Sendero guerrillas that eventually drove the peasants into an unlikely alliance with the Peruvian Army. Likewise, the Peruvian Army’s tactics in 1983 and 1984—indiscriminate repression, forced relocation, and excessive force against suspected guerrilla sympathizers—cut off a valuable source of intelligence of the enemy’s movements and location. This prolonged the war by at least a year, perhaps longer.

Takeaways:

- When mobilized against the Sendero Luminoso in late 1981, the Peruvian military was unprepared for a counterinsurgency campaign.
- Without proper doctrine, training, or strategy for such counterinsurgency operations, the Peruvian armed forces resorted to repressive tactics that failed to distinguish between guerrillas and villagers perceived to be sympathizing with the Sendero Luminoso.
- The Sendero Luminoso failed to recognize the strategic advantage of gaining the assistance of villagers, instead using harsh tactics that polarized villagers. At the same time, the Peruvian armed forces alienated the civilian population from the central government by using a strategy of repression.
- Once established and later armed, village self-defense forces proved a valuable strategic asset for the government in the remote Peruvian highlands.
- The Peruvian military's failure to use the proper strategy (one that incorporated respect for human rights and moderate use of force) prolonged the war for one to two years.

8. Colombia and the Self-Defense Forces

Like Peru, Colombia had its own version of self-defense forces that provided local security in isolated regions of the country. Similar to their Andean counterparts, the Colombian self-defense forces played a critical role in the fight against leftist insurgents during the 1980s and 1990s. However, unlike the Peruvian Rondas Campesinas, Colombia's self-defense forces became involved in extensive criminal activity and violent actions against Colombian civilians. In fact, the Colombian self-defense forces are responsible for more atrocities and human rights violations than any other group in the long internal conflict in the country. The rogue force became so extreme that, in 2001, DOS declared the group to be a foreign terrorist organization.

Introduction

Colombia suffers from the longest active insurgency in the world, a half-century long conflict that claimed the lives of hundreds of thousands of citizens. A shifting mosaic of armed groups, including left-wing guerrillas, right-wing paramilitaries, drug traffickers, and criminal gangs, have consumed generations of Colombians, often in brutal, retaliatory attacks designed to terrorize and intimidate peasants to keep them from supporting the opposition. An estimated 81.5 percent of the 220,000 victims in the ongoing conflict are noncombatants caught in the crossfire between warring factions.¹¹³

Colombian national territory encompasses a massive region—the fifth largest of any Latin American country. Much of the country lies in remote jungle expanses or high in the Andean *cordillera*, areas that for most of the country's 200-year history saw little presence of central government officials and experienced little economic development. Colombia's rugged terrain and poor infrastructure in the interior of the country made it difficult to establish state control over large swaths of the nation's territory.

Without the army to defend them, wealthy landowners, cattle ranchers, and agro-industrialists in the Colombian countryside were vulnerable to leftist insurgent groups that sprang up in the 1960s, intent on overthrowing what they perceived to be a corrupt central government.¹¹⁴ To fund their operations, the insurgents frequently kidnapped members of the landed elites, extorting hefty ransoms to return family members.

As a result, wealthy landowners began defending themselves from guerrilla groups, hiring private militias to guard their estates. Landowners, cattle ranchers, and regional politicians insisted that, if the state was incapable of protecting their lives and property, they had a right to defend themselves against guerrillas and criminals. This was how Colombian self-defense forces got their start.

Origins of the Colombian Self-Defense Forces

Colombia's first self-defense forces¹¹⁵ emerged in the 1960s and 1970s as civil militias, tasked to provide security in remote parts of the country where there was a lack of state presence. The establishment of an organized self-defense force was welcomed by many political leaders in Bogota who had grown worried about the advances of the leftist guerrillas.¹¹⁶ In December 1965, the Colombian government established the legal basis for self-defense forces by authorizing the Ministry of Defense to arm civilians.¹¹⁷

Initially, the self-defense forces had difficulty competing against the better-trained and better-equipped Marxist insurgents who were especially adept at fighting in the mountains. As a result, the self-defense forces turned to killing insurgent supporters in the towns, targeting villagers or farmer they believed were providing intelligence or supplies to the insurgents, or

Table 2. Timeline of Important Events for Colombian Self-Defense Forces¹¹⁸

December 1965	Self-defense forces established by Colombian government.
25 May 1989	Self-defense forces outlawed by state.
1994	Self Defense Forces of Cordoba and Uraba established by Carlos Castaño.
1994	CONVIVIRs established by Colombian government.
1997	AUC established.
1999	CONVIVIRs abolished by Colombian government.
10 September 2001	AUC declared a foreign terrorist organization by the U.S.
2003	AUC declared a drug trafficking organization by U.S.
5 July 2003	Sante Fe de Ralito agreement #1 (formal talks between AUC and Colombian government).
13 May 2004	Sante Fe de Ralito agreement #2 (established a AUC concentration zone in Cordoba to facilitate demobilization).
2007	Paramilitary demobilization ends.

civilians who provided the guerrillas with medicine, food, alcohol, and prostitutes. The paramilitary groups used the most brutal of tactics, dismembering victims with machetes and chainsaws, decapitating, torturing, and burning suspected insurgents or their supporters. It was a counterinsurgency strategy focused on 'draining the swamp' by terrorizing members of the population who provided assistance to the guerrillas and, subsequently, isolating the rebels from their popular support base.

The self-defense groups frequently drew their forces from former military or police officials who had quit or been kicked out of the Colombian security forces.¹¹⁹ In 2001, for example, one of the paramilitary leaders contended that 35 retired military officers and 1,000 former soldiers had joined the ranks of the paramilitaries. These individuals had been trained in the use of arms and combat maneuver. They brought a combat expertise sorely needed by the local militias.¹²⁰

By the end of the 1980s, self-defense force violence began to escalate dramatically. The groups grew so autonomous and brazen that they frequently attacked government representatives who attempted to curtail their actions by arresting self-defense forces leaders or who sought to establish anti-narcotic policies contrary to paramilitary interests. They had in effect become hired guns and mercenaries willing to serve any patron who would pay them.

One event in particular seemed to trigger a public revulsion of paramilitary actions. In the community of La Rochela, Colombia, in Caldas Department in January 1989, a paramilitary unit murdered 12 judicial representatives from Bogota who were conducting an investigation into an attack on the village. According to a U.S. embassy cable after the event, paramilitary groups "suddenly became more than a human rights problem. They became another enemy of the state, along with the narcos and the guerrillas."¹²¹

The Colombian self-defense forces were personified by one man: Carlos Castaño. Born to a large but poor *campesino* family in the northern province of Antioquia, Castaño was 16 years old when his father was kidnapped by members of the FARC, a leftist insurgent group, who reportedly demanded a 50-million peso ransom for his return (about \$20,000 U.S. dollars by 2015 standards). The poor farming family had no way of raising such an amount and the insurgents subsequently beat his father to death. Castaño vowed revenge. He and two of his brothers, Fidel and Vicente, went on the offensive, helping local Colombian Army units identify and confront guerrillas in the area.¹²²

In 1994, Castaño organized the Self Defense Forces of Cordoba and Uraba to combat guerrillas in and around his home department of Antioquia. By 1996, Castaño's forces had driven the FARC out of a number of the northern departments. In April 1997, an inspired Carlos Castaño expanded his operations and organized the United Self-Defense Forces of Colombia (AUC), an umbrella organization that eventually spread to 20 of the country's 32 provinces. This federation of vigilante groups permitted the self-defense forces to evolve from local defensive militias guarding their own towns from FARC intrusion, to a nationwide irregular army capable of launching offensive operations against FARC-friendly population centers.

Castaño was a vocal proponent of the self-defense forces, granting frequent news interviews, campaigning to have the self-defense forces legitimized by the state, and lobbying for a seat at the peace negotiations with the insurgents. Castaño called the AUC a legitimate 'pro-state' group that defended the interests of civilians and, in particular, respectable business people from insurgent attacks and extortion. He claimed that their actions were justified; if the state could not protect its citizens, they had the right to take up arms for self-defense. According to the paramilitary leader, the government could not declare them illegal because the government had failed to provide Colombian ranchers, farmers, and landowners with their own inalienable right to life and security.

The Colombian Government Bans Self-Defense and Paramilitary Forces

Colombian state officials, who at one time had welcomed the rural militias, grew concerned that the surrogates had grown into a serious criminal enterprise that was causing more harm than good. On 25 May 1989, the Colombian Supreme Court outlawed the self-defense forces and forbid any continued collaboration with them by government security forces or other officials. The following month, the government also declared it illegal to organize or establish additional self-defense groups.¹²³

The Executive Branch followed in step with the Supreme Court. During his inaugural speech in 1990, President Cesar Gaviria vowed to "vigorously oppose the paramilitary groups channeling all the efforts of the Colombian state into dismantling these groups which, through drug-trafficking and extreme right-wing sectors, have become powerful criminal organizations

responsible for massacres, assassinations of political leaders and all kinds of atrocities."¹²⁴

Despite the official government policy, many analysts of the Colombian conflict contend that Colombian government authorities tolerated and tacitly facilitated the paramilitaries, even after they were declared illegal in 1989. The Colombian military remained unable to patrol all parts of the immense national territory, despite significantly increasing its size from 1998 to 2003 and tripling its defense budget. Paramilitary forces remained an able and welcome proxy to provide security in remote areas where government security forces could not reach. As one historian assessed, "None of the institutions belonging to the state's [security forces] engaged in any effort to contain the spread, prevent the emergence, or discontinue the functioning of those groups (paramilitaries)."¹²⁵

The Self-Defense Forces Devolve into a Criminal Enterprise

By the 1990s, the paramilitary armies had become as violent as the Marxist insurgents they had initially been formed to combat. Castaño justified the terror tactics of his forces against civilians by claiming that his victims were guerrillas who shed their uniforms and hid among the villagers.¹²⁶ His forces, he claimed, were only an extension of the state's military forces, fighting a common enemy that threatened the country and its citizens.

In March 2000, Castaño admitted that his organizations were widely involved in drug trafficking and extortion of farmers as a means of funding their operations. "We are extortionists because we have to be," he proclaimed.¹²⁷ The paramilitaries even colluded with Pablo Escobar, the notorious leader of the Medellin cartel.¹²⁸ In a 2001 interview with the *Washington Post*, the AUC leader estimated the self-defense groups earned \$2 million per year from trafficking illicit drugs.¹²⁹

Colombian State Forces Struggle against the Insurgents

Despite the prohibition on self-defense forces, Colombia's state security forces lacked the training, manpower, and airlift to counter the leftist insurgents that were creating so much trouble in the countryside. Myles Frechette, the U.S. ambassador to Colombia from 1994 to 1997, said, "The Colombian military is basically a barracks military, not one that is organized to go after

Responsibility for Crimes (by percentage of total number of victims) ¹³⁰					
Crime	Total # of victims	Insurgents	Paramilitaries	Security Forces	Unknown assailants
Kidnapping	27,023	90.6%	9.5%	N/A	N/A
Massacres	11,751	17.3%	58.6%	8.0%	14.9%
Homicides	23,161	6.9%	38.4%	10.1%	27.7%

Table 3. Crimes in Colombia and responsible parties. The FARC and other leftist guerrilla groups were responsible for more kidnappings, but the self-defense forces were responsible for the vast majority of the massacres in the country. Massacres are defined as the death of four or more individuals in a single violent event. Information and graph assembled by Kathy Kim, Research Assistant, William J. Perry Center. Source: *Centro Nacional de Memoria Histórica*

guerrillas. They have some brave and capable people, but they are strictly a reaction force, and not a very mobile one at that.”¹³¹

In the late 1990s, the FARC achieved a number of high-profile tactical military victories that demonstrated their ability to launch offensive attacks against Colombian military bases or police garrisons. On 30 August 1996, FARC forces overran the military base of *Las Delicias* in Putumayo, killing 54 soldiers and taking 60 others hostage. In March 1998, 700 FARC fighters ambushed an elite Colombian army battalion near *El Billar* in Caquetá, killing 62 and seizing 43 prisoners. Only one-third of the Colombian soldiers escaped. In November 1998, FARC units captured the city of Mitú in Vaupés and held it until government forces could mobilize for a counterattack.

The situation became so dire that policymakers in Washington warned that the Colombian government was at risk of collapse. U.S. policymakers grew increasingly alarmed about not only paramilitary violence in Colombia, but also about the security and stability of one of the United States’ closest allies in the region. In the late 1990s, the U.S. ambassador cabled Washington that the Colombian Armed Forces were unable to stem the downward spiral of violence gripping the country. Shortly afterwards, a U.S. Defense Intelligence Agency report speculated that the central government could collapse within five years if the guerrilla’s rate of operations continued without effective opposition.¹³²

Colombian Officials Endorse Self-Defense Groups

For these reasons, and in direct opposition to the national ban on self-defense forces, certain Colombian politicians became determined to augment local security forces operating in guerrilla zones. In September 1994, President Ernesto Samper authorized the establishment of village self-defense forces. Just four years earlier, the previous government had declared all self-defense forces illegal and imposed criminal punishment on those who sought to organize them. Despite this, Samper approved the development of Community Associations of Rural Vigilance (*Asociaciones Comunitarias de Vigilancia Rural* or CONVIVIR). These groups were to be limited to a defense role that would provide Colombian Army units with information in local communities. Within a year, more than 500 CONVIVIR units were founded throughout the country with an estimated 10,000 armed members. The decision drew significant international criticism from the UN and other human rights groups that condemned the new groups as a return to previous paramilitary problems in Colombia. Despite that, the CONVIVIR units continued to operate until they were finally abolished in 1999.¹³³

Carlos Castaño took this as a validation of the importance of his self-defense forces that served as a de facto extension of the legitimate government security forces. According to Castaño, “The AUC has played an important role in keeping this nation from a failed government ... The AUC has prevented this country from falling into guerrilla hands.”¹³⁴ In particular, he was appreciative of the support provided by the Samper administration. In his 2001 autobiography, Castaño wrote, “Among the self-defense forces, the government of Ernesto Samper will always be remembered well ... Samper was sending us messages that he would never prosecute us, he sent us a message that we would not be pursued. He stated that there would be no prosecution against us and he complied, we never felt any.”¹³⁵

Samper’s successor in 1998, President Andres Pastrana, attempted to get control of the paramilitaries in the country. In February 2000, he announced the creation of the Coordination Center for the Fight against Self-Defense Groups, a government organization tasked to organize government efforts against paramilitaries. He also cracked down on alleged support of paramilitaries within the Colombian military. For example, in July 2000, the Office of the Procurator General indicted four senior Colombian Army officers for failing to prevent the killing of 18 villagers at Puerto Alvira, Meta, in May

1998.¹³⁶ In October 2000, the Minister of Defense dismissed 388 officers and noncommissioned officers for human rights abuses, corruption, and other reasons, in an effort to improve the military's performance.¹³⁷

Deciphering the Ties Between the Paramilitaries and the Colombian Armed Forces

The relationship between the self-defense groups and the Colombian military is complex. Even after the self-defense forces had been declared illegal in 1989, breaking the bonds between the Colombian military and the militias proved difficult. The paramilitaries had become too valuable and too efficient at eliminating guerrillas in the Colombian countryside, albeit at a terrible cost to Colombian civilians.

According to a U.S. military assessment, the Colombian military lacked a long-term strategy and effective leadership; suffered from poor morale; had inadequate equipment, logistics, and training; and was operationally hindered by a lack of airlift or fast reaction forces. In addition, a number of senior paramilitary leaders previously served as NCOs or junior officers in the Colombian military. Based on numerous press reports, Colombian military officials only rarely participated in direct hostilities against civilians. Instead, they provided tacit support (transportation, logistical support, intelligence) to paramilitaries.¹³⁸

One of the most profound examples of paramilitary and Colombian military collusion was the 15 July 1997 massacre at Mapiripan. The town was located deep inside FARC-controlled territory in the department of Guaviare. The AUC flew 200 paramilitaries on transport planes into the area. The vigilantes then rounded up and murdered as many as 26 suspected FARC sympathizers in the town. The Colombian Army controlled the airfield where the self-defense forces arrived and reportedly refused to respond to distress calls from the townspeople. Brigadier General Jaime Uscategui, commander of a Colombian Army Brigade responsible for security in the area, was later found guilty and sentenced to 40 years in jail by a military court-martial for failing to prevent the massacre.¹³⁹

All along, the actions of the paramilitaries in Colombia had raised serious concerns in Washington, DC. During most of the 1990s, the State Department Annual Reports on Human Rights noted the close collaboration between the Colombian Army and the paramilitaries and noted that

Vignette: Indigenous Tensions in Colombia

On 17 July 2012, in Toribio, Colombia, a small community in the southwest of the country, indigenous protesters from the Nasa Tribe who sought to 'demilitarize' the area from both government security forces and leftist insurgents confronted a Colombian Army unit assigned to guard a hillside communications station. Armed with only clubs, the protesters surrounded the station and demanded the Colombian soldiers leave the area. The Army soldier in charge of the installation, a non-commissioned officer, facing a decision to fire on the protesters in order to protect the installation, ordered his men not to use force to repel the protesters. Photographers captured the moment as the protesters physically carried the struggling soldiers from the installation. The event made front-page headlines in Colombia and throughout Latin America. Public support for the Colombian soldiers was widespread once the photos went public. The NCO was decorated by Colombian Army officials for showing restraint and avoiding a potential massacre.¹⁴⁰

the AUC changed from an organization that just took advantage of narcotics "taxes" and transportation, to one "involved in all of the drug trafficking chain." The reports prompted some U.S. policymakers to pass legislation proposing a cutoff of military aid to Colombia if the problems continued.¹⁴¹

In 2001, the U.S. DOS labeled the AUC a foreign terrorist organization. In September 2002, the U.S. Government requested the extradition of Carlos Castaño and Salvatore Mancuso, the co-founder of the AUC and second-in-charge under Castaño, on charges of sending more than 17 tons of drugs to the United States.¹⁴² In mid-2003, the AUC was declared a major drug-trafficking organization by the U.S. Government.

Conclusion

Insurgents or paramilitary groups—not the Colombian military—committed the majority of the human rights violations during the 50-year Colombian conflict. According to the *Grupo de Memoria Historica*, there were 2,505 massacres in Colombia between 1973 and 2008. Of those, the paramilitaries committed 58.9 percent of them.¹⁴³

Paramilitaries did not abide by international norms of conflict and were not beholden to laws or control of the state. Quite the opposite, they employed acts of terror to intimidate opponents with indiscriminate violence. According to one NGO report, the AUC:

repeatedly and unequivocally flouts international standards by committing massacres, killing civilians and combatants *hors de combat*, and engaging in torture, the mutilation of corpses, death threats, forced displacement, hostage-taking, arbitrary detention, and looting, among other violations.¹⁴⁴

The AUC paramilitaries under Carlos Castaño contended that they attempted to follow laws of war but that the normal laws of armed conflict didn't fully apply to the situation in Colombia, instead insisting that they adhered to a 'creole' version of IHL, unique to Colombia's irregular warfare. In particular, according to Castaño, this doctrine permitted the execution of combatants *hors de combat*.¹⁴⁵

The Colombian self-defense forces were supported, and in some cases armed by the Colombian government. Senior government officials, including the Minister of Defense and the Minister of Justice, publicly supported the groups. The Colombian chief national prosecutor reported in 1986 that the armed forces used the paramilitaries as an "armed front, as hired killers who could do unofficially what was not permitted officially."¹⁴⁶ Fidel Castaño, Carlos' brother and cofounder of the AUC, admitted that he had wide support from Colombian government officials who welcomed the contributions his forces made. Castaño stated, "We were tolerated by the Attorney General, the police, the army, the DAS (*Departamento Administrativo de Seguridad*) and even President Cesar Gaviria Trujillo, who never ordered that we be pursued."¹⁴⁷ Salvatore Mancuso, the second-in-charge of the AUC, declared, "Without the action or inaction of the State, we wouldn't have been able to grow the way we did."¹⁴⁸

In 2006, Colombia was rocked by the 'para politics' scandal. A number of senior lawmakers were accused by the attorney general's office of colluding with the paramilitaries. Jorge Noguera, the former head of DAS, the Colombian domestic intelligence agency, was charged with providing the paramilitaries classified information so they could avoid arrest. On 15 February 2007, six more Congressmen were arrested. By 2012, as many as 50 members of Congress had been detained for links to paramilitaries.¹⁴⁹

Human rights NGOs contend the Colombian self-defense forces were a policy of the state, and therefore the Colombian government is indirectly responsible for the atrocities committed by the groups. According to the NGOs, the Colombian government bears some responsibility, either by

collusion with vigilantes or by failing to provide adequate security for its constituents. In November 2014, a Colombian court agreed, ruling that "the military and the army were institutionally responsible" for paramilitary operations in which hundreds of civilians were killed.¹⁵⁰

Colombian military collusion with self-defense forces was a major point of friction between the United States and its South American ally. The U.S. DOS, under pressure from numerous human rights groups, threatened to cut aid to Colombia, one of the biggest recipients of U.S. military assistance in the world, unless Colombia cleaned up its human rights problems. Amnesty International, for example, has called for a complete cut off of U.S. aid to Colombia for more than a decade because of these problems.

Takeaways:

- Colombian self-defense forces appeared in the 1960s and 1970s because of the lack of government presence in remote parts of the country.
- Self-defense forces—or paramilitaries—used brutal terror tactics against civilians perceived to be supporting leftist insurgents.
- The Colombian military initially welcomed the paramilitaries as an informal proxy surrogate force that could provide security in remote parts of the country.
- The paramilitaries later became so violent that they committed more massacres than any actor in the conflict. They were declared a terrorist organization by the U.S. DOS in 2001.
- Breaking ties between the Colombian government and the paramilitaries was very difficult. Post-conflict resolution efforts may have to address state responsibility for paramilitary actions.

9. The U.S. Indirect Approach in El Salvador

In contrast to the Peru and Colombia case studies, in which the security forces of the country collaborated with internal self-defense groups, the El Salvador case study examines support provided by an external partner, the United States. This example resembles the scenario USSOF are more likely to encounter in contemporary times, when they assist the security forces of an important ally to combat an internal threat. The USSOF team in El Salvador faced a multitude of political constraints. Foremost among those obstacles was the fear among U.S. lawmakers of being drawn into another military advisory mission like Vietnam with an obstinate ally reluctant to adopt a population-centric counterinsurgency strategy in place of a repressive *mano dura* campaign that involved extensive human rights abuses. In spite of that, USSOF deployed to El Salvador in the 1980s faced a critical mission: to prevent the collapse of an important ally and avoid the establishment of another communist stronghold in the hemisphere like that of Cuba and Nicaragua.

Economic and Political Inequality Generate Unrest

El Salvador, like most countries in Central America in the 1980s, was a poor country in which a small group of agrarian and landed elites (called the “Fourteen Families”) controlled the majority of the wealth. The military supported the elite landowners by suppressing popular protests, crushing labor strikes, and eliminating subversives.¹⁵¹ In return, the ruling elite provided the military with patronage and institutional prerogatives. For much of the country’s history, the Salvadoran military was directly involved in domestic politics. Military officers, mostly army generals and colonels, served as presidents for 74 of the 100 years before the Salvadoran civil war began in 1980.

In the 1970s, social unrest and protest increased as a result of an economic recession in the country. The government tried, but failed, to address the public discontent with socioeconomic reforms. On 20 February 1977, General Humberto Romero won the presidential election in what was widely perceived as a fraudulent election process. A protest eight days after the election was brutally suppressed by government security forces that opened

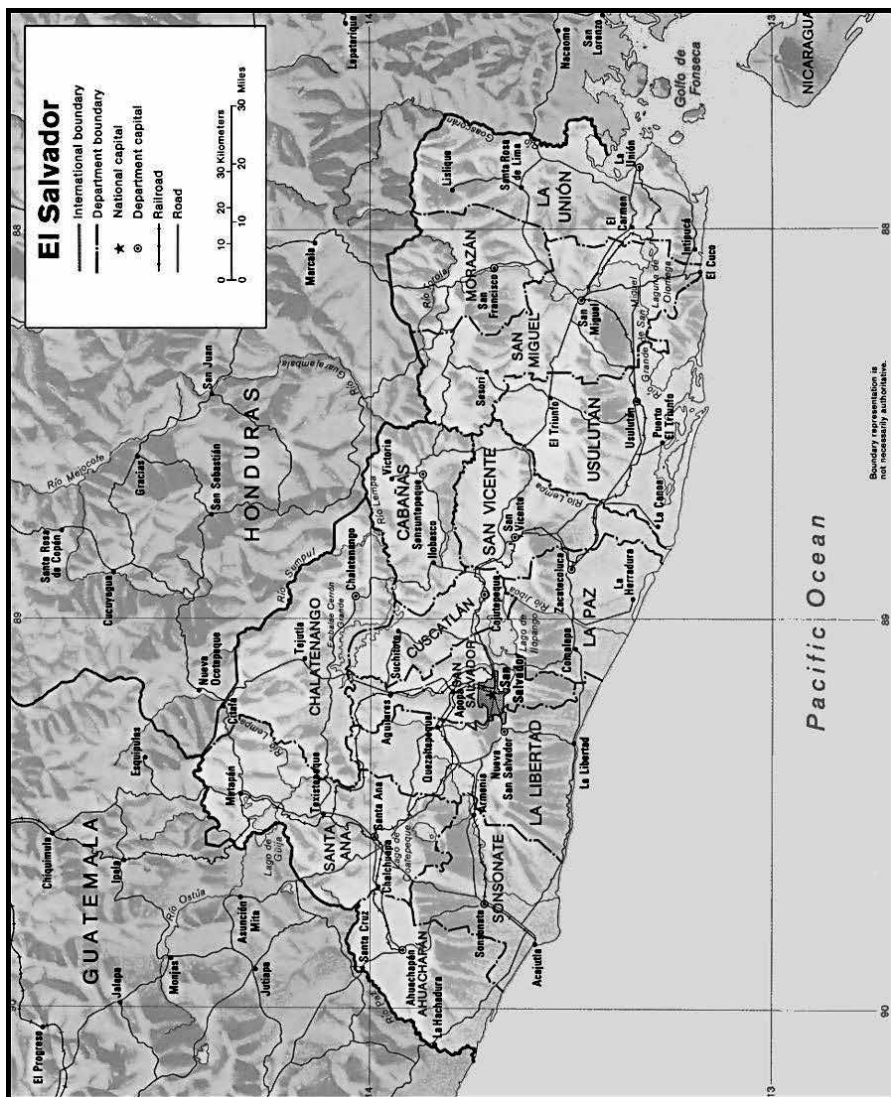


Figure 8. El Salvador consists of 14 departments. The capital, San Salvador, is located in the San Salvador department. Source: Perry-Castañeda map collection, University of Texas, Austin

fire on the crowds, killing hundreds. The rigged elections and brutal government response drove previously ambivalent Salvadorans into the ranks of the revolutionaries.

Romero was inaugurated president on 1 July 1977, but in response to growing unrest, nearly immediately ordered a state of emergency and the suspension of civil rights. Protests throughout the country continued to mount. Death squads ordered by elite landowners emerged in the countryside. The military soon joined in. Major Roberto D'Aubuisson, head of the Army intelligence branch, sent hit teams against government agitators. Nearly 700 were murdered in 1978 and that number jumped to nearly 1,800 the following year.¹⁵² By 1981, there were 10,000 political murders by the Salvadoran military and its death squads. Salvadorans refer to this period as the *locura*, or insanity.¹⁵³

The Juventud Militar and the FMLN

On 15 October 1979, Romero was overthrown in a coup by progressive army officers and moderate politicians. The military-civilian coalition that followed, called the *Juventud Militar* (Military Youth), hoped that launching land reforms and nationalizing some private industries would quell populist anger. However, the reform efforts polarized the armed forces. Far-right factions within the military saw the fight against leftist forces as a noble cause to save the country from becoming another communist enclave like neighboring Nicaragua. With the backing of the elites, a group of conservative military officers undermined the reform efforts of the *Juventud Militar*. On 3 January 1980, less than three months after seizing power, most of the civilian members of the coalition resigned in frustration.

At the same time, the revolutionary forces intent on overthrowing the corrupt central regime were growing in numbers and strength. Popular anti-government sentiment had existed for decades in the country but it grew in earnest in the 1960s. The fraudulent election of 1977 provided a spark to the populist tinder in the countryside. After a series of minor alliances emerged among the rebel groups in the country, five of the revolutionary armed factions united under one flag on 11 October 1980. They took the name Farabundo Martí National Liberation Front (in Spanish, *Frente Farabundo Martí de Liberación Nacional* or FMLN) after the revolutionary leader who led a peasant uprising in 1932. Three months later, on 10 January 1981, they

launched what they called a “final offensive” to overthrow the government. The guerrillas, attacking military targets throughout the country, hoped their action would rally citizens to their cause and provoke a massive popular rebellion. They were able to seize control of two of the 14 departments in the north of the country but, disorganized and without an effective central command, failed to topple the government. The FMLN settled in for a prolonged conflict.

The United States had become increasingly concerned about the deterioration of the situation in El Salvador. The 1959 Cuban Revolution and the 1979 Sandinista Revolution in Nicaragua raised concerns that another communist stronghold would appear in the hemisphere. When the *Juventud Militar* seized power in October of 1979, the U.S. Government offered millions of dollars of economic and military assistance to the moderate group, hoping the reforms the group offered would stave off a full-blown revolution. However, two events in 1980 almost resulted in a complete cutoff of U.S. aid.

Military Regime Abuses

On 24 March 1980, Archbishop Oscar Romero was assassinated while delivering Mass in church. Romero had become a vocal opponent of the military regime, especially after the right-wing death squad activities increased in 1977. The month before his death, he wrote to President Jimmy Carter pleading with him to cut off military assistance to the government. “Political power is in the hands of the armed forces. They know only how to repress the people and defend the interests of the Salvadoran oligarchy,” he wrote.¹⁵⁴

In December 1980, another Salvadoran military atrocity horrified the American public. On 2 December, four Catholic nuns from the United States, serving as relief workers in El Salvador, were abducted, raped, and then murdered by members of the National Guard. U.S. Ambassador Robert White was present at the shallow roadside graves the next day as their bodies were exhumed. The Carter administration quickly cut off all military aid in response to the incident.

As it often does in U.S. foreign policy, security imperatives trumped concerns over human rights violations by foreign governments. President Carter called Romero’s murder a “shocking and unconscionable act” and was mortified at the murder of the nuns.¹⁵⁵ However, just weeks after the murder of the nuns and just before leaving office, Carter authorized the

restoration of military aid to the Salvadoran armed forces. The FMLN’s ‘final offensive’ earlier that month had rattled the confidence of his administration and they rushed \$5 million in rifles, ammunition, grenades, and helicopters to bolster their Central American ally. In response to public criticism over providing aid to a force responsible for such atrocities against Americans, the DOS justified the aid by stating that the Salvadoran government was taking “positive steps” to investigate the murder of the four nuns. U.S. Ambassador Robert White disputed that claim, stating publicly that he had no evidence the government was conducting a serious investigation. He was relieved of his post by Secretary of State Alexander Haig two weeks after President Ronald Reagan took office.¹⁵⁶

By 1981, many in the Salvadoran military realized that they were on the verge of a potential defeat. According to a series of interviews conducted with senior government officials during the conflict, the military had paid close attention to what occurred to the Somoza’s National Guard after they were overthrown in neighboring Nicaragua. They realized that a change of tactics was desperately needed to avoid the same fate. To do so, the armed forces would have to break from the oligarchy in the country—as their predecessors in the *Juventud Militar* had attempted in 1979.¹⁵⁷ The military subsequently severed its ties with the far right supporters and aligned themselves with moderate political factions in a new civil-military junta. In March 1982, Dr. Álvaro Magaña, former head of the Central Bank and a political centrist, ascended to the presidency. Brigadier General Fred Woerner, the deputy commander for Central America at USSOUTHCOM in Panama, called the military’s reform efforts “the most significant reform of the decade.”¹⁵⁸

Both the Carter and Reagan administrations were determined to prevent communist expansion in Central America. However, the U.S. experience in the Vietnam War haunted the foreign policy decisions of many of the lawmakers in Washington. Sending military advisors into a third world country to support a corrupt government sounded too much like the 1950 Military Assistance and Advisory Group that had preceded U.S. involvement in the Vietnam War. Hence, in 1980, the U.S. Congress authorized assistance to El Salvador but capped the number of DOD advisors at 55.

USSOF Advisory Role in El Salvador

The first USSOF advisors arrived in El Salvador in late 1980 and early 1981. Their arrival coincided with two major events. First, the 1981 FMLN offensive that had alarmed so many U.S. lawmakers was on the wane. Despite the failure of the guerrilla offensive, the insurgency remained a formidable problem throughout the country and was growing in strength. While the January 1981 rebellion had not succeeded, the next one might—unless something changed in the country. Second, the inauguration of the President Reagan heralded a new strategy in the U.S. approach to its Central American ally. Intent on rolling back Communist advances in Central America, the Reagan administration increased economic aid by \$12.5 million to \$32.5 million.¹⁵⁹

Salvadoran senior military leaders recognized they had significant operational deficiencies that limited their ability to confront the FMLN. General Jaime Abdul Gutierrez, one of the members of the 1979 civil-military junta, listed the deep problems facing the Salvadoran military in 1981:

There were three fundamental, grave deficiencies in the armed forces: (1) a total lack of equipment, (2) lack of training, and (3) mostly it was not prepared to confront the type of problems we were facing at the time. We also lacked an adequate intelligence system, and were not prepared to deal with a revolutionary war. We did not have the ability to command a small unit ... We did not have anyone prepared to train small unit commanders.¹⁶⁰

For USSOF, respect for human rights continued to be one of the biggest challenges of working with the El Salvador Armed Forces (ESAF). USSOF personnel considered rapport-building a critical technique to building confidence and camaraderie with their ESAF counterparts. To many of the brigade commanders to which the operations, plans, and training teams (OPATTs) were assigned, human rights was an anathema. Some of the brigade commanders were notorious human rights violators and others were suspected to be involved in illicit activity. Yet the access and influence of the OPATT members was dependent in many ways on the brigade commanders. The USSOF personnel had to perform a delicate balancing act; for their suggestions to have any impact on the hundreds of ESAF personnel in the brigades, they needed to establish a professional and personal credibility with their counterparts.

Few, if any, ESAF personnel had been indoctrinated or educated on the operational benefits of respect for human rights. Most were conscripts or young soldiers who seldom questioned orders from their officers. Most had been led to believe that villagers who sympathized or aided and abetted the insurgents were legitimate military targets under the rules of engagement. Prior to 1985, the brigades had an unwritten rule to take no prisoners and few patrols into rebel strongholds brought back captives or detainees.¹⁶¹ One ESAF Brigade advisor summed up the dilemma like this:

It was very, very delicate because almost everybody had ... something in their closet ... I came to understand that my most important role was getting the ESAF to respect human rights without ever mentioning that term, because that was a real turn-off ... I approached it from a very practical sense, just talked about the practicality of observing human rights, that you would lessen the recruitment for the enemy, it makes your job easier and you can get to the end of this thing, that there's a reason they are guerrillas and part of the reason is the awful performance of the ESAF.¹⁶²

In 1981, the U.S. conducted its own assessment of the ESAF. Brigadier General Woerner chaired a group that was tasked with determining what was required to turn the Salvadoran armed forces into an effective fighting force. Brigadier General Woerner's report, called the Report of the El Salvador Military Assistance Team, revealed the depth of the problem and the extent of the challenge facing U.S. advisors. The Salvadorans had no written or verbal strategy on how to defeat the insurgency. They were effectively a defensive garrison force with little aptitude for offensive operations. One U.S. observer called the ESAF, "a militia of 11,000 that had no mission." Another claimed the Salvadoran Army passed its time, "sitting in garrisons abusing civilians."¹⁶³ They had a top-heavy hierarchy with officers making nearly all decisions and conscripts following dutifully behind. Most enlisted soldiers were forcibly recruited, some even reportedly pulled off the street and signed up for a one- or two-year tour of duty. The NCO corps, a stalwart element of the U.S. volunteer force, was nonexistent. What land, air, and sea weapons they had were in disrepair and badly in need of modernization.

To professionalize the ESAF, the Woerner Report called for increasing the size of the Salvadoran Army to 25 battalions from 15. Intelligence collection, command and control, and communications systems also needed

to be modernized. The number of Air Force and Navy units would also be increased. The new forces would have a two-pronged strategy: first, protect the infrastructure and key cities; and second, conduct small unit, day and night operations against known enemy positions. The military ethos of the Salvadoran forces would also have to change. The armed forces should subordinate itself to elected civilian officials, respect human rights, and weed out corruption from its ranks.¹⁶⁴

The USSOF arrival occurred as the ESAF were suffering a series of demoralizing and embarrassing defeats at the hands of the insurgents. On 27 January 1982, the guerrillas attacked the Ilopango air base with sapper commandos, destroying over 20 combat and other support aircraft—nearly 70 percent of the entire Salvadoran Air Force. Later that year, the FMLN engaged a number of ESAF units in the field, inflicting heavy casualties, taking scores of prisoners, and seizing tons of military arms. In 1983, the FMLN captured Berlin in the department of La Paz, just miles east of the capital. It was the largest city seized by the guerrillas to date. On 1 January 1984, the guerrillas captured the 4th Brigade headquarters in El Paraíso.

Operations, Plans, and Training Teams

As part of the advisory effort, a team of USSOF personnel deployed to each of the six Salvadoran Army brigades. Each brigade was commanded by a Salvadoran Army Colonel who had two to three battalions assigned to his brigade. These teams, conceived in 1983 and then deployed in 1984, were called the OPATTs. The team leader, a lieutenant colonel, was accompanied by a captain who served as training officer. At least initially, USSOF representatives were the minority among the team members. The members were all from the U.S. Army but only one was SOF; the other OPATT chiefs were three infantry, one military police, and a U.S. Marine Corps officer. Finding qualified USSOF was problematic; in 1990, only 17 officers were considered qualified with the proper language skills, SOF training, and rank to serve as team advisors. Many of these had or were serving as advisors.¹⁶⁵

The OPATT teams helped transform the Salvadoran military from an 11,000-man Praetorian Guard into a 56,000-man fighting force by 1984.¹⁶⁶ By 1985, the Salvadoran forces began to produce regular offensive victories. The FMLN, instead of achieving impressive battlefield successes, was forced into a defensive posture. It resorted to small-scale hit-and-run tactics instead. It



Figure 9. Brigade headquarter locations in El Salvador, 1981. Source: Author

was a remarkable turnaround of events from just three years earlier when the Salvadoran Army was on the verge of defeat.¹⁶⁷

Much of the credit goes to the USSOF advisors on the ground who helped transform the ESAF into an effective counterinsurgency force, rather than the ponderous garrison force that it had been for most of its history. Cumbersome large-scale operations were broken down into platoon-size patrols. These long-range reconnaissance patrols were supported by artillery, helicopters, and combat aircraft as they went on the offensive into guerrilla strongholds like San Vicente, Usulután, and Morazán. At the instruction of USSOF, the army also incorporated economic, social, and political efforts to support its strategic objectives of undermining popular support for the guerrillas.

Despite the fact that they were supposed to be advisors, USSOF personnel often found themselves in the midst of the action in El Salvador. Deputy Military Group Commander Lieutenant Albert Schaufelberger, a Navy SEAL, was the first U.S. military casualty. He was assassinated by leftist guerrillas while waiting in his car at the Central American University on 25 May 1983.¹⁶⁸ In 1987, an OPATT member assigned to the 4th Brigade headquarters at El Paraíso was killed when defending the base from a guerrilla attack.

Mixed Messages on Human Rights

Within the U.S. Government, perhaps the biggest controversy was whether the government should cut off assistance to El Salvador over its human rights abuses. DOS opposed aid “with all possible force.”¹⁶⁹ U.S. Ambassador Robert White (1980–1981) argued the radical right and the military in the country were the problem and that revolutionary movement was “inevitable.”¹⁷⁰ DOS officials were also reluctant to permit the DOD or USSOUTHCOM to get too involved in the day-to-day running of the war. As they saw it, the Pentagon would send “a bunch of conventional soldiers whose only solution would be to add more, make it louder, and make it bigger.”¹⁷¹

Senior U.S. officials carried the message to El Salvador that continued human rights abuses would jeopardize U.S. military assistance. In December 1983, then Vice President George Bush personally traveled to San Salvador to relay the message. Bush requested several things in return for continued and increased security assistance: the removal of military officers involved in death squads, the trial of the soldiers who killed the American nuns in December 1980, and a repudiation of death squad activity by senior military officials. In 1988, Secretary of State Cyrus Vance also traveled to San Salvador to warn the high command about U.S. assistance being vulnerable to human rights reforms. In 1989, Vice President Dan Quayle made a similar trip to encourage the ESAF to respect human rights. Despite these warnings from senior U.S. officials, death squad executions continued mostly unabated. As one historian put it, “It proved impossible to professionalize the ESAF to American expectations.”¹⁷²

In reality, despite the frequent demands from senior U.S. officials for the Salvadoran armed forces to respect human rights, eliminate its death squads, and adopt a much more selective use of force, the U.S. advisors had little idea how to actually train and educate their Salvadoran counterparts in these issues. According to one DOS official, the U.S. “preached democracy and human rights but did little to advance them in practice.”¹⁷³ Direction and communication to USSOF advisors was spotty and inconsistent. Advisors went through a two-and-a-half-day orientation course but it didn’t provide any specific information on El Salvadoran government or military. One advisor who attended the training called it, “close to completely useless.”¹⁷⁴ Another OPATT brigade advisor admitted, “I didn’t meet the MILGRP Commander during my first 100 days in El Salvador.” The in-briefs for new

arrivals at the embassy were focused on “telling me what not to do ... nothing about what to do.”¹⁷⁵ Consequently, the Salvadoran military counterparts knew that much of their assistance from the U.S. was dependent on an improvement in their human rights policies but were unsure on how to implement it. As one U.S. official summarized it:

There are a lot of Salvadorans, including those in the military and security services who asked formally, on more than one occasion and at least once in writing, for U.S. assistance in human rights matters, so as to be able to figure out what to do to improve the relationship. And as far as I know they never got any very effective answer from the Department of State. I am not sure, for example, that the original request was even answered.¹⁷⁶

In fact, because of the sensitivity of the human rights issues with the Salvadoran senior military leadership to the matter, Brigadier General Woerner was directed to not even address ‘soft power’ elements in his assessment of the Salvadoran military.¹⁷⁷

Human Rights Training

The effectiveness of U.S. training of their ESAF counterparts on human rights issues supports the perception that U.S. representatives talked a lot about human rights but provided little practical training on the topic. Few USSOF advisors had received any formal training on human rights or IHL. Most learned it from their first-hand experience in Vietnam. There was no U.S. doctrine on the matter, and it was a secondary consideration to the military tactics being taught to the Central American counterparts. A list of courses provided to ESAF personnel reveals no training on human rights, the use of force, or military ethics. Instead, training focused on tactical skills such as armored tactics, commando operations, infantry tactics, battle staff operations, and sapper techniques.¹⁷⁸

One notable exception reportedly existed. The U.S. Special Forces Group stationed in Fort Bragg, North Carolina, reportedly incorporated human rights training into their frequent deployments to El Salvador and other parts of Central America. In July 1990, the 7th Special Forces Group developed new guidelines for teaching human rights issues to foreign soldiers. For example, USSOF advisors emphasized the distinction between combatants

and civilians by teaching ambush techniques and then added a civilian to the scenario. If the soldiers killed the civilian during the ambush, they failed the exercise.¹⁷⁹

Stopping the human rights abuses of the ESAF had, at best, mixed results. Despite the intensive emphasis by U.S. officials, many ESAF officers never accepted the idea of ‘winning hearts and minds’ and instead opted to pursue a strictly military solution to the insurgency.¹⁸⁰ The ESAF’s decade-long resistance to human rights and codifying IHL in its military doctrine and strategy was epitomized by the Jesuit massacre in 1989.

Jesuit priests at the University of Central America had grown vocal of the military’s actions in the conflict. On 16 November 1989 General Ponce, the Minister of Defense, ordered the murder of the rector, Father Ignacio Ellecuria, and five other priests at their residence at the University.¹⁸¹ The military vigorously denied any involvement, claiming the insurgents had staged the attack in order to blame the armed forces. In January 1990, President Cristiani finally acknowledged the murder had been directed by the senior military leadership.¹⁸² In October of that year, the U.S. Congress cut assistance to El Salvador by 50 percent and threatened to withhold the rest unless the murderers of the Jesuits were brought to justice.¹⁸³

The event showed the limitations of the U.S. military efforts to indoctrinate the ESAF with a strategy that included respect for human rights and adherence to IHL. There are two hypotheses that explain U.S. shortcomings in this endeavor. First, the ESAF realized that they had to abide by some of the U.S. requirements in order to receive crucial military assistance. The El Salvadoran military listened but did not comply with U.S. recommendations on the issues.

The second hypothesis, one that deserves more investigation by scholars, is whether the U.S. training on human rights and IHL was qualitatively and quantitatively sufficient to indoctrinate the ESAF on the complex topics. The U.S. assistance permitted the ESAF to increase its size by 400 percent in just over four years. Significant training was conducted on counterinsurgency tactics and a whole host of other topics. But the human rights and IHL training documented by the military is conspicuously absent from the detailed reports on the topic. Would a more concerted and organized effort on human rights and IHL training have helped? It is apparent that the U.S. effort made some progress in these areas but it wasn’t enough to change the mindset of the senior ESAF officials.

Stalemate

Despite the tactical and operational improvements of the ESAF, Salvadoran military culture continued to oppose the change in tactics and strategy. The army was nudged out of the barracks to conduct patrols but, at the same time, continued to devote a large portion of its forces to guarding bases, bridges, industrial sites, and coffee plantations. The resistance was a holdover from its long alliance with wealthy land owners in the country in return for political and budgetary autonomy for the armed forces. The military institutional inertia prevented the ESAF from achieving its final objective: the defeat of the insurgency and a restoration of the status quo in the country that benefited the elites and the military. By 1985, the military was no longer on the verge of defeat, but neither was it able to vanquish the FMLN. A violent stalemate ensued.

A rigid code of military cohesion and camaraderie within the Salvadoran Army ranks made institutional reforms an uphill battle. Each graduating class from the *Escuela Militar* (the Salvadoran Military Academy) swore allegiance and loyalty to their classmates in what was called the *tanda*. The *tanda* was the fraternity of graduates of each class at the military academy. In the early 1980s, only about 25 to 40 students graduated each year from the academy. Tradition dictated that there was a deep and unspoken allegiance to the group, a philosophy inculcated in the cadets during their four years of training and education at the school. Following graduation, the members of the *tanda* supported one another through their ascent of the military ranks, effectively making them ‘untouchable’ by the civilian judicial system. One U.S. report called the *tanda* system, “the chief barrier to a competent officer corps.”¹⁸⁴

In 1988, the U.S. conducted another assessment of the conditions in the country. A group of U.S. Army colonels at the Kennedy School of Government, Harvard University, reported the limited effect of seven years of U.S. assistance and training. The report concluded that “The Salvadoran Army has been thoroughly trained in U.S. counterinsurgency tactics and can do them well—the problem is getting them to actually use these tactics.”¹⁸⁵ The report concluded with a dismal assessment: “Salvadoran attempts to adopt small unit tactics have been ineffective.”¹⁸⁶

On 11 November 1989, the FMLN launched another ‘final offensive’ against the capital. As in January 1981, the offensive failed. As a result, the

armed actors of the war recognized they were in a strategic stalemate. Neither side was able to defeat the other. The FMLN controlled one-third of the country but had been repulsed in their attacks on the capital to topple the government. The FMLN offensive demonstrated that, despite the ESAF's strategic efforts, the insurgents could still muster sufficient forces to launch a sizable, multi-pronged offensive on the capital. In February 1990, General Maxwell Thurman, Commander of USSOUTHCOM from 1989–1991, assessed the situation as a stalemate and concluded that the ESAF could not defeat the insurgency. A RAND Corporation study later that year reached a similar conclusion: "the war in El Salvador is still a bloody, draining conflict with a clear victory for either side unimaginable."¹⁸⁷

Additionally, the collapse of the Berlin Wall foreshadowed a withdrawal of external assistance from the Soviet Union and Cuba. The obstinacy of the Salvadoran military to adopt substantive human rights reforms likely frustrated its supporters in Washington, especially after the Jesuit murders in November 1989. The U.S. policy in El Salvador evolved from striving to defeat the FMLN to a negotiated settlement. Future military assistance would be dependent on reforms within the ESAF.

Peace at Last

On 16 January 1992, President Alfredo Cristiani and five representatives of the FMLN signed the Chapultepec Peace Accords in Mexico City. Among the FMLN representatives was current Salvadoran President Salvador Sánchez Cerén. A formal ceasefire began two weeks later on 1 February 1992. The armed groups were separated; the FMLN were restricted to 15 sites and the Salvadoran military was ordered to remain at 62 barracks and bases. The militants demobilized their 12,000-man force by December of that year. The military was reduced by half, from 63,000 in 1992 to just over 30,000 in 1994. The Treasury police, the National Guard, and the National Police were dissolved. In their place, a new National Civilian Police, comprised mostly of new applicants but also equal amounts of former National Police and guerrillas, was established. A National Commission for the Consolidation of Peace was developed to oversee all the political agreements agreed to in the Chapultepec Peace Accords.¹⁸⁸

A UN Truth Commission was also established to investigate the most serious human rights violations. In September 1992, the Commission

recommended the removal or transfer of 103 officers including the Minister and Vice-Minister of Defense, most of the generals, and many of the colonels.¹⁸⁹ According to scholars of the conflict, this was "the most thorough purge of any Latin American army not defeated in war." President Cristiani retired all 103 officers recommended by the Commission, including most of military's high command as well as the minister and vice-minister of defense.¹⁹⁰ The Truth Commission report, released on 15 March 1993, "named sixty-two military officers, six FMLN leaders, and several civilians for their responsibility in committing or covering up the country's most serious human rights violations." It estimated that 85 percent of the human rights violations during the war that it investigated (a total of 22,000 cases) were committed by the military, paramilitary groups, or right-wing death squads. The FMLN was responsible for five percent of the cases.¹⁹¹

Just days after the release of the report, the Salvadoran legislature approved a sweeping amnesty law that effectively exonerated any criminal acts that took place during the conflict. At the time, the legislation was controlled by the right-wing *Alianza Republicana Nacionalista*. Its founder, Robert D'Aubisson, was one of the most notorious death squad leaders in the country.¹⁹²

Conclusion

The U.S. indirect approach in El Salvador is often referred to as the model of security assistance programs. With a small USSOF footprint, the U.S. tried to improve the professionalism of the ESAF, instill respect for human rights and IHL, and help avoid the collapse of an important hemispheric ally. Over the course of the war, the United States provided the Salvadoran government with \$4.5 billion in economic and military aid, of which \$1.1 billion was military assistance.¹⁹³

It is important to recognize that U.S. assistance did not enable the government of El Salvador to win the war. This is a common misconception. Better said, U.S. assistance prevented the defeat and collapse of the Salvadoran government. A garrison force with little functioning equipment and no offensive strategy was transformed into a marginally effective counter-insurgency force that staved off defeat by the insurgents. In that sense, the U.S. indirect approach in El Salvador was successful. The U.S. advisory effort helped bring an ally back from the brink of defeat.

However, from a democratic and human rights perspective, the USSOF record in El Salvador is, at best, mixed. There is little debate that the ESAF used a campaign of terror and repression designed to cower the populace into submission. According to the UN, 75,000 Salvadorans lost their lives in 12 years of brutal violence. The majority died at the hands of government security forces and paramilitary death squads.¹⁹⁴ A 1991 Pentagon-commissioned study of the situation called the human rights record of the ESAF something, “no truly democratic and just society could tolerate.”¹⁹⁵ Under a combination of international pressure, U.S. coercion, and intense scrutiny by the press, the country was gradually forced to enact reforms to permit more political and economic inclusion, reduce corruption, eliminate extrajudicial executions and forced disappearances, and modernize an armed force. Perhaps the biggest endorsement for the OPATT efforts on human rights came from one of the guerrilla leaders. Joaquin Villalobos, a senior guerrilla leader during the entire war, admitted that the USSOF advisory efforts made the ESAF more professional and less abusive. As a result, the FMLN lost a valuable source of propaganda and recruiting justification.¹⁹⁶

The professionalism gained by the ESAF had limits, however. Even after 10 years of investment and dedicated training, the ESAF remained skeptical of the military policies and strategies of the U.S. The senior Salvadoran military leaders never fully accepted the soft power requirements of a modern counterinsurgency campaign such as civic action, protection of the populace, and developmental programs. Instead, they preferred a pure military response with kinetic power, large-scale combat operations, and a military response to guerrilla warfare. In the words of one scholar, “the ESAF never truly abandoned its faith in large-scale combat.”¹⁹⁷ Despite the decade-long persistent presence of USSOF advisors with every ESAF brigade, the strategic and operational benefits of human rights was an idea that eluded most members of the ESAF. Reforms were adopted only because of the threat of a cutoff of U.S. military aid.

Takeaways:

- El Salvador represented a vital struggle between communist and capitalist forces in the Cold War. The U.S. was committed to preventing the collapse of the Central American nation to communist forces.
- The ESAF enjoyed significant institutional autonomy and political prerogatives.

- Respect for human rights was a top priority for U.S. diplomats and decision-makers.
- The U.S. had no established doctrine on human rights and IHL. As a result, the U.S. strategy as vocalized by military advisors and civilian politicians was ad hoc and inconsistent.
- Despite U.S. efforts by SOF advisors and senior government officials, the ESAF continued to commit human rights atrocities and to sponsor death squads throughout much of the conflict. Efforts to professionalize the ESAF by USSOF were ineffective.
- The most persuasive leverage the U.S. had on the ESAF was the withholding of military and financial assistance.

10. The U.S. Experience in Iraq

Following the initial invasion of Iraq on 20 March 2003, the U.S. Army and Marine Corps needed less than three weeks to reach Baghdad. On 9 April, Marines toppled a statue of Saddam Hussein in Firdos Square, symbolically marking the end of 24 years of tyranny in the country.

Despite the rapid success of U.S. forces during the combat phases of the conflict, the U.S. was unprepared for the instability and internal strife that followed. A critical problem was that U.S. forces were not trained or indoctrinated in law enforcement and stability operations during the post-conflict phase in the country. By early April 2003, Baghdad and other major cities collapsed into a wave of looting and anarchy. Security in the country deteriorated as rival Sunnis and Shiites maneuvered for power.¹⁹⁸

Senior officials realized the U.S. exit strategy was dependent on building a capable Iraqi Army that could take over security operations after the U.S. departed. But L. Paul Bremer, head of the Coalition Provisional Authority, had dissolved the Iraqi army on 23 May 2003, one of the first decrees that he passed, just two weeks after arriving in Iraq. As the security situation in the country worsened, a renewed vigor went into reconstituting the Iraqi Army.

Rebuilding the Iraqi army from scratch proved to be a monumental task. According to the U.S. Central Command, the U.S. sought to train a force of 135,000 police officers by the end of 2005 and 137,000 army and other security forces by the end of 2006. By the end of 2004, however, only about 40 percent of those forces were established, and those that were had mixed results in combat. In October 2004, for example, Iraqi National Guard forces were able to seize control of Samarra from militants. However, most of the 1,100 members of the 107th Iraqi National Guard Battalion in Mosul abandoned their posts and fled when they were attacked by insurgents in November 2004. The commander of U.S. Central Command voiced his frustration. “They just are not there yet,” said General John Abizaid in December 2004. The Iraqi forces “have a long way to go” until they are ready to handle their own security operations.¹⁹⁹

USSOF played a big role in the professionalization of their Iraqi counterparts. The main Iraqi SOF command was the Iraqi Counterterrorism Service. It consisted of two Iraqi Special Operations brigades with approximately

1,500 soldiers in each, as well as the Special Warfare Center and School. In addition, USSOF helped the Iraqis develop the Iraqi Counterterrorism Force, the 36th Commando Battalion, and the Counterterrorism Command, as well as numerous other special weapons and tactics units of the Iraqi Army and police forces. According to a number of reports, the Iraqi Special Forces units trained by USSOF are “the most capable element of the Iraqi armed forces.” Iraq’s elite counterterrorism force, trained at the Baghdad airport, was heralded as a model of efficiency and professionalism.²⁰⁰ One senior U.S. administration official called the Iraqi SOF, “one of the most capable special forces in the Middle East.”²⁰¹

Building rapport and maintaining sustained contact with the same Iraqi SOF unit was considered critical to the training effort. Some USSOF units worked with the same Iraqi units for seven years—an important effort to establish continuity of training.²⁰² While operational effectiveness was increasing, however, the Iraqi SOF remained deficient in other critical operational areas, such as logistics, close air support, targeting intelligence, and maintenance.

IHL Deficiencies of U.S. Forces in Iraq

Despite the advances made by USSOF in Iraq, by 2005 the situation had become so dire that senior policymakers considered pulling out. In public surveys, more Iraqis blamed the U.S. forces for the violence in the country than those who blamed Sunni insurgents, Shiite militias, or al-Qaeda terrorists combined.²⁰³ According to public opinion polls of Iraqis, almost 50 percent of the population approved of attacks on U.S. forces.²⁰⁴

The U.S. forces arrived untrained and unprepared for police enforcement operations and, as a result, focused on a ‘capture or kill’ strategy against insurgents. This enemy-centric strategy was advocated by both the first U.S. Commander of Multi-National Force-Iraq, Lieutenant General Ricardo Sanchez (June 2003–June 2004), and his successor, General George Casey (June 2004–February 2007). Led to believe the U.S. forces would redeploy by the fall of 2003, Sanchez never developed any cohesive strategy in his year in command in Iraq. According to one report on the U.S. military in Iraq during Sanchez’s time in charge, “not only was there no counterinsurgency plan, there was no plan of any sort: no strategy, no mission statement, no criteria or benchmarks for how to measure, or even define, success or

failure.” Casey, on the other hand, developed an enemy-centric strategy, one that focused on killing or capturing insurgents rather than protecting the population. With regard to his strategy, Casey said, “Our broad intent is to keep pressure on the insurgents as we head into elections. This is not about winning hearts and minds; we’re not going to do that here in Iraq.”²⁰⁵

Vignette: U.S. Overreacts to Mob Violence in Fallujah

On 28 April 2003 in Fallujah, Iraq, shortly after the collapse of Saddam Hussein’s government, U.S. forces encountered an angry mob of Iraqi citizens protesting the treatment of members of the Baath Party. A mob of approximately 100 to 250 protesters chanted anti-U.S. slogans. Nearby, U.S. Army forces maintained a vigilant eye on the crowd. British reporters from The Guardian newspaper reported what happened next. One of the Iraqis, seething with anger, threw a rock at one of the U.S. soldiers atop his armored personnel carrier. The U.S. forces claimed they took fire from the crowd and opened fire. Seventeen people were reportedly killed and an untold number of others were injured in the attack. Human rights NGOs accused the U.S. of “failing to adequately train the troops for the complex law enforcement tasks of military occupation.” By late 2003, Fallujah had become ground zero of the Sunni uprising.²⁰⁶

Combat conditions in this environment required the utmost discretion. Prior to 2005, for example, few U.S. forces had training or doctrine on procedures to use at checkpoints or roadblocks. Hundreds of roadblocks were set up around Iraqi cities. Many of these inspection stations required better illumination, signal flares, warning signs in the local language, flashing lights, and barriers to force cars to slow. Few military units had methods to warn approaching vehicles to slow: no verbal warnings, nonlethal means, warning shots, spike strips on the street, or incapacitating shots at the engine or tires. Instead, in a number of instances, soldiers escalated directly to lethal force when a car approached.²⁰⁷

Surveys of conventional U.S. soldiers and Marines revealed that many did not recognize the strategic imperative of respect for human rights and laws of war.²⁰⁸ In a 2006 survey of U.S. service members who had experienced frequent combat exposure, only 38 percent of Marines said civilians should be treated with dignity and respect. One-third of soldiers and Marines said they would torture an enemy captive if it would save the life of a fellow soldier or Marine. Less than half of those surveyed said they would report a team

member for unethical behavior.²⁰⁹ The investigation into the Haditha massacre revealed that U.S. soldiers considered that protecting Iraqi civilians was not as important as protecting U.S. soldiers. The Marines, perhaps as a result of the inevitable desensitization that comes from the combat environment, considered that collateral damage was “the cost of doing business and that the Marines need to ‘get the job done’ no matter what it takes.”²¹⁰ Even after an additional year of training and indoctrination, attitudes of U.S. service members showed little change. The Military Health Advisory Team survey of 2007 reported little improvement in the ethical behavior of soldiers and Marines in Iraq.²¹¹

Vignette: USSOF Commander Apologizes for Civilian Deaths

When mistakes were made, the U.S. attempted to pay reparations to victims or their families. In one case, senior U.S. officials offered apologies for civilians allegedly killed by USSOF. Then Vice Admiral William McRaven personally apologized and asked forgiveness of an Afghan father who lost members of his family because of an error. “I am the commander of the soldiers who accidentally killed your loved ones. I came here today to send my condolences to you and your family and to your friends. I also came to ask your forgiveness for these terrible tragedies,” the admiral told the father. McRaven not only apologized but also offered two sheep in compensation for the man’s losses, a gesture consistent with local custom.²¹²

Turning the War over to the Iraqis

In December 2005, the Bush administration unveiled its National Strategy for Victory in Iraq. According to the White House, one of the principal goals in Iraq was to “transition Iraq to security self-reliance.” President Bush announced the new strategy: “Our strategy can be summed up this way: As the Iraqis stand up, we will stand down.”²¹³ The Iraq Study Group, a seasoned team of policymakers, met from March to December 2006 to study the situation. Their recommendations, published on 6 December of that year, also recommended an acceleration of the training of Iraqi forces so that U.S. forces could redeploy in the beginning of 2008. However, they admitted, the Iraqi Army was in poor condition and had significant problems with leadership, equipment, logistics, personnel, and support. There was no effective payment system for Iraqi soldiers and, subsequently, desertion was a major problem. Sectarian rifts created loyalty and discipline problems within the ranks.²¹⁴

General Casey provided an assessment of the Iraqi Army in October 2006. He said the Iraqi military could be expected to take over the security responsibilities in 12 to 18 months. His report was considered overly optimistic and was disputed by other government and independent sources. In September 2007, former NATO Supreme Allied Commander Europe and Combatant Commander U.S. European Command Marine General James Jones concluded just the opposite of General Casey. According to General Jones, Iraqi military forces “will be unable to fulfill their essential security responsibilities independently over the next 12–18 months.”²¹⁵ Jones called the Ministry of Interior “dysfunctional” and the Iraqi National Police “operationally ineffective.” He recommended that the 26,000-member national police force, riddled with corruption and sectarian influence, be completely disbanded and the training started over again from scratch.²¹⁶ Another report, a National Intelligence Estimate from the U.S. Director of National Intelligence, titled “Prospects for Iraqi Stability: A Challenging Road Ahead,” concluded that the spiraling levels of violence were likely to worsen because of communal and insurgent violence and political extremism.

Counterinsurgency Strategy and Improvement of IHL Standards

It was not until General David Petraeus took charge of Iraqi operations in early 2007 and implemented a population-centric strategy that conditions started to improve.²¹⁷ General Petraeus’ strategy emphasized protection of the population, more discretionary use of force, and heavy emphasis on human rights.

General Petraeus and other senior U.S. officials understood that this type of conflict required a new approach to use of force. Admiral Mike Mullen, the top military officer in the United States and principal military advisor to the president, said:

In this type of war, when the objective is not the enemy’s defeat but the people’s success, less really is more. Each time an errant bomb or a bomb accurately aimed but against the wrong target kills or hurts civilians, we risk setting our strategy back months, if not years. Civilian casualty incidents ... hurt us more in the long run than any tactical success we may achieve against the enemy.²¹⁸

General Petraeus' arrival coincided with the worst violence of the war—an average of 160 insurgent attacks were occurring each day and the U.S. was suffering over 80 deaths per month. Under the new strategy implemented by General Petraeus, Iraqi civilian deaths dropped dramatically from 3,500 per month in July 2006 to about 600 per month by January 2008. The number of U.S. troop casualties also plummeted, from over 600 per month in early 2007 to about 200 per month in January 2008.²¹⁹

Vignette: Excerpts from General Stanley McChrystal's Guidance to ISAF forces

We need to think and act very differently to be successful. Get rid of the conventional mindset. Focus on the people, not the militants. We will not win simply by killing insurgents. If we harm civilians, we sow the seeds of our own defeat. If civilians die in a firefight, it does not matter who shot them—we still failed to protect them from harm. Earn the support of the people and the war is won. In short, we don't have to be stupid or ineffective to fail—just misguided in our approach.²²⁰

General Petraeus realized how important it was that all U.S. forces understood the risks associated with excessive use of force. A tactical mistake by a young officer or soldier could have strategic repercussions. He referred to young soldiers operating in these conditions as “strategic lieutenants” or “strategic corporals” because an error of a squad leader, platoon commander, or company officer could generate waves of resentment. Such actions serve as a catalyst for massive protests and civilian support to militants.

Under this new strategy, the U.S. started taking numerous other precautions to avoid causing collateral damages. In his 2007 article “In the Crossfire or the Crosshairs?,” Colin Kahl lists many of the ways the U.S. sought to avoid collateral damages during the war in Iraq. For example, intelligence planners identified 12,700 ‘no strike’ targets that were protected from attacks. This included schools, hospitals, water treatment facilities, electrical facilities, and other forms of infrastructure. The list, designed to comply with IHL that prohibits attacks on such targets, was developed with the assistance of international human rights NGOs and were updated occasionally by military lawyers. The U.S. military also began using more precision-guided munitions whenever possible. Unguided munitions with a large explosive payload were too risky for use in urban population concentrations. Precision-guided munitions with smaller explosive perimeters helped reduce the potential for

collateral damage. According to one source, 97 percent of the munitions used in Iraq from 2007 to 2010 were precision-guided munitions, as compared to 68 percent in 2003.

U.S. leadership also elevated principles of warfare related to human rights to unprecedented levels. Perseverance, legitimacy, and restraint became military objectives as important as other traditional principles of war such as surprise, security, unity of command, mass, and maneuver.²²¹

Iraq Today

In February 2009, President Obama declared the U.S. would withdraw all combat troops in Iraq and turn security efforts over to the Iraqi forces. The remaining U.S. troops would have three responsibilities: (1) continuing to train, equip, and advise Iraqi security forces, (2) conducting targeted counterterrorism missions, and (3) protecting ongoing civilian and military efforts within Iraq.²²² On 31 December 2011, the remainder of U.S. combat forces withdrew and turned responsibility for internal security in the country over to the Iraqis.

Today, despite billions of dollars devoted to a massive security-assistance effort for Iraq forces, the military in the country is still greatly lacking in capacity and professionalism. The future of Iraq as a stable, violence-free democracy is still in question. In June 2014, militants seized control of Mosul, Iraq's second largest city. The same month, in a new assessment of the Iraqi military forces, American officials declared five of the Iraqi Army's 14 divisions to be “combat ineffective.” This included two divisions that were overrun in Mosul. Another expert on the situation reported that “60 out of 243 Iraqi Army combat battalions cannot be accounted for, and all of their equipment is lost.”²²³

In June 2015, Iraqi Army forces retreated in the face of an advance of ISIS forces and surrendered the city of Ramadi, capital of the Anbar province, despite vastly outnumbering the Islamic forces. An exasperated U.S. Defense Secretary Ashton Carter claimed that the Iraqi forces, “showed no will to fight.”²²⁴ Some U.S. Government officials have encouraged Baghdad to enlist the assistance of Sunni militias in the Anbar province. Prime Minister Al-Abadi has been reluctant to do that, primarily because of Sunni-Shiite sectarian rivalries in the country.²²⁵

Combat missions by conventional U.S. forces were stopped on 31 August 2010. USSOF continued partnering with their Iraqi counterparts on counterterrorism missions until 18 December 2011 when such operations were transitioned to Iraqi forces. However, in support of combat operations against ISIS, U.S. combat forces deployed back to Iraq in June 2014, part of a larger U.S. effort to lead a coalition of allied bombing efforts against terrorist targets.²²⁶ As of the summer of 2015, the U.S. had 3,000 military trainers and advisors in the country. In June 2015, President Obama ordered 450 more to a base outside Ramadi to assist the offensive to take back that city from ISIS, increasing the total number of U.S. troops deployed to Iraq to over 4,800.²²⁷

Takeaways:

- In 2003, U.S. conventional military forces were sorely unprepared for phase IV stability operations in the country.
- The U.S. fought the first three to five years of the Iraq War without a doctrine that emphasized the strategic and operational benefits of respect for human rights.
- Despite billions of dollars of investment, creating a professional military force from the Iraqi armed forces has had only limited results.
- The scope of the security assistance requirements in Iraq required conventional U.S. forces to conduct train-and-equip missions normally reserved for USSOF.
- Iraqi Special Forces trained by USSOF stood out as the most capable Iraqi armed forces.

11. Conclusion and Recommendations

Contemporary military leaders are facing a great challenge. They must train their soldiers so they understand the rules of engagement in complex security operations, protect the civilians they are charged with defending, and protect themselves at the same time. Soldiers must be aggressive and fierce. At the same time, they must be intellectually agile enough to respond to a security environment that can change in seconds. The enemy is elusive, adaptable, and intelligent. They operate from the shadows and avoid direct confrontations with security forces. They target civilians to undermine the authority and legitimacy of the civilian government. If they are driven from an area, they will wait and return when it is advantageous to do so. Soaring crime rates, citizen insecurity, overcrowded and violent prisons, and dysfunctional judicial systems have added to the security crises in many nations. Many of the soldiers in these situations may be young, inexperienced, scared, poorly trained, emotional, confused, and tired. They must make life and death decisions in seconds. Knowledge of human rights, IHL, and the rules of engagement has to be second nature so that when confronted with a difficult scenario, the soldiers' training permits them to make a rapid and well-informed decision.

There are a number of other reasons that military forces commit human rights violations.²²⁸ High levels of frustration, lack of confidence in the justice system, dehumanizing the enemy, high casualty rates of friendly forces, lack of sleep, alcohol and drug abuse, and a poorly defined mission have been documented to trigger human rights abuses in military operations. However, the two most common reasons are lack of training and education programs, and an absence of support by senior leaders of a strategy that emphasizes respect for human rights. Operations against irregular forces are complex and it is difficult to prepare military forces for every contingency they will face. However, unless the military is trained specifically for this type of operation, their actions can make the situation even worse. Under the pretext of force protection and in the face of dangerous circumstances, untrained forces may resort to excessive force unnecessarily. Before they deploy in this type of domestic security operation, service members should go through rigorous training to include crowd control, rules of engagement,

escalation of force, maneuvers in densely populated urban areas, and civil affairs, among many others.²²⁹ In addition, there are many other important preparations military units must receive prior to deployment: communications, maneuver and patrolling, weapons, first aid, force protection, and checkpoint procedures. These demands compete for the limited amount of time available to units for preparation prior to deployment.

There are no guarantees that training foreign forces will build a global coalition of partners. The U.S. has had mixed success training surrogate

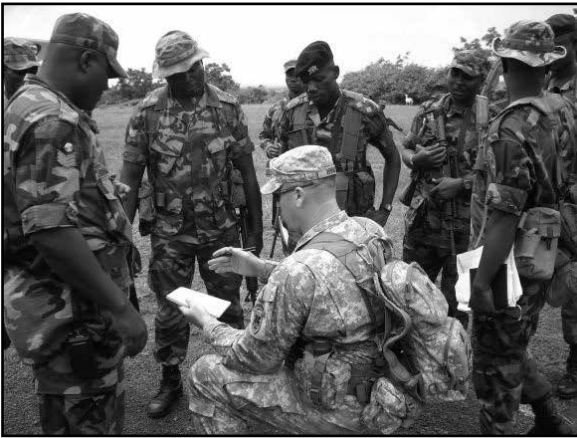


Figure 10. More conventional military forces in the U.S. are being called on to provide security assistance training to partner nations. In this example, a U.S. Army representative provides training to soldiers of the Ghana Army. Source: U.S. Army Africa Public Affairs

forces. Successful training efforts in Colombia and the Philippines, for example, demonstrate the indirect approach works well in the right circumstances. However, recent headlines highlight the difficulties of working with partners from different cultural and political backgrounds. Setbacks with USSOF-trained partner forces in Afghanistan, Iraq, Syria, Yemen, and Mali highlight those challenges.

Retired Lieutenant General Karl Eikenberry, the head of training for Afghan forces from 2005 to 2007 and the U.S. ambassador to Afghanistan from 2009 to 2011, said, “Our track record at building security forces over the past 15 years is miserable.”²³⁰

As the case study on El Salvador demonstrates, host nation forces will not always share the same level of military professionalism as USSOF. However, for as many disappointments the U.S. has had, FID remains a vital strategic effort. Former Secretary of Defense Robert Gates said, “Arguably the most important military component in the War on Terror is not the fighting we do ourselves, but how well we enable and empower our partners to defend

and govern their own countries.”²³¹ Building a global network of partners is one of three principal objectives of the 2015 National Military Strategy.

The U.S. places a high value on respect for human rights and adherence to the law of armed conflict. But efforts to put the imperative into practice reveals a significant gap. USSOCOM needs to provide detailed guidance and doctrine on human rights and the law of armed conflict. The 2015 National Security Strategy promises that, “even where our strategic interests require us to engage governments that do not share all our values, we will continue to speak out clearly for human rights and human dignity.” USSOF should raise the issue more frequently than they currently do when conducting JCETs or MTTs with foreign units.

Recommendations for USSOCOM

1. **USSOCOM doctrine on human rights and IHL.** USSOCOM needs to develop an instruction that articulates why U.S. forces follow standards of human rights and IHL. The current “Human Rights Policy” guidance from 2005 is too vague and brief. Ideally, the instruction should task each USSOCOM component to develop a POI to train units before they deploy for JCETs or MTTs. It should also require scenario-based IHL training in every JCET and MTT. Most importantly, the instruction should identify and emphasize the strategic and operational benefits that respect for human rights and adherence to IHL generate.
2. **Develop a training manual on essential components of human rights and IHL.** Using examples drawn from the new DOD Law of War Manual, USSOCOM should develop a collection of training lessons that they can distribute to subordinate units. The lesson package should contain enough lectures on the myriad of human rights and IHL issues that units could tailor their training requirements for each partner nation. At a minimum, the lessons should include: principles of war, actions around civilians and noncombatants, detainee or prisoner of war treatment, protection of property, prohibited weapons, protected sites, and rules of non-international armed conflict. The training manual should contain ample scenarios that provide real-world tactical examples that USSOF and their partners may encounter. Scenarios should be drawn from contemporary warfare conditions such as combat operations in and around population centers and operations

against organized crime groups. Consult with the Defense Institute of International Legal Studies and the International Committee of the Red Cross for pre-existing lectures on human rights and IHL matters.

3. **Require each JCET and MTT cover human rights and IHL training with partner surrogates.** The training need not be conducted in a formal classroom setting but it should be more structured and organized than just passing reference to the issues. This requires that the USSOF operators providing the training be experts on the topic. Those who are adequately trained and familiar with the tenets of human rights and IHL can fold references into the JCET training so that it is not perceived as “preachy” or lecturing on the issue. Done properly, it can be conducted transparently to the recipients. Young soldiers from partner nations will accept human rights and IHL as a normal part of the training, indistinguishable from other weapons skills training or maneuver actions. Using scenarios developed from real world USSOF experiences, incorporate these into the JCET/MTT training and then follow up with an explanation of why it is done in this manner and what operational benefits may be attained. Explain the U.S. policy on human rights and IHL violations and that continued partnering with the host nation depends on adequate adherence to these standards.
4. **Require schoolhouse training.** Require each USSOF service component to include a human rights and IHL course in its curriculum and to make frequent reference to the topics during other courses not directly related to human rights and IHL. Periodic refresher education should be required at all levels of training—from recruit to flag officer—to familiarize operators with the human rights/IHL requirements or bring them up to speed on recent developments. In particular, the education requirement should exist for The U.S. Army John F. Kennedy Special Warfare Center and School at Fort Bragg, North Carolina; the Naval Small Craft Instruction and Technical Training School in Stennis Space Center, Mississippi; and the Marine Special Operations School in Camp Lejeune, North Carolina. The Joint Special Operations University in Tampa, Florida, should also include human rights/IHL training into the appropriate courses.

Recommendations for the DOD

1. **Combatant command human rights offices.** Ensure all combatant commands establish stand-alone human rights offices like that of USSOUTHCOM. Mimic some of the best practices of USSOUTHCOM: the Human Rights Initiative, required human rights and IHL training prior to entering the region, and creating doctrine on human rights and IHL with partner nations, for example.
2. **Require human rights/IHL training for U.S. conventional forces.** Traditionally, the security force assistance task was one reserved for USSOF. However, increased attention on the indirect approach prompted a policy change that now permits conventional forces to conduct training of partner nation forces. Recent Military Health Advisory Team surveys of soldiers and Marines revealed that many do not recognize the strategic imperative of respect for human rights and laws of war. To ensure U.S. military personnel are adequately conveying the importance of HR and IHL, these forces need significant training on the topics. This is especially critical in light of previous surveys of U.S. military personnel that revealed a significant dearth of understanding and adherence to HR and IHL standards.

Respect for human rights and the principles of the law of armed conflict are necessary but not sufficient by themselves to assure victory in modern warfare. In many cases, the only option to deal with many hard-core terrorists or criminals is to capture or kill them. However, military action is only one of a number of tools necessary to combat security challenges. There are numerous other important components to a modern security strategy. A strategic communications plan, cutting off illicit funding, denial of sanctuary to militants, minimizing ungoverned spaces, reducing corruption, promoting social and economic development projects, provision of basic services to the public, and providing citizen security are all important components of a holistic security strategy.

Senior U.S. officials considered the challenges U.S. forces faced in Iraq—nation building, a population-centric focus, and respect for human rights—as a revolution in military affairs. Such tactics are a critical part of extremely complex operational requirements that demand lengthy and intense training prior to deployment. In this case, strategic adaptation is an imperative and

may make the difference between victory and defeat. As the U.S. realized in Vietnam, militaries may succeed tactically but fail strategically if they don't develop the right strategy.²³² As General John Galvin, the former commander of USSOUTHCOM wrote in his oft-cited article, "Uncomfortable Wars: Toward a New Paradigm," an "officer's effectiveness and chance for success, now and in the future, depend not only on his character, knowledge, and skills, but also, and more than ever before, on his ability to understand the changing environment of the conflict."²³³

For the foreseeable future, USSOCOM will be partnered with foreign militaries to address complex contemporary security challenges. The command needs to develop the right doctrine on HR and IHL and then train partner nation forces on the necessary tactics to win the support of the population. The faster our partners understand the strategic and legal imperative of such a doctrine, the faster they will become professional military partners with USSOF.↑

Appendix A: Acronym List

AUC	United Self-Defense Forces of Colombia
CONVIVIR	Community Associations of Rural Vigilance
DAS	<i>Departamento Administrativo de Seguridad</i>
DOD	Department of Defense
DOS	Department of State
ESAF	El Salvador Armed Forces
FID	foreign internal defense
FMLN	<i>Frente Farabundo Martí de Liberación Nacional</i>
IHL	international humanitarian law
ISIS	Islamic State in Iraq and Syria
JAG	judge advocate general
JCET	joint combined exercise training
MTT	mobile training teams
NCO	noncommissioned officer
NGO	nongovernmental organization
ODA	Operational Detachment-Alpha
OPATT	operations, plans, and training team
POI	program of instruction
SOF	Special Operations Forces
UN	United Nations
USSOCOM	United States Special Operations Command
USSOF	U.S. Special Operations Forces
USSOUTHCOM	U.S. Southern Command

Endnotes

1. International humanitarian law is synonymous with the law of armed conflict. The terms are interchangeable. International humanitarian law focuses on conflict between states or armed groups. In particular, it addresses the rules for the use of force during conflict. In contrast, international human rights law focuses on the rights of humans during all conditions, whether in combat or otherwise. For example, some of the most well-known rights laws address civil and political liberties, slavery, economic and cultural rights, and the rights of women and children. See: International Red Cross, “Exploring Humanitarian Law” (2009) for a helpful summary of the basic issues of human rights and IHL. Available at: <https://www.icrc.org/eng/resources/documents/publication/p0942.htm>.
2. Admiral Eric Olson, former USSOCOM commander, testified before Congress that during the peak of the wars in Iraq and Afghanistan about 85 percent of the deployed SOF were in operations in those two countries. According to another news report, because of the high operational tempo of SOF in Iraq and Afghanistan, USSOCOM commanders have been able to meet barely half the requests from regional military headquarters outside the Middle East. Thom Shanker, “Military Sees Broader Role for Special Operations Forces, in Peace and War,” *New York Times*, 2 April 2013.
3. According to the U.S. Department of State, 59 terrorist groups are now active in the world. Al-Qaeda and its affiliates have now spread to over a dozen countries. Foreign terrorist fighters in Syria and Iraq total more than 16,000 foreign terrorist fighters from more than 90 countries. This is more than the rate of foreign terrorist fighters who traveled to Afghanistan and Pakistan, Iraq, Yemen, or Somalia at any point in the last 20 years. Source: Department of State Country Reports on Terrorism 2014, available at: <http://www.state.gov/j/ct/rls/crt/2014/index.htm>.
4. “We have to develop a strategy that matches this diffuse threat; one that expands our reach without sending forces that stretch our military too thin, or stirs up local resentments. We need partners to fight terrorists alongside us,” the president said. Marl Landler, “Obama Warns U.S. Faces Diffuse Threats,” *New York Times*, 28 May 2014. See also: Eric Schmitt, “U.S. Strategy to Fight Terrorism Increasingly Uses Proxies,” *New York Times*, 29 May 2014.
5. Rick Gladstone, “Russia Blocks UN effort for Prosecution in Downing of Jetliner in Ukraine,” *New York Times*, 30 July 2015, A6.
6. Josh White, Charles Lane, and Julie Tate, “Homicide Charges Rare in Iraq War; Few Troops Tried for Killing Civilians,” *Washington Post*, 28 August 2006.
7. Seth G. Jones, et al., “Securing Tyrants or Fostering Reform? U.S. Internal Security Assistance to Repressive and Transitioning Regimes,” RAND Corporation, 2006.
8. Joint Publication 3-22, *Foreign Internal Defense*, 12 July 2010, ix.

9. For the purposes of this Article, a surrogate is defined as “an entity outside of the Department of Defense . . . that performs specific functions that assist in the accomplishment of U.S. military objectives by taking the place of capabilities that the U.S. military either does not have or does not desire to employ.” Joint Chiefs of Staff, Joint Publication 1-02, *DOD Dictionary of Military and Associated Terms*, 8 November 2010, as amended through 15 June 2015, http://www.dtic.mil/doctrine/new_pubs/jp1_02.pdf. See also: Gregory Raymond Bart, “Special Operations Forces and Responsibility for Surrogates’ War Crimes,” *Harvard National Security Journal*, Vol. 5, 514.
10. Annual report from Under Secretary of Defense for Special Operations and Low Intensity Conflict, “Report on Training of Special Operations Forces for the Fiscal Year ending September 30, 2012,” published 1 April of each year. See also: International Security Advisory Board, Report on Security Capacity Building, 7 January 2013, 15, available at: <http://www.state.gov/t/avc/isab/202710.htm>; and “Unmatched Power, Unmet Principles: The Human Rights Dimensions of U.S. Training of Foreign Military and Police Forces,” Amnesty International USA Publications, March 2002.
11. Direct action missions are “short-duration strikes and other small-scale offensive actions that are conducted as a special operation in hostile, denied, or politically sensitive environments and that employ specialized military capabilities to seize, destroy, capture, exploit, recover, or damage designated targets. Direct action differs from conventional offensive actions in the level of physical and political risk, operational techniques, and the degree of discriminate and precise use of force to achieve specific objectives.” Thomas K. Livingston, “Building the Capacity of Partner States through Security Force Assistance,” Congressional Research Service (R41817), 5 May 2011. Also listed in Joint Publication 1-02.
12. According to a Gallup public opinion poll in 2014, 54 percent of Americans surveyed opposed “taking direct military action in Iraq to assist the Iraqi government in fighting militants there.” Only 39 percent were in favor of such action. Accessed at: <http://www.gallup.com/poll/1633/iraq.aspx>.
13. Robert Gates, “A Balanced Strategy,” *Foreign Affairs*, Vol. 88, no. 1, January/February 2009, 29–30.
14. Under Admiral McRaven’s instruction, SOCEUR developed a center to coordinate NATO Special Forces’ efforts in Afghanistan. See: “Posture Statement of Admiral William H. McRaven, USN, Commander, United States Special Operations Command, presented to the 112th Congress, Senate Armed Services Committee, 6 March 2012,” accessed at: <http://www.armed-services.senate.gov/imo/media/doc/McRaven%2003-06-12.pdf>. See also: David Ignatius, “Can the U.S. Rely on SOF power?” *Washington Post*, 31 March 2013; and Eric Schmitt and Thom Shanker, “A Commander Seeks to Chart a New Path for Special Operations,” *New York Times*, 1 May 2013.
15. DOD news briefing with Secretary of Defense Leon Panetta and Chairman of the Joint Chiefs of Staff General Martin Dempsey, 25 October 2012, available at: <http://archive.defense.gov/Transcripts/Transcript.aspx?TranscriptID=5143>.

16. National Security Action Memorandum No. 162, “Development of U.S. and Indigenous Police, Paramilitary and Military Resources,” 19 June 1962, Cited in *The Pentagon Papers*, Gravel Edition, Vol. 2, 681–684.
17. For an excellent analysis of the legal and operational challenges of working with surrogate forces, read: Todd C. Huntley and Andrew D. Levitz, “Controlling the Use of Power in the Shadows: Challenges in the Application of *Jus in Bello* to Clandestine and Unconventional Warfare Activities,” *Harvard National Security Journal* / Vol. 5, 2014. This summary of historical examples of surrogates was drawn from that account, pages 476–477, as well as other sources. See also: Russell F. Weigley, *The American Way of War: A History of United States Military Strategy and Policy* (Indiana: Indiana University Press, 1977); Max Boot, *Invisible Armies: An Epic History of Guerrilla Warfare from Ancient Times to the Present* (New York: Liveright, 2013); and National Security Action Memorandum No. 162, “Development of U.S. and Indigenous Police, Paramilitary and Military Resources,” 19 June 1962, cited in *The Pentagon Papers*, Gravel Edition, Vol. 2, 681–684.
18. Military professionalism, while subject to a variety of definitions, is broadly accepted to include three attributes: (1) subordination to civil authorities, (2) support for democratic institutions, and (3) respect for and accountability for human rights.
19. In Afghanistan, the U.S. was forced to halt the transfer of prisoners to Afghan jails and prisons because torture was common in the penal system. In October 2011, the United Nations reported that a year-long effort to improve human rights standards in Afghanistan’s prisons had failed and that the frequency of torture had even increased. General John Allen, commander of U.S. forces in Afghanistan, ordered the halt of the transfer of prisoners to all 34 Afghan detention centers. A more recent scandal was the sexual exploitation of young boys by members the Afghan security forces, a frequent if not normal practice in the country. See: UN Assistance Mission in Afghanistan (UNAMA), “Treatment of Conflict-Related Detainees in Afghan Custody: One Year On,” January 2013; Azam Ahmed, “Prisoner Abuse Still Widespread in Afghanistan, UN Says,” *New York Times*, 26 February 2015, A10; Rod Nordland and Thom Shanker, “U.S. Military Stops Sending Detainees to Some Afghan Prisons on Rights Fears,” *New York Times*, 16 January 2013; Alissa Rubin, “Anti-Torture Efforts in Afghanistan Failed, U.N. Says,” *New York Times*, 20 January 2013; and Matthew Rosenberg, “U.S. Outrage and Resignation Over Afghans’ Rape of Boys,” *New York Times*, 22 September 2015, A10.
20. Lydia Polgreen, “Mali Army, Riding U.S. Hopes, Is Proving No Match for Militants,” *New York Times*, 24 January 2013.
21. Eric Schmitt, “U.S. Training Elite Antiterror Troops in Four African Nations,” *New York Times*, 26 May 2014.
22. Gates speech before the Association of the United States Army, 10 October 2007. Numerous authors have given serious study to the idea of “new wars” which are characterized by (1) the disappearance of wars between states, (2) the increase

- in the number of civilian deaths, (3) the decline of high intensity wars, (4) the decline in the number of battle deaths, and (5) the increase in the duration or recurrence of war. See: Mary Kaldor, *New and Old Wars: Organized Violence In a Global Era* (Cambridge: Polity Press, 2012); Rupert Smith, *The Utility of Force: The Art of War in the Modern World* (New York: Alfred A. Knopf, 2007); and Frank Hoffman, *Conflict in the 21st Century: the Rise of Hybrid Wars* (Arlington: Potomac Institute for Policy Studies, 2007).
23. Neta Crawford, "Just War Theory and the U.S. Counterterrorism War." *Perspectives on Politics*, Vol. 1/1, March 2003, 17.
 24. Randal Archibold, "Guatemala Shooting Raises Questions About Military's Expanded Role," *New York Times*, 20 October 2012.
 25. U.S. Department of Defense, "Law of War Program," DOD Directive 2311.01E, 9 May 2006. See also: Chairman of the Joint Chiefs of Staff, "Implementation of the DOD Law of War Program," CJCS Instruction 5810.01D, 30 April 2010.
 26. This summary is drawn from Professor Rosa Brooks' testimony to the Senate Armed Services Committee, "The Law of Armed Conflict, the Use of Military Force, and the 2001 Authorization for Use of Military Force," 16 May 2013, and from the U.S. Operational Law Handbook, produced by the U.S. Judge Advocate General's Legal Center in Charlottesville, Virginia.
 27. Rosa Brooks' testimony to the Senate Armed Services Committee, "The Law of Armed Conflict, the Use of Military Force, and the 2001 Authorization for Use of Military Force," 16 May 2013.
 28. In Afghanistan, under pressure to minimize collateral damage during night-time raids, General Stanley McChrystal ordered his Special Operations Forces to announce their intent to enter buildings where suspected insurgents were hiding. SOF forces were required to "call out" before attacking a site so as to give the inhabitants a chance to surrender or avoid civilian casualties when the SOF members made a forced entry into the building. Some SOF members found the rule frustrating. It eliminated the important element of surprise, gave the suspects time to arm themselves, and at times, even created more opportunity for collateral casualties. "When there were more rules, it did get more difficult," one experienced operator said. See: Mark Mazzetti, "SEAL Team 6: A Secret History of Quiet Killings and Blurred Lines," *New York Times*, 6 June 2015.
 29. Headquarters, International Security Assistance Force (ISAF), "Tactical Directive," 6 July 2009, accessed at: http://www.nato.int/isaf/docu/official_texts/Tactical_Directive_090706.pdf.
 30. Definitions of hostile act and hostile intent are drawn from the U.S. Operational Law Handbook, produced by the U.S. Judge Advocate General's Legal Center in Charlottesville, Virginia.
 31. Bernard E. Trainor, "The Anguish of Knowing What Happened at No Gun Ri," *Washington Post*, 21 January 2001; and Department of the Army, Inspector General, No Gun Ri Review, January 2001, 5–6.
 32. From 2003 to 2008, the International Committee of the Red Cross hosted a series of conferences with experts from governments, international NGOs, and academia including war colleges. At five different conferences, experts analyzed modern warfighting scenarios and tried to find a common definition and characteristics of what constitutes direct participation in hostilities. Participants were unable to reach agreement. There was such wide disagreement on the term that many participants requested to have their names removed from the registry of the conferences lest it be perceived as a form of endorsement of the event. The International Committee of the Red Cross hosts of the event were forced to limit their post-conference report to simply an informal collection of ideas titled "Interpretive Guidance." See: Michael Schmitt, "The Interpretive Guidance on the Notion of Direct Participation in Hostilities: A Critical Analysis," *Harvard National Security Journal*, Vol. 1, 5 May 2010, 5–44.
 33. According to legal experts, none of the examples in this paragraph constitute 'direct' participation in hostilities and therefore do not represent lawful targets. For an excellent synopsis of the legal aspects of direct participation in hostilities, as well as numerous examples of what does and does not constitute direct participation in hostilities, see: Huntley and Levitz, "Controlling the Use of Power in the Shadows."
 34. The U.S. reduced or cut off U.S. military aid completely to about 20 countries during the Carter administration because of human rights violations by security forces in the country. Joshua Muravchik, *The Uncertain Crusade: Jimmy Carter and the Dilemmas of Human Rights Policy* (Lanham, MD: Hamilton Press, 1986), 44.
 35. The International Committee of the Red Cross Interpretive Guidance attempted to establish criteria for what constitutes direct participation in hostilities, which occurs when (1) such actions will adversely affect the military by inflicting death, injury, or destruction on friendly forces, (2) there is a direct causal link between the act and the harm it causes, and (3) the act is intended to cause direct harm to friendly forces. Cited in: Huntley and Levitz, "Controlling the Use of Power in the Shadows," 496.
 36. Unconventional warfare (UW) is defined as "activities conducted to enable a resistance movement or insurgency to coerce, disrupt, or overthrow a government or occupying power by operating through or with an underground, auxiliary, and guerrilla force in a denied area." Joint Chiefs of Staff, Joint Publication 1-02.
 37. Screening these candidates for criminal backgrounds has been a challenging process and created a backlog of nearly 7,000 recruits. According to U.S. military officials, recruits must promise not to harm civilians or prisoners. Karam Shoumani et al., "Abductions Hurt U.S. Bid to Train Anti-ISIS Rebels," *New York Times*, 31 July 2015, A1. See also: Missy Ryan, "Caution to Guide Syrian Training," *Washington Post*, 29 November 2014, A1.
 38. Surrogates are still expected to abide by international norms on the use of force and the protection of civilians. If they do, the surrogates enjoy "combatant immunity" and are protected by the Geneva Conventions. Under the Geneva Convention

- (article 43), surrogates must satisfy four characteristics to be constituted legally protected groups: (1) the group possesses a “military character”; (2) the group is led by a “responsible command exercising effective control over the members of the organization”; (3) the group respects the law of armed conflict; and (4) the group is “subordinate to a ‘Party to the conflict’ which represents a collective entity which is . . . a subject of international law.” The surrogates gain legal coverage by this fourth requirement. By operating in support of a party to the conflict, the surrogates are expected to comply with the “laws and customs of war.” Cited in: Huntley and Levitz, “Controlling the Use of Power in the Shadows,” 486.
39. The United Nations and the Afghan government make a distinction between militias serving as proxy fighters on behalf of the government and illegal armed groups. An illegal group is defined as a group of five or more armed individuals operating outside the law, drawing its cohesion from (1) loyalty to the commander, (2) receipt of material benefits, (3) impunity enjoyed by its members, and (4) shared ethnic or social background. See the United Nations’ “Disarmament of Illegal Armed Groups (DIAG) Final Strategy,” 26 January 2006, available at: <http://www.diag.gov.af/history.htm>; Barbara Stapleton, “Disarming the Militias,” *Afghanistan Analysts Network*, April 2013; and Joseph Goldstein, “After U.S. Exit, Rough Justice of Afghan Militias,” *New York Times*, 8 March 2015, A1.
 40. M. Cherif Bassiouni, “The New Wars and the Crisis of Compliance with the Law of Armed Conflict by Non-State Actors,” *Journal of Criminal Law and Criminology*, 2008, 711, 773. Cited in: Huntley and Levitz, “Controlling the Use of Power in the Shadows,” 510. For a detailed analysis of the legal pitfalls of unconventional warfare, see: Michael Schmitt and Andru Wall, “The International Law of Unconventional Statecraft,” *Harvard National Security Journal*, Vol. 5, 2014. The U.S. expressed reservations and eventually did not ratify the Geneva Conventions Additional Protocol I of 1977 because of fears that it would legitimize irregular armed groups. It was a common Cold War tactic of the Soviet Union to use surrogate factions to overthrow democratic governments in the expanse of communism. Ironically, the U.S. didn’t ratify Additional Protocol I because it feared the treaty would give Soviet surrogate forces protection as traditional combatants. However, this is the same indirect approach strategy that the U.S. employs across the globe today. The specific reservations that the U.S. cited are classified. See: Huntley and Levitz, “Controlling the Use of Power in the Shadows,” 486.
 41. Author’s examination of all JCET activity from 1998–2014 from the annual “Report on Training of Special Operations Forces, for the Period Ending September 30, (year).” Statistics don’t include data from 1999 or 2001 which were not cleared for public release.
 42. Author’s discussions with U.S. security assistance officials.
 43. Amnesty International, “Unmatched Power, Unmet Principles: The Human Rights Dimensions of U.S. Training of Foreign Military and Police Forces,” 2002, 41, available at: <http://www.amnestyusa.org/pdfs/msp.pdf>.
 44. U.S. Special Operations Command Directive 350-28cc, 11 May 2005, 3.
 45. Author email and phone call conversations with the AFSOC JAG in September 2015. ROE are developed for deploying operational AFSOC units but there is no lesson plan, POI, or requirement that the 6 SOS uses to train on IHL or ROE when conducting JCETs with foreign aviation forces.
 46. FM 3-05, published 31 August 2012.
 47. Joint Chiefs of Staff, Joint Publication 3-05, *Special Operations*, 16 July 2014, B-45.
 48. Joint Chiefs of Staff, Joint Publication 3-22, *Foreign Internal Defense*, 12 July 2010, I-7.
 49. *Ibid.*, VI-38.
 50. The State Department has four main foreign policy goals: (1) protect the United States and Americans; (2) advance democracy, human rights, and other global interests; (3) promote international understanding of American values and policies; and (4) support U.S. diplomats, government officials, and all other personnel at home and abroad who make these goals a reality. Source: U.S. State Department Diplomacy Handbook, 2008, 1, available at: <http://www.state.gov/documents/organization/46839.pdf>. The State Department 2011–2016 Strategic Plan Addendum for DOS and USAID also includes respect for human rights as one of its seven strategic goals. See: <http://www.state.gov/s/dmr/qddr/185613.htm>.
 51. Based on various interviews with anonymous State Department officials, April to November 2015.
 52. Chairman of the Joint Chiefs of Staff, “Implementation of the DOD Law of War Program,” CJCS Instruction 5810.01D, 30 April 2010, para 6f. See also: Government Accountability Office, “International Military Education and Training: Agencies Should Emphasize Human Rights Training and Improve Evaluations,” GAO-12-123, October 2011.
 53. USSOUTHCOM has had a policy on human rights since March 1990, issued by USSOUTHCOM Commander General Maxwell Thurman. Forces deploying into the region are required to complete online training on human rights and international humanitarian law. SOUTHCOM uses a five “R’s” mnemonic to remind U.S. personnel of their responsibilities: Recognize, Refrain, React, Record, and Report. If U.S. personnel in any of the 35 countries in the USSOUTHCOM AOR witness a violation of human rights, they are required to report it immediately to U.S. embassy personnel.
 54. The U.S. Navy also is the only military service to offer recent guidance on the law of war. In January 2015, it published a new instruction that requires Fleet Commanders and the Naval Special Warfare Command to “ensure that realistic problems involving the law of war are included in the conduct of tactical training evolutions, command post, and fleet exercises, and other war games. Specialized training should emphasize, to the maximum extent possible, practical applications through the insertion of practical questions and situations into gaming exercises or scenarios, rather than formal instruction.” Department of the Navy, OPNAV Instruction 3300.52A, “Law of War Program,” 21 January 2015.

55. The JAG school is formally known as The Judge Advocate General's Legal Center and School, or TJAGLCS. Another helpful repository of legal guides is the Center for Law and Military Operations (CLAMO). Reportedly, the U.S. Army is close to releasing an updated version of its Law of Land Warfare manual. The new guide will be called the Army Field Manual 6-27. The Law of War Handbook can be downloaded at: https://www.loc.gov/rr/frd/Military_Law/pdf/LOW-Deskbook-2011.pdf. The Operational Law Handbook is available at: https://www.loc.gov/rr/frd/Military_Law/operational-law-handbooks.html.
56. William C. Story, Jr., "Joint Combined Exchange Training (JCET) and Human Rights: Background and Issues for Congress," 26 January 1999, Congressional Research Service, RL30034.
57. Livingston, "Building the Capacity of Partner States Through Security Force Assistance."
58. U.S. Department of Defense, "Law of War Program," DOD Directive 2311.01E, 9 May 2006. See also: Chairman of the Joint Chiefs of Staff, CJCS Instruction 5810.01D, "Implementation of the DOD Law of War Program," 30 April 2010.
59. As an effort to eliminate confusion about what incidents require reporting—what constitutes a 'reportable incident'—the phrase is defined in catch-all terminology as a "possible, suspected, or alleged violation of the law of war, for which there is credible information, or conduct during military operations other than war that would constitute a violation of the law of war if it occurred during an armed conflict." See DOD Directive 2311.01E, paras 4.4 and 4.5. For example, the Marine Corps commander of the unit involved in the Haditha Massacre in Iraq in November 2005 was charged with a UCMJ violation for failing to report possible war crimes because he did not "thoroughly and accurately report and investigate a combat engagement that clearly needed scrutiny ... to his higher headquarters." Army Major General Eldon Bargewell led the investigation into the circumstances of the event and concluded that Marines considered, "Iraqi civilian lives are not as important as U.S. lives, their deaths are just the cost of doing business, and that the Marines need to get 'the job done' no matter what it takes." He found that others in the chain of command, "attempted to hide criminal conduct." See Josh White, "Report on Haditha Condemns Marines," *Washington Post*, 21 April 2007; and "Simple Failures and Disastrous Results," *Washington Post*, 21 April 2007. See also: Charlie Savage and Elisabeth Bumiller, "An Iraqi Massacre, a Light Sentence, and a Question of Military Justice," *New York Times*, 28 January 2012, A17.
60. Cecil Bailey, "OPATT: the U.S. Army SF Advisers in El Salvador," *Special Warfare* 17/2, December 2004, 24–25.
61. In particular, USSOF may be held legally responsible for the actions of surrogate forces if two criteria are met: (1) the surrogate forces are following instructions of USSOF and (2) the surrogate forces are under the direct control of USSOF. Bart, "Special Operations Forces and Responsibility for Surrogates' War Crimes," 523.
62. *Ibid.*, 527–529.

63. Robin Sage is a 19-day exercise conducted four times a year. The training occurs on both public and private land near the John F. Kennedy School Special Warfare Center in Fayetteville, North Carolina.
64. According to one recent study, by training foreign forces in military tactics and not simultaneously advising about the strategic blowback that results from an abuse of their authorities, our SOF may be empowering security forces that could use their skills to revolt against civilian authorities. Recent studies have shown there is a statistical correlation between security assistance and military coups. The militaries, especially those trained by U.S. forces, are the most capable and therefore the most likely to launch rebellions against elected officials. This author's experience working with USSOF in Africa partly supports that theory. At least some senior African government officials are wary about the military in their countries because they are the most physically capable of launching a takeover. In a number of countries, the African heads of state assign the Special Forces in their country to bases far from the capital or place them under the supervision of a trusted subordinate or a family member whose loyalty to the president is unquestioned. That way, the president has time to react or gets an early warning from loyal subordinates if the military forces mobilize for a coup. In this author's opinion, there are likely other intervening variables that might lead one to question the methodological precision of the study. In other words, military coups may occur in spite of rather than because of U.S. military assistance. See: Jesse Dillon Savage and Jonathan Caverley, "American Foreign Military Training and Coup Propensity," available at: http://www.jonathancaverley.com/uploads/2/9/7/2/29726853/caverleysavage_otago.pdf.
65. For example, Lieutenant General William Caldwell IV, tasked to train Afghani security forces, received a surprise during a visit to a firing range to observe new recruits. He realized that most recruits were illiterate and innumerate. If the instructor wanted them to load 10 bullets in their rifles, he had to get them to put one bullet next to each of their fingers. See: Rajiv Chandrasekaran, "Afghan security force's rapid expansion comes at a cost as readiness lags," *Washington Post*, 21 October 2012; and William Caldwell IV and Nathan Finney, "Building the Security Force that Won't Leave," *Joint Force Quarterly*, 62:3, 2011.
66. The Foreign Military Training and DOD Engagement Activities of Interest is titled, "Report on Training of Special Operations Forces, 1 April (year) for the Period Ending 30 September (year)."
67. Colombia and Indonesia, in particular, were singled out as partner forces with poor human rights records that still received significant U.S. military assistance. In 1997, when the legislation was first proposed, the U.S. was beginning an extensive assistance campaign to the Colombian security forces fighting drug trafficking, part of what would later become a multi-billion dollar assistance package under Plan Colombia. However, the Colombian security forces had a poor record of human rights; one military representative called it "the worst in the hemisphere." Colombian forces were later accused of murdering as many as 2,500 civilians as a means of boosting the perceived successes against leftist guerrillas. The

- Indonesian Special Forces Command, KOPASSUS, were also accused of forced disappearances and kidnappings. See: Story, "Joint Combined Exchange Training (JCET) and Human Rights: Background and Issues for Congress," 11–14, 41. See also: Charles Comer, "Leahy in Indonesia: Damned if you Do (and Even if You Don't)," *Asian Affairs: An American Review*, 2010, 37: 53–70.
68. The legislation can be found in section 620M of the Foreign Assistance Act (FAA) of 1961 and in the Arms Export Control Act (AECA).
 69. DOD defines training of foreign personnel as "instruction of foreign security forces that may result in the improvement of their capabilities." Cited in: Nina Serafino et al., "Leahy Law Human Rights Provisions and Security Assistance: Issue Overview," Congressional Research Service, RL43361, 29 January 2014, 4.
 70. By definition, gross violation of human rights includes torture; cruel, inhuman, or degrading treatment or punishment; prolonged detention without charges and trial; the disappearance of persons by the abduction and clandestine detention of those persons; flagrant denial of the right to life, liberty, or the security of person; extrajudicial killings; and politically motivated rape.
 71. USIP Press release, "Human Rights Violations: U.S. Foreign Aid for Accountability and Prevention," 29 March 2015.
 72. Acronyms: FMS-Foreign Military Sales, IMET-International Military Education and Training, FMF-Foreign Military Financing, FSF-Foreign Security Forces, MCO-Major Combat Operations, FID-Foreign Internal Defense, COIN-Counterinsurgency, CT-Counterterrorism, UW-Unconventional Warfare, Stab Ops-Stability Operations, HA-Humanitarian Assistance, PKO-Peacekeeping Operations, OGA-Other Government Agencies, DOJ-Department of Justice, FBI-Federal Bureau of Investigation, PFP-Partnership for Peace, PEP-Personnel Exchange Program, JCET-Joint Combined Exchange Training, SA-Security Assistance, SC-Security Cooperation. Graph recreated from Congressional Research Service report R41817, "Building the Capacity of Partner States Through Security Force Assistance," by Thomas Livingston, 05 May 2011. See also Secretary of Defense Memorandum, "Implementation of Section 8057, DOD Appropriations Act 2014," promulgated 18 August 2014.
 73. Eric Schmitt, "Military Says Law Barring U.S. Aid to Rights Violators Hurts Training Mission," *New York Times*, 20 June 2013.
 74. Serafino, "Leahy Law Human Rights Provisions and Security Assistance," 15.
 75. Ibid., 4.
 76. See Joint Department of Defense (DOD) and Department of State Policy on Remediation and the Resumption of Assistance under the Leahy Laws, 3 February 2015.
 77. Name of country withheld by author.
 78. Based on various interviews with anonymous U.S. SOF officials, April to November 2015.

79. Schmitt, "Military Says Law Barring U.S. Aid to Rights Violators Hurts Training Mission."
80. Ibid.
81. Sydney J. Freedberg, "Reps Mac Thornberry, Adam Smith Lead House Push for More Foreign Military Training; Leahy Amendment Targeted," 6 March 2013, available at: <http://breakingdefense.com/2013/03/thornberry-smith-lead-bipartisan-house-push-for-more-foreign-mi/>.
82. U.S. Department of State Human Rights on Nigeria, 2014.
83. Adam Nossiter, "Nigeria Says U.S. Ban on Arms Sales Is Helping Rebels," *New York Times*, 24 July 2015, A13.
84. The establishment of the first Ronda is described in John S. Gitlitz and Telmo Rojas, "Peasant Vigilante Committees in Northern Peru," *Journal of Latin American Studies*, Vol. 15, no. 1, May 1983, 178–180.
85. In the impoverished regions of remote Peru, cows were valuable commodities for families struggling to survive in subsistence-living conditions. Cattle provided milk, cheese, and meat, could be bred for additional livestock, and provided financial security in that they could be sold in an emergency. Theft of one or more cows from a family could be financially devastating.
86. Gitlitz and Rojas, "Peasant Vigilante Committees in Northern Peru," 163. Peru is divided into 25 departments that are further sub-divided into provinces, districts, and annexes. The equivalent political structure in the U.S. would be states, counties, townships, and communities. The senior government official in each department was a prefect, in the provinces sub-prefects, in the district governors, and in the annexes lieutenant governors.
87. Mario Fumerton, "Rondas Campesinas in the Peruvian Civil War: Peasant Self-Defence Organisations in Ayacucho," *Bulletin of Latin American Research*, Vol. 20, no. 4, Special Issue: Armed Actors in Latin America in the 1990s, October 2001, 474; and Orin Starn, "To Revolt against the Revolution: War and Resistance in Peru's Andes," *Cultural Anthropology*, Vol. 10, no. 4, November 1995, 566.
88. The group draws its name (Shining Path in English) from the philosophical writings of José Carlos Mariátegui, founder of the Peru Communist Party in the 1920s, who opined that "Marxism-Leninism would open a 'shining path' to the peasant revolution."
89. There is a frequent misperception on the behalf of some historians that Sendero Luminoso began as a peasant-based social mobilization seeking economic and political inclusion from the central government and wealthy landowners. Initially, Guzmán relied upon his students (middle-class youth who could afford to attend college) rather than disenfranchised peasant masses.
90. Reported in Starn, "To Revolt against the Revolution," 563.
91. Fumerton, "Rondas Campesinas in the Peruvian Civil War," 477.
92. James Brooke, "A Lethal Army of Insurgents Lima Could Not Stamp Out," *New York Times*, 7 April 1992, A16.

93. Fumerton, "Rondas Campesinas in the Peruvian Civil War," 484.
94. *Comisión de la Verdad y Reconciliación* (CVR), 28 August 2003.
95. Fumerton, "Rondas Campesinas in the Peruvian Civil War," 486.
96. Maoist guerrilla tactics discouraged direct confrontations against superior military forces. Rather, the guerrillas retreated into safety of the surrounding countryside at the first indication of the Peruvian Army or Marines. Instead of direct encounters, they relied upon hidden explosives, ambushes, and sniping to inflict casualties on government security forces.
97. Some scholars contend that the Peruvian Army coerced the villagers into forming self-defense forces, conscripting locals against their will, and sending them unarmed against a vicious enemy. See: Fumerton, "Rondas Campesinas in the Peruvian Civil War," 487.
98. There are significant differences between the Rondas Campesinas in the northwest and the *comités* in the south (origins, subordination to government authorities, etc.) although most scholars of Peruvian history use them interchangeably. For the purpose of this report, the author uses *Rondas Campesinas* to refer to any Peruvian village self-defense force.
99. Starn, "To Revolt against the Revolution," 550.
100. Fumerton, "Rondas Campesinas in the Peruvian Civil War," 485.
101. *Ibid.*, 487.
102. *Comisión de la Verdad y Reconciliación* (Peruvian Truth and Reconciliation Commission), 457. Author's translation.
103. Fusil Automatique Leger (FAL) or Light Automatic Rifle was a semi-automatic Belgian weapon used widely throughout the world during the latter half of the 20th century.
104. Starn, "To Revolt against the Revolution," 551.
105. In Ayacucho, this coincided with the July 1985 replacement of the Peruvian Marines with the Peruvian Army. According to the Peruvian Truth and Reconciliation Commission (456), the Peruvian Army applied a more selective level of repression against suspected guerrilla sympathizers and sought ways to align with the peasants.
106. Starn, "To Revolt against the Revolution," 562.
107. El Peruano, Decreto Legislativo No. 741, 101687, 8 November 1991. Also reported in: Starn, "To Revolt against the Revolution," 565.
108. Starn, "To Revolt against the Revolution," 565.
109. Legislation #740 in November 1991 permitted the arming of the Rondas. Source: Peruvian Truth and Reconciliation Commission, 2003, 449; and Starn, "To Revolt against the Revolution," 553.
110. Starn, "To Revolt against the Revolution," 563.
111. Brooke, "A Lethal Army of Insurgents Lima Could Not Stamp Out," A16.

112. James Brooke, "Peruvian Farmers Said To Kill Rebels," *New York Times*, 4 March 1990.
113. Centro Nacional de Memoria Histórica, "Basta Ya! Colombia: Memorias de Guerra y Dignidad," available at: <http://www.centrodememoriahistorica.gov.co/micrositios/informeGeneral/descargas.html>.
114. The most successful of the rebel organizations was the *Fuerzas Armadas Revolucionarias de Colombia* (Revolutionary Armed Forces of Colombia or FARC), founded in 1964 and dedicated to rural insurgency. One year later, pro-Castro university students founded the *Ejército de Liberación Nacional* (Army of National Liberation or ELN). The *Ejército de Liberación Popular* (Popular Liberation Army or EPL) appeared in July 1967 and the *Movimiento de 19 de Abril* (19th of April Movement or M-19) in 1970. These groups formed the base of the insurgent organizations that would wreak havoc throughout Colombia for decades.
115. Colombians refer to these autonomous militias as self-defense forces. However, most U.S. academics and think tanks who have followed the issue refer to them as paramilitaries. This creates some confusion in Colombia because the leftist guerrillas that first emerged in the 1960s referred to themselves as paramilitaries. For the purpose of this article, the leftist guerrilla groups like the FARC are referred to as insurgents. The right-wing militias are referred to as paramilitaries or self-defense forces.
116. A 1962 survey of the Colombian security forces by U.S. Special Forces General William P. Yarborough recommended the establishment of paramilitary forces as part of a Colombian counter-insurgency strategy (called Plan Lazo) to combat leftist insurgents.
117. Decree 3398 was passed by President Guillermo León Valencia (1962–1966). In 1968, the government codified the previous decree into law by passing legislation that permitted the military to arm civilian defense forces with "weapons restricted to the exclusive use by the armed forces." Passed by President Carlos Lleras (1966–1970) in 1968. See the Comisión Interamericana de Derechos Humanos (CIDH), "Informe Sobre el Proceso de Desmovilización en Colombia," section III, Contexto: Origen y Características del Conflicto Armado Interno en Colombia, paragraphs 50–53, 13 December 2004, available at: <http://www.cidh.org/countryrep/Colombia04sp/indice.htm>. Also cited in: *Colombia, Nunca Más: Crímenes de Lesa Humanidad*, Vol. 1, chap. 1, "Tipicidad del ciclo vigente de violencia – delimitación de un período," November 2000; International Crisis Group (ICG), *Negotiating with the Paramilitaries*, 5.
118. Information collected from various sources. Acronyms are the Spanish names for paramilitary units: ACCU is Peasant Self-Defense Forces of Córdoba and Urabá; CONVIVIR is vigilance and private security cooperatives; AUC is the United Self-Defense Forces of Colombia.
119. The Colombian security forces periodically purged its forces for corruption and other crimes. Between 1995 and 1997, 6,000 members of the Colombian police were fired. See: "Colombian Military Fires 388 in Human Rights Effort,"

- Washington Post*, 17 October 2000. Also reported in Angel Rabasa and Peter Chalk, "Colombian Labyrinth: The Synergy of Drugs and Insurgency and its Implications for Regional Stability," RAND Corporation, 2001, 58.
120. Scott Wilson, "Colombia's Other Army; Growing Paramilitary Force Wields Power With Brutality," *Washington Post*, 12 March 2001, A1.
 121. Source: "Lifting the Veil on Colombia's 'Emerald Czar': Declassified Cable Links Víctor Carranza's Alias to 1997 Miraflores Massacre," National Security Archive Electronic Briefing Book No. 408, posted 21 December 2012.
 122. In a March 2001 interview with the *Washington Post*, he also alleged that guerrillas had killed four of his brothers and one of his sisters. Castaño and his brothers suffered the same fate as many of their victims. In 1994, Fidel was killed in a confrontation with the EPL. On 16 April 2004, Carlos was murdered at the order of his brother, Vicente, part of a power struggle for control of the AUC. On 11 March 2007, Vicente was murdered by rival factions who dismembered then burned his body and scattered the ashes in a nearby river.
 123. Decree 1194 of June 1989 declared it illegal to "recruit, train, promote, finance, organize, lead or belong to the armed groups, misnamed paramilitary groups, that have been formed into death squads, bands of hired assassins, self-defense groups, or groups that carry out their own justice." It required the approval of the president before any type of self-defense group was established. Source: International Crisis Group (ICG), "Colombia: Negotiating with the Paramilitaries," 16 September 2003, 5. The decision to prohibit the establishment of self-defense forces was part of a series of government decrees. Decree 813 established a commission to study the paramilitary problem. Decree 814 proposed the organization of a special police force dedicated to the elimination of paramilitary groups. Decree 815 establishing criminal penalties for the formation or operation of such groups. Source: William Aviles, "Paramilitarism and Colombia's Low-Intensity Democracy," *Journal of Latin American Studies*, Vol. 38, no. 2, May 2006, 387, 392; and Harvey F. Kline, *State Building and Conflict Resolution in Colombia, 1986–1994* (Birmingham, AL, 1999), 75–6. See also: Rabasa and Chalk, "Colombian Labyrinth," 54.
 124. Aviles, "Paramilitarism and Colombia's Low-Intensity Democracy," 393.
 125. Ibid., 387, 396.
 126. "Revealed: The secrets of Colombia's murderous Castaño brothers," *The Telegraph*, 7 November 2008, 7.
 127. Wilson, "Colombia's Other Army," A1.
 128. Drug traffickers established alliances with paramilitary groups to combat insurgent kidnapping and extortion efforts. In the early 1980s, the 26-year-old daughter of Fabio Ochoa, kingpin of the Medellin Cartel, was kidnapped by M-19 guerrillas. The guerrillas demanded a 12 million peso ransom for her release. In response, Ochoa formed a paramilitary group called "*Muerte a Secuestradores*" (Death to Kidnappers or MAS), found the responsible guerrilla leader, and kidnapped 25

- of his family members and closest friends. Ochoa's daughter was quickly set free without any ransom.
129. Scott Wilson, "Interview with Carlos Castaño, Head of the United Self-Defense Forces of Colombia," *Washington Post*, 12 March 2001.
 130. Centro Nacional de Memoria Histórica. "Basta Ya!: Colombia: Memorias de Guerra y Dignidad," 2013, available at: <http://www.centrodememoriahistorica.gov.co/micrositios/informeGeneral/estadisticas.html>
 131. Larry Rohter, "Armed Forces in Colombia Hoping to Get Fighting Fit," *New York Times*, 5 December 1999.
 132. See "Document 51," National Security Archive, "War in Colombia; Guerrillas, Drugs, and Human Rights in U.S.–Colombia Policy, 1988–2002," George Washington University, 3 May 2002, available at: <http://nsarchive.gwu.edu/NSAEBB/NSAEBB69/col51.pdf>; and DOD News Briefing, 14 April 1998, Office of the Assistant Secretary of Defense for Public Affairs, Mr. Kenneth H. Bacon, ASD (PA).
 133. Aviles, "Paramilitarism and Colombia's Low-Intensity Democracy," 397–398.
 134. Wilson, "Interview with Carlos Castaño."
 135. Aviles, "Paramilitarism and Colombia's Low-Intensity Democracy," 399; Mauricio Aranguren Molina, *Mi Confesión. Revelaciones de un Criminal de Guerra* (Bogotá: Brújula, 2001), 175–176.
 136. "Cargos contra 4 generales por masacre de Puerto Alvira," *El Tiempo*, 28 July 2000; and Rabasa and Chalk, "Colombian Labyrinth," 58.
 137. The officers and NCOs were dismissed pursuant to a decree signed by President Pastrana allowing the Minister of Defense to dismiss officers deemed unfit for duty; they were not charged with specific abuses.
 138. Doug Farah, "Colombian Rebels Seen Winning War," *Washington Post*, 10 April 1998, A17.
 139. *Semana*, "General condenado," 19–25 February 2001; and Rabasa and Chalk, "Colombian Labyrinth," 58.
 140. See: The Guardian, "Nasa Indians Clash with Soldiers in the Colombia – in pictures," available at: <http://www.theguardian.com/world/gallery/2012/jul/19/colombia-nasa-indians>.
 141. Human rights violations in Colombia were partly the impetus for the 1996 Leahy Act that proposed cutting off aid to foreign military units if there was credible evidence they were involved in human rights violations.
 142. U.S. Department of State, "Colombia: Country Reports on Human Rights Practices – 2002," Washington, 31 March 2003. See also: U.S. Department of State, "2001 Report on Foreign Terrorist Organizations," Washington, 5 October 2001; U.S. Department of State, Press Conference, 24 September 2002; and U.S. Department of State, "Foreign Narcotics Kingpin Designation Act," Washington, 29 May 2003.

143. While paramilitaries committed the most massacres, extra-judicial executions, and forced displacement, the guerrillas dominated kidnappings and indiscriminate attacks on populations. The Colombian government defines a massacre as an event in which more than 4 people died in the same act. Centro Nacional de Memoria Histórica, “Basta Ya! Colombia: Memorias de Guerra y Dignidad,” available at: <http://www.centrodememoriahistorica.gov.co/micrositios/informeGeneral/descargas.html>.
144. Human Rights Watch, “War without Quarter: Colombia and International Humanitarian Law,” 1998, 4.
145. The drafters of the Geneva Conventions expected states to classify conflict according to such subjectivity and to develop their own interpretation of the laws of armed conflict. According to Common Article 3 of the Geneva Conventions, the application of laws of war does not depend on the discretion of any one of the parties to the conflict. The rules of war and its inherent protection of combatants and noncombatants applies automatically once a situation of armed conflict exists objectively. Protocol II is applicable when opposing forces in an internal conflict are under a responsible command, exercise enough control over territory to mount sustained and coordinated military operations, and are able to implement Protocol II. Source: Human Rights Watch, “War without Quarter,” 27.
146. Aviles, “Paramilitarism and Colombia’s Low-Intensity Democracy,” 387.
147. *Departamento Administrativo de Seguridad* (DAS) was the domestic intelligence agency in Colombia, the equivalent of the U.S. Federal Bureau of Investigation. See: Aviles, “Paramilitarism and Colombia’s Low-Intensity Democracy,” 395.
148. Adriaan Alsema, “Paramilitary Killing Spree was Colombia ‘state policy:’ Judge,” *Colombia Reports*, 1 November 2014.
149. Jorge Noguera was also accused of passing lists of human rights activists and labor leaders to paramilitaries so they could be targeted. In 2011, he was sentenced to 25 years in prison. Juan Forero, “Colombian Government Shaken by Lawmakers’ Paramilitary Ties,” *Washington Post*, 18 November 2006. See also: El Pais, “Los delitos de Jorge Noguera, exDirector del DAS,” available at: <http://www.elpais.com.co/elpais/colombia/delitos-jorge-noguera-ex-director-del-das>; and <http://www.indepaz.org.co/wp-content/uploads/2012/04/Parapolitica-27-abril-2012.pdf>.
150. Alsema, “Paramilitary Killing Spree was Colombia ‘state policy.’”
151. The most infamous of these instances of repression was *La Matanza* in 1932. Government forces on behalf of landed elite responded to a protest organized by labor and indigenous leaders by indiscriminately slaughtering an estimated 8,000 to 30,000 peasants and workers. The president at the time was General Maximiliano Martínez Hernández, an Army officer.
152. Michael Childress, *The Effectiveness of U.S. Training Efforts in Internal Defense and Development* (Santa Monica, CA: RAND Corporation, 1995), xiv.

153. Benjamin Schwarz, “American Counterinsurgency Doctrine and El Salvador: The Frustrations of Reform and the Illusions of Nation Building,” RAND Corporation, 1991, 23.
154. During the Archbishop’s funeral on 30 March, military forces allegedly fired into the crowd of 250,000 mourners, killing 30–50 people. The event, captured on film and broadcast in the U.S., generated revulsion among American viewers. See: “El Salvador Massacre during Oscar Romero’s Funeral Caught on Film,” on YouTube, available at: <https://www.youtube.com/watch?v=DLvkXj1zGpU>. According to the UN Truth Commission that followed the war, Salvadoran Air Force Captain Alvaro Saravia was believed to have been ordered by Major Roberto D’Aubuisson to assassinate Romero. Both U.S. Ambassador Robert White and the UN Truth Commission concluded there was sufficient evidence to convict D’Aubuisson. Saravia was able to migrate to the United States in 1987 and lived in Modesto, California, until 2003 when human rights NGOs sought to have him arrested for the crime. He went into hiding and is now believed to be living anonymously in a Latin American country. Archbishop Romero was declared a martyr by Pope Francis on 3 February 2015 and then beatified on 23 May 2015. He is one of 10 20th century martyrs depicted in statues above the Great West Door of Westminster Abbey in London.
155. Jimmy Carter, “Archbishop Oscar Arnulfo Romero Statement on the Death of the Archbishop of San Salvador,” 25 March 1980, available online by Gerhard Peters and John T. Woolley, “The American Presidency Project” at: <http://www.presidency.ucsb.edu/ws/?pid=33182>.
156. Milt Freudenheim and Barbara Slavin, “Guerrillas Regroup As Carter Switches On Salvador Arms,” *New York Times*, 25 January 1981.
157. Max Manwaring and Court Prisk, “A Strategic Insight of Insurgencies: Insights from El Salvador,” *Small Wars and Insurgencies*, Vol. 4, no. 1, Spring/Summer 1993, 56–57.
158. *Ibid.*, 177.
159. Freudenheim and Slavin, “Guerrillas Regroup As Carter Switches On Salvador Arms.”
160. Max Manwaring and Court Prisk, *El Salvador at War: An Oral History* (Washington, DC: National Defense University Press, 1995), 60.
161. Bailey, “OPATT: the U.S. Army SF Advisers in El Salvador,” 24–26.
162. *Ibid.*, 10.
163. A.J. Bacevich, *American Military Policy in Small Wars: The Case of El Salvador* (Washington: Pergamon & Brassey’s, 1988), commonly referred to as the “Colonels’ Report,” 24.
164. Robert D. Ramsey III, “Advising Indigenous Forces: American Advisors in Korea, Vietnam, and El Salvador,” Combat Studies Institute Press, Fort Leavenworth, Kansas, 2006, 85; and Bacevich, *American Military Policy in Small Wars*, 24–25.

165. In 1984, friction between the senior U.S. OPATT officers and the Salvadoran brigade commanders led to a suspension of the advisory effort. It was reactivated in 1985 with different personnel. Instead of a lieutenant colonel, a Special Forces major and two SOF warrant officers or NCOs were assigned to each brigade to advise on combat operations and intelligence processing. The new SOF teams also advised on civil defense, civic action, and psychological operations. In all, over 140 individual SOF officers and NCOs served as advisors to 40 battalions during the conflict. The advisory effort dwindled in the early 1990s and, by mid-summer 1993, no U.S. advisors were left in the brigades. For an excellent summary of the OPATTS and the personal and professional challenges they encountered, see: Bailey, "OPATT: the U.S. Army SF Advisers in El Salvador," 21; and Ramsey, "Advising Indigenous Forces," 88–89.
166. David H. Ucko, "Counterinsurgency in El Salvador: the lessons and limits of the indirect approach," *Small Wars & Insurgencies*, 24:4, 2013, 671.
167. The fall of 1983 may have been the low point for the ESAF. They surrendered a number of important strategic positions to the guerrillas, lost entire battalions in combat, and sustained heavy combat casualties in the field. See Manwaring and Prisk, *El Salvador at War: An Oral History*, 148–151.
168. Commander Schaufelberger was waiting for his girlfriend at the University when a van full of gunmen approached and fired into his vehicle. Schaufelberger was in an armored embassy vehicle but had reportedly removed the bulletproof driver-side window for ventilation because the car's air conditioner wasn't working. Overall, the U.S. suffered 30 combat-related military fatalities in a decade of indirect approach operations.
169. Manwaring and Prisk, *El Salvador at War: An Oral History*, 35.
170. Ibid., 71.
171. Ibid., 105.
172. Ramsey, "Advising Indigenous Forces," 87.
173. Manwaring and Prisk, *El Salvador at War: An Oral History*, 21.
174. Ramsey, "Advising Indigenous Forces," 91.
175. Interview with OPATT officer, 16 May 2003, cited in: Bailey, "OPATT: the U.S. Army SF Advisers in El Salvador."
176. Manwaring and Prisk, *El Salvador at War: An Oral History*, 22.
177. Childress, *The Effectiveness of U.S. Training Efforts in Internal Defense and Development*, 4, fn 18.
178. Most of this training was provided in courses at the School of the Americas in Fort Benning, Georgia. The U.S. flew students to the states to attend the courses. See: Childress, *The Effectiveness of U.S. Training Efforts in Internal Defense and Development*, 22–23, 25; Colonels' Report, 14–15; and Manwaring and Prisk, *El Salvador at War: An Oral History*, 280.

179. The 7th Special Forces Group is assigned the geographic responsibility for USSOF efforts in Central and South America. See: Childress, *The Effectiveness of U.S. Training Efforts in Internal Defense and Development*, 27.
180. Ibid., 28.
181. The UN Truth Commission report, released in March 1983, concluded there was "substantial proof that five high ranking officers, including General Ponce, the Minister of Defense, ordered the murder of Father Ignacio Ellecureia, and five other priests."
182. Terry Lynn Karl, "Expert Report of Professor Terry Lynn Karl, Stanford University, in the matter of Inocente Orlando Montano," Center for Justice and Accountability, available at: <http://www.cja.org>.
183. Terry Lynn Karl, "El Salvador's Negotiated Revolution," *Foreign Affairs*, 71/2, 152.
184. Bacevich, *American Military Policy in Small Wars*, 26; and James LeMoyné, "Salvadoran Army's Abuses Continue," *Washington Post*, 19 August 1986.
185. Childress, *The Effectiveness of U.S. Training Efforts in Internal Defense and Development*, 31.
186. Colonel's Report, 37; and Childress, *The Effectiveness of U.S. Training Efforts in Internal Defense and Development*, 30.
187. Michael R. Gordon, "General Says Salvador Can't Defeat Guerrillas," *The New York Times*, 9 February 1990; and Ben Schwarz, RAND Corporation, cited in Ucko, "Counterinsurgency in El Salvador," 676.
188. Information assembled from various sources including the United Nations Truth Commission in El Salvador, "De La Locura a la Esperanza," (San Salvador, 1993); and Charles Call, "Democratization, War, and State-Building: Constructing the Rule of Law in El Salvador," *Journal of Latin American Studies*, 2003, Vol. 35, 827–862.
189. Call, "Democratization, War, and State-Building," 835.
190. Ucko, "Counterinsurgency in El Salvador," 682; and Call, "Democratization, War, and State-Building," 835–836.
191. The autonomy and obstinacy of the military would have likely resulted in the armed forces ignoring the recommendations, but the Clinton administration threatened to withhold \$11 million in aid if the military did not comply with the Commission's recommendations. In 2012, a U.S. NGO, the Center for Justice and Accountability, rallied legal action in the U.S. Congress to deport former Ministers of Defense Jose Guillermo Garcia and Carlos Eugenio Vides Casanova from the United States. Casanova moved to the United States and settled in Palm Coast, Florida, in 1989. Casanova was ordered to be deported in 2012, and on 8 April 2015 he was returned to El Salvador. Garcia moved to the U.S. in 1991. In 2014, he was ordered to be deported by a U.S. immigration court in Miami. Garcia was deported on 8 January 2016. Sources: United Nations Truth Commission in El Salvador, "De La Locura a la Esperanza," (San Salvador, 1993); and

- Clyde Haberman, "Laying Out a Case for Deporting Human Rights Abusers," *New York Times*, 9 November 2014.
192. The 1993 amnesty law was a complement to a 1987 amnesty law that effectively ensured impunity for the military. A number of serious violations were exempt from the two amnesties.
 193. James Dunkerly, *The Pacification of Central America: Political Change in the Isthmus, 1987–1993* (London: 1994), Appendix 7, reported in: Call, "Democratization, War, and State-Building," fn 12; and Childress, *The Effectiveness of U.S. Training Efforts in Internal Defense and Development*, xiv.
 194. United Nations Truth Commission in El Salvador, "De La Locura a la Esperanza," San Salvador, 1993.
 195. Schwarz, "American Counterinsurgency Doctrine and El Salvador," 23.
 196. Bailey, "OPATT: the U.S. Army SF Advisers in El Salvador," 16.
 197. David Ucko, "'Small is Beautiful': El Salvador's Lessons and Non-Lessons for the Indirect Approach," from warontherocks.com, available at: http://warontherocks.com/2014/05/small-is-beautiful-el-salvadors-lessons-and-non-lessons-for-the-indirect-approach/#_.
 198. Sunnis were the minority in the country but retained the majority of the power under Saddam Hussein's reign from 1979 to 2003. When Hussein and his forces were routed, the Shiite majority quickly filled the power vacuum left behind. In many cases, they sought revenge against Sunni officials for the tyranny inflicted during three decades of Hussein rule. Sunnis, in turn, began an insurgency against the central government. Shiites formed militias to protect themselves against insurgent attacks. The situation quickly devolved into sectarian fighting. Sunnis accounted for about 20 percent of the population, Kurds for 20 percent, and Shiites for the remaining 60 percent.
 199. Tom Squitieri, "'Long Way to Go' Before Iraqis Take Over Security," *USA Today*, 14 December 2004; and Eric Schmitt, "Iraqis Not Ready to Fight Rebels on Their Own, U.S. Says," *New York Times*, 21 July 2005.
 200. See, for example: "The Report of the Independent Commission on the Security Forces of Iraq," Chairman, General James L. Jones, USMC (retired), 8; Thom Shanker, "Special Operations Step Up in Afghanistan," *New York Times*, 15 May 2013; and Matthew Rosenberg and Eric Schmitt, "U.S. Is Escalating a Secretive War in Afghanistan," *New York Times*, 1 February 2015, A1. See also: Alissa J. Rubin and Michael Gordon, "Iraq's Military Seen as Unlikely to Turn the Tide," *New York Times*, 22 June 2014.
 201. "The Report of the Independent Commission on the Security Forces of Iraq," General Jones, 55.
 202. Interview with 5th Special Forces Group at Fort Campbell, Kentucky, 5 March 2013, cited in: Austin Long, et al., *Building Special Operations Partnerships in Afghanistan and Beyond* (Santa Monica, CA: RAND Corporation, 2015), 54.
 203. Iraq Index, Brookings Institution, 21 December 2007, 46.

204. Ibid., 40.
205. The U.S. had been prepared to fight a war against regular forces such as the Iraqi Republican Guard, an enemy who was readily identifiable and a type of conflict that permitted the use of maximum force to annihilate the opponent. Instead the U.S. faced an enemy who was wholly indistinguishable from the civilian population and who remained hidden using roadside explosives, car bombs, and sniper fire to attack coalition forces. As lawlessness and violence increased, Iraqis saw the Americans as part of the problem rather than the solution. Attacks against U.S. and coalition forces quickly escalated. See, for example: Nigel Aylwin-Foster, "Changing the Army for Counterinsurgency Operations," *Military Review*, October–November 2005. General Casey attempted to develop a counterinsurgency strategy upon his arrival in Baghdad in August 2004. However, he faced institutional resistance in the Pentagon and his own unfamiliarity with the concept. A team of experts was finally convened in February 2006 to write the new Counterinsurgency Manual (FM 3-24). It wasn't published until December 2006. See: "When Deadly Force Bumps into Hearts and Minds," *The Economist*, 29 December 2004; and Fred Kaplan, *The Insurgents* (New York: Simon and Schuster, 2013), 96.
206. Alice Hills, "Fear and Loathing in Falluja," *Armed Forces and Society*, Vol. 32, no. 4, July 2006, 623–639; and Human Rights Watch, "Violent Response: The U.S. Army in Al-Falluja," June 2003, available at: <http://www.hrw.org/reports/2003/iraqfalluja/iraqfalluja.pdf>.
207. On 4 March 2005, U.S. forces fired on a car carrying an Italian Army general who was transporting a recently released hostage to the Iraqi international airport. Major General Nicola Calipari was killed in the incident. U.S. soldiers said the vehicle failed to abide by traffic signals as it approached the U.S. checkpoint. The car was hit by over two dozen rounds of automatic rifle fire. Italian officials claimed that the soldiers used excessive force. The incident created an international imbroglio and damaged U.S.–Italian relations.
208. Criticism of U.S. military tactics also came from surprising corners. One senior British military official, dismayed by the apparent lack of regard for human rights among the U.S. soldiers, wrote, "The use of force by the Americans is not proportional and is in excess of the threat that we face. They are not worried about the loss of Iraqi lives. Their attitude toward the Iraqis is tragic. It's awful." Source: Sean Rayment, "U.S. Tactics in Iraq Condemned by Top British Officers," *The Telegraph*, 12 April 2004.
209. Military Health Advisory Team V survey, 2008, available at: <http://armymedicine.mil/Documents/Redacted1-MHATV-OIF-4-FEB-2008Report.pdf>.
210. The Haditha Massacre was the murder of 24 civilians by U.S. Marines in Haditha, Iraq, in November 2005. See: "'Simple Failures' and 'Disastrous Results': Excerpts from Major General Eldon A. Bargewell's Report," *Washington Post*, 21 April 2007, page A13. See also: James W. Hammond, "Legitimacy and Military Operations," *Military Review*, 2010, 68–79; and White, "Report on Haditha Condemns Marines."

211. Military Health Advisory Team V survey, 14 February 2008, 12.
212. Nick Schiffrin, "U.S. Vice Admiral Apologizes for Afghan Deaths," *ABC News*, 10 April 2010.
213. White House archives, President Bush speech in Fort Bragg, North Carolina, 28 June 2005, available at: <http://georgewbush-whitehouse.archives.gov/>.
214. Iraq Study Group Report, pages 8–9, 70–75. See also: Michael Gordon, "Iraq's Military: When Will It Take the Lead?" *International Herald Tribune*, 25 October 2006, 5.
215. "The Report of the Independent Commission on the Security Forces of Iraq," General Jones, 8. See also: David Cloud, "Panel Sees More than a Year Before Iraq Can Handle Security," *New York Times*, 5 September 2007.
216. "The Report of the Independent Commission on the Security Forces of Iraq," General Jones, 17–20.
217. Petraeus first arrived in Iraq on 10 March 2003 as a major general in command of the 101st Airborne Division. After fierce fighting south of Baghdad, his forces were assigned responsibility for Mosul and surrounding areas in northern Iraq. He was widely credited for implementing one of the best counterinsurgency plans in Iraq during 2003 and 2004. *Newsweek* magazine reported that "no force worked harder to win Iraqi hearts and minds than the 101st Air Assault Division led by Petraeus," in a 2004 cover story on him. See: Brian Mosely, "Can This Man Save Iraq?" *Newsweek*, 27 June 2004. After a second tour in Iraq in 2004, he was selected to succeed General George Casey as Commanding General of Multi-National Forces-Iraq. He took over on 10 February 2007.
218. For Admiral Mullen's remarks, see: the Landon Lecture Series, Admiral Mike Mullen, chairman of the Joint Chiefs of Staff, Kansas State University, Manhattan, Kansas, 3 March 2010. Mullen also added that the use of force can be counter-productive if used recklessly. He advised U.S. troops to "not try to use force only in an overwhelming capacity, but in the proper capacity, and in a precise and principled manner." Also reported in: Thom Shanker, "Joint Chiefs Chairman Readjusts Principles on the Use of Force," *Washington Post*, 3 March 2010; and Colin Kahl, "In the Crossfire or the Crosshairs?"
219. White, Lane, and Tate, "Homicide Charges Rare in Iraq War." See also: Iraq Index, Brookings Institution, 18 December 2008.
220. Memorandum, International Security Assistance Force (ISAF), "ISAF Commander's Counterinsurgency Guidance," August 2009; and Headquarters, U.S. Forces-Afghanistan/International Security Assistance Force (ISAF), "COMISAF/USFOR-A Counterinsurgency (COIN) Training Guidance," 10 November 2009, available at: http://www.nato.int/isaf/docu/official_texts/.
221. Joint Publications 3-0, *Joint Operations*, 11 August 2011.
222. Livingston, "Building the Capacity of Partner States Through Security Force Assistance," 18.

223. Rubin and Gordon, "Iraq's Military Seen as Unlikely to Turn the Tide." See also: Eric Schmitt and Michael Gordon, "U.S. Sees Risks in Assisting a Compromised Iraqi Force," *New York Times*, 13 July 2014.
224. Emmarie Huettelman, "Iraqi Forces Are Blamed in ISIS Rout," *New York Times*, 25 May 2015, A4; and "Who's Willing to Fight for Iraq?" *New York Times*, 1 June 2015.
225. The Sunni-Shia sectarian rivalry has been an obstacle to stability in the country since nearly the first days of the conflict in 2003. Much of the current ethnic violence was instigated by former Nouri al-Maliki, Iraqi Prime Minister from 2006–2014, a Shia leader. Bush's National Security Advisor Stephen Hadley's leaked report revealed Maliki's true colors, "Reports of nondelivery of services to Sunni areas, intervention by the prime minister's office to stop military action against Shia targets and to encourage them against Sunni ones, removal of Iraq's most effective commanders on a sectarian basis and efforts to insure Shia majorities in all ministries—when combined with the escalation of Jaish al-Mahdi (JAM) killings—all suggest a campaign to consolidate Shia power in Baghdad." See: Michael Gordon "Bush Advisor's Memo Cites Doubts About Iraqi Leader," *New York Times*, 29 November 2006, 1. The rivalry was considered so fierce that United Nations Secretary General Ban Ki-Moon was compelled to warn the Iraqi government (predominantly Shiite) of reprisals against Sunnis in areas liberated from ISIS terrorists. See: Rod Nordland, "UN Leader Warns Iraq Not to Mistreat Civilians After Liberation from ISIS," *New York Times*, 30 March 2015.
226. As of August 2015, the air campaign has conducted almost 4,500 strikes with 15,000 bombs and other weapons. It has killed an estimated 13,000 ISIS fighters and helped Iraq reclaim 25 percent of the territory it lost.
227. Eric Schmitt, "With ISIS in Cross Hairs, U.S. Holds Back To Avoid Civilians," *New York Times*, 27 May 2015, A4; Michael Gordon, "Trainers Intended as Lift, But Quick Turnaround Unlikely," *New York Times*, 11 June 2015, A8; and Eric Schmitt, "Officials Split on Bigger Risk: Al Qaeda or ISIS," *New York Times*, 5 August 2015, A1.
228. The official military investigation into the My Lai massacre in Vietnam identified nine factors that contributed to the incident: lack of proper training, attitude toward the Vietnamese, permissive attitude, psychological factors, organizational problems, nature of the enemy, plans and orders, attitude of government officials and leaders, and leadership. Another military investigation determined that "the American troops did not fully understand the Geneva Conventions." W. R. Peers, *The My Lai Inquiry* (New York and London: W. W. Norton and Company, 1979), 3. See also: Robert Rielly, "The Inclination for War Crimes," *Military Review*, 2010, 52–58.
229. There are a number of guidelines on the use of force produced by international organizations. For example, in 1990, the UN published "Basic Principles on the Use of Force and Firearms by Law Enforcement Officials." In 1998, Amnesty International published "Ten Basic Human Rights Standards for Law Enforcement

Officials.” In 2004, the UN published “Human Rights Standards and Practice for the Police.” The International Committee of the Red Cross published, “To Serve and Protect,” a lengthy summary of human rights considerations for police and security forces. The document is available on the ICRC homepage. See the United Nations Office for the High Commissioner of Human Rights webpage for an excellent list of training and education material, available at: <http://www.ohchr.org/EN/PublicationsResources/Pages/TrainingEducationthree.aspx>.

230. Eric Schmitt, “Billions From U.S. Fail to Sustain Foreign Forces” *New York Times*, 4 October 2015, A1; and Rosa Brooks, “The Hard Lessons of Kunduz and Syria: Why U.S. efforts to train and equip friendly fighters around the world so often fail,” *Foreign Policy*, 2 October 2015.
231. Remarks at the Association of the United States Army (AUSA) Annual Meeting, Washington, DC, 10 October 2007, available at: <http://archive.defense.gov/Speeches/Speech.aspx?SpeechID=1181>.
232. Thomas Ricks, “Dissension Grows in Senior Ranks on War Strategy,” *Washington Post*, 9 May 2004, 1.
233. John R. Galvin, “Uncomfortable Wars: Toward a New Paradigm,” *Parameters*, 1986, 2–7.