Remote Control Project
Written submission to drones APPG inquiry into the use of armed drones: working with partners

Remote Control is a project of the Network for Social Change hosted by the Oxford Research Group. We are a small research and policy team based in London analysing changes in military engagement. Our focus is on remote warfare: the recent shift away from boots on the ground deployments towards light-footprint Western military interventions abroad.

Summary

This inquiry comes amid an increasing UK emphasis on military engagement through its partners. Following the wars in Iraq and Afghanistan the Remote Control Project has observed a shift towards covert and indirect military engagement, which is perceived as less costly in political, human, and financial terms than conventional deployments.

However, the notion that this kind of engagement is entirely 'cost-free' is misleading. By playing a supporting role for partners who undertake the bulk of frontline fighting, the UK incurs a number of risks, particularly around complicity in combat methods that are morally and legally hazardous, as well as potentially damaging for the UK's strategic interests.

While great strides have been made in developing the transparency and accountability framework around the deployment of conventional forces by the UK, that progress has been outpaced by changes in military engagement, including intelligence sharing, training, advice, embedding, and other assistance to partners. This not only has implications for the UK's democratic controls over the use of force, but has serious implications for the standard of debate around military intervention – potentially to the detriment of broader strategic thinking.

This submission covers intelligence sharing, embedded personnel, training, advisors, and Special Forces as methods of assisting partners in relation to the use of armed drones. It then examines the implications of these kinds of assistance, including the transparency and accountability framework surrounding their use, and shortfalls in the current system of parliamentary scrutiny. It will then explore the potential impact of this on UK foreign and defence policy. Finally, it ends with the following series of recommendations for mitigating the risks arising from working with partners and for improving the transparency and accountability framework around such cooperation:

- The deployment of embedded military personnel into combat situations, or in support of combat operations, should be subject to the War Powers Convention in line with other combat deployments of British troops.

- Details about the number, purpose, and locations of embedded military personnel should be published on an annual basis and be made available on request to parliamentarians.

- Special Forces should be overseen by a parliamentary committee.

- The no comment policy on Special Forces should be amended so that the government can provide unclassified briefings that would not reasonably endanger operations or personnel.

- The government should develop a strategy and publish a policy, in the form of consolidated guidance, on managing the risks of intelligence sharing, training, advisors, and other forms of assistance.

- The government should consider tightening existing controls over security and justice assistance by introducing a commitment to suspend any intelligence-sharing, training, deployment of advisors, and other forms of assistance to partners where there is significant evidence of sustained human rights violations or war crimes.

The UK's use of remote warfare

1.1. The controversy surrounding the 2003 invasion of Iraq cast a 'long shadow' over British foreign policy, as well as parliamentary and public trust in the deployment of British troops.[1] Over a decade of engagement in Afghanistan has also increased war-weariness among the British public, and risk-aversion in Parliament and Whitehall alike. For example, the legacy of both campaigns loomed large in August 2013, when the government was defeated in the House of Commons on a vote proposing military action in Syria.[2] Combined with this, the financial cost of both wars has left governments reticent to ask Parliament to commit troops abroad again, especially in an era of declining military budgets and uncertain financial times.

1.2. In 2013, a Ministry of Defence (MOD) study discussing how to maintain operations despite a 'risk averse' public was leaked. The document suggested, among other things 'investing in greater numbers of SF [Special Forces]' and drones.[3] This advice appears to have been followed. In the 2015 National Security Strategy and Strategic Defence and Security Review (SDSR) the government pledged to double investment in Special Forces and to double the UK's armed drone fleet.[4]

1.3. Moreover, while the UK Government has been keen to distance itself from the US's much criticised "Global War on Terror", research by the Remote Control Project shows that the UK is nevertheless engaging militarily in places like Iraq, Syria, Libya, Yemen and Somalia alongside its American allies. Sometimes this takes place on the front lines, sometimes the UK plays a supporting role. Consistently, however, there is only a low level of public debate or institutional scrutiny.[5]

Types of UK assistance to partners

<u>UK intelligence assistance to the US drone programme</u>

2.1. The UK has a long history of sharing intelligence with other countries, especially the United States. In a range of agreements signed between 1946 and 1954 (known as the UKUSA agreement) the US and UK committed to sharing intelligence in what is now one of the deepest and most comprehensive intelligence sharing relationships in the world.[6] The core of this relationship is between the US National Security Agency (NSA) and the UK's Government Communications Head Quarters (GCHQ).[7] There is a significant level of exchange in terms of equipment, personnel and signals intelligence. In some projects, commentators have noted that the UK and US work so closely that GCHQ is almost an operating unit of NSA.[8]

2.2. The UK has shared intelligence in order to aid US drone strikes in a number of countries. In Syria, for example, before Parliament gave authorisation for the UK to undertake strikes itself, Foreign Office Minister Tobias Ellwood MP admitted the UK was 'providing intelligence and surveillance to support coalition partners, who are carrying out air strikes in Syria against ISIL.'[9]

2.3. In November 2015, the UK government reported that it had worked 'hand in glove' with the US in strikes against Muhammad Emwazi, or Jihadi John as he was dubbed by the media. The then-Prime Minister, David Cameron stated that the UK had been working 'round the clock with the Americans to track him down' and insisted that the 'contribution of both our countries was essential'.[10] *The Telegraph* also reported that the strike 'was the culmination of 15 months of intensive intelligence work by MI6, GCHQ and the CIA', claiming that Emwazi had been 'located either by GCHQ or MI6' who then gave this information 'to the Pentagon, enabling the operators of an armed Predator drone already in the sky above Raqqa to spot the car in which he was travelling.'[11]

2.4. In August 2015, the UK played a role in the US strike against British computer hacker Junaid Hussain. US Col Patrick Ryder told the *Guardian* that the two countries consulted 'with each other regarding the targeting of Junaid Hussain', adding 'both governments will continue to coordinate efforts to eliminate violent extremist organisations.'[12] The *Times* reported that

Hussain revealed his location by opening an internet link, which was allegedly sent by an 'undercover agent after GCHQ and its US allies cracked encrypted Islamic State communications'.[13] While the UK has admitted involvement in this successful strike against Junaid, it has kept very quiet about whether or not it was similarly involved in the first strike attempt. This failed strike missed its target, instead killing three civilians.[14] Hussain's wife Sally Jones, another UK citizen who had joined ISIS and was believed to be a propogandist and recruiter for the group, was killed by a US drone strike – alongside her 12-year-old son – in October this year.[15] However, it remains unclear what role the UK played.[16]

2.5. The deaths of British men Bilal el-Berjawi and Mohamed Sakr by separate US drone strikes in Somalia in 2012 seem to implicate the UK in providing intelligence that contributed to their deaths. The two British men came and went between the UK and Somalia for a number of years and were suspected of being affiliated with Al Qaeda.[17] The *Economist* claimed that after el-Berjawi was injured in a failed US strike in Somalia, he called his wife and the 'telephone call seems to have been traced by British intelligence and the coordinates passed on to the Americans' – soon after this, el-Berjawi was killed in a successful strike.[18]

2.6. The UK may also have played a role in US drone strikes in Pakistan. The Snowden documents revealed a 2008 memo from the UK listing 'surveillance of two specific sites and an overview of satellite-phone communications of the Federally Administered Tribal Areas', the area which has seen the largest share of US drone strikes in the country.[19] A document from June 2009 also shows GCHQ speaking about its ability to provide 'tactical and strategic [signals intelligence] support to military operations in-theatre, notably Iraq and Afghanistan, but increasingly Pakistan'. The document adds that in Pakistan, 'new requirements are yet to be confirmed, but are both imminent and high priority.'[20] It also emerged that another member of FVEYs was implicated in strikes in the country, the Bureau of Investigative Journalism noted that Australia's Pine Gap intelligence base 'has intercepted radio transmissions from Pakistan and used the intelligence to fix the location of suspects, feeding this information into the CIA drone programme.'[21]

2.7. Evidence has also emerged about the UK's extensive role with the US drone campaign in Yemen. In early 2010, a leaked internal report from UK–US signals intelligence station RAF Menwith Hill in North Yorkshire suggested that a new technique was being used to identify targets 'at almost 40 different geolocated internet cafés' in Yemen's Shabwah province and in the country's capital, Sana'a.[22] Snowden documents also revealed how a joint US, UK and Australian programme through Overhead, a surveillance network 'integrating satellite imagery with digital and telephonic communications' supported a fatal US drone strike in Yemen in 2012.[23] They also revealed that GCHQ and Overhead developed their ability to track the location of individuals in Pakistan and Yemen.[24]

2.8. In April 2016, an article in Vice News by Jack Watling and Namir Shabibi revealed how extensive the UK's SIS role in Yemen was between 2001 and 2015. The article showed that the UK played 'a crucial and sustained role'.[25] Britain had a very good 'reservoir of knowledge, contacts, and expertise' which provided the CIA with actionable intelligence. The UK also worked with the US, preparing intelligence in the hunt for targets of drone strikes. The article states that 'Once SIS or the CIA had identified a target, they would collaborate on preparing a Target Package — outlining the actionable intelligence'.[26]

<u>Possible UK assistance to Saudi Arabia's military operations in Yemen</u>

3.1. The UK may also be providing assistance to Saudi Arabia's air campaign in Yemen. We are not aware of this taking the form of assistance to drone strikes specifically, but similar challenges, dilemmas, and liabilities apply and it may give us some insight into how the UK will approach assisting foreign drone programmes other than the US' in the future.

3.2. The government currently seems caught between claiming enough knowledge and oversight of the Saudi-led coalition's activities to justify continuing its arms sales and training to them, and

distancing themselves from the decision-making process enough to deny any responsibility for the disasters that have occurred.[27] As such, it has maintained that its role is limited to improving compliance with international law in general. In April 2015, the MoD stated that it is providing 'military training on compliance with the laws of war'.[28] In January last year, Prime Minister David Cameron claimed Britain 'provide[s] training and advice and help[s] in order to make sure that countries actually do obey the norms of humanitarian law'.[29]

3.3. The government has, however, been keen to distance themselves from training directly related to operations in Yemen. For example, when former Defence Secretary Sir Michael Fallon argued that Britain 'has not provided any specific operational advice to the Kingdom of Saudi Arabia for operations in Yemen and has not provided training on political authorisation of military operations'.[30] More recently, Rory Stewart, Minister for International Development stated: 'We provide training and capacity support, which includes statements about international humanitarian law, but that is not about this military operation—that is in general for the Royal Saudi Air Force.'[31]

3.4. In evidence to the emergency parliamentary session on Yemen on the 30th of November 2017, Minister Alastair Burt (FCO & DFID) stated that 'The UK is not a party to the [Yemen conflict], nor a member of the military coalition...The UK is not involved in carrying out strikes, or in directing or conducting operations in Yemen.' He said that, British Airforce and Navy "liaison officers are present to monitor Saudi-led coalition operations in Yemen and provide information to the UK [MoD]. There were not, however, 'embedded personnel taking part in Saudi-led operations, they are not involved in carrying out strikes and they do not direct or conduct operations in Yemen…They remain under UK command and control.'[32]

3.5. However, the UK may have a much more active role in aiding Saudi operations than it would like to admit, especially through its role in the Joint Combined Planning Cell (JCPC) HQ. The JCPC was set up in 2015 to arrange US support to the Saudi-led coalition, including knowledge sharing.[33] In June this year, Saudi foreign minister Adel al-Jubeir claimed 'we have British officials and American officials … in our command and control centre. They know what the target list is, and they have a sense of what it is that we are doing.'[34] While he argued that neither country played a role in selecting targets, their presence in the control centre nonetheless implies some form of involvement.[35]

3.6. In response, the MoD admitted that British forces were present in the operation room for the Saudi air strikes against Yemen, but claimed they do not have an operational role.[36] Later, Tobias Ellwood MP explained that the UK had liaison officers in the JCPC HQ, helping to monitor the current situation in Yemen and facilitate communication with the coalition.[37]

3.7. The level of UK involvement therefore remains unclear and poorly explained. The confusion and opacity surrounding it shows how the framework for providing such covert and indirect assistance in general, including for drone strikes, is fundamentally lacking in transparency and challenged by a contradiction between the need to conduct warfare lawfully, humanely, and strategically, and working with partners who may not respect those parameters.

<u>Training local partners</u>

4.1. The UK has also increasing relied on local groups to do the bulk of the frontline fighting against groups like ISIS and al-Shabaab. Local groups have been supported by air strikes from manned aircraft and drones, and have also provided the eyes and ears on the ground, alongside Western Special Forces, to help direct drone strikes. This is not a new phenomenon; however, it has become a central part of UK strategy with the increased reticence of the UK government to deploy its own troops.

4.2. The increasing reliance on local intelligence-gathering heightens the risk that local groups may manipulate intelligence and use Western air-support to advance their own aims. For example, US forces participated in an operation with Somali troops in August 2017 in the village of Bariire

where a number of civilians are alleged to have been killed. Reports following the event suggest that it remains unclear who the target was. In response, a number of local people and experts concluded that it appeared the US had once again ''been drawn into local clan dynamics' by whoever supplied their intelligence.'[38] It is unclear why drone strikes that rely on local intelligence would be exempt from the same risks as other operations.

4.3. The UK has also been training Somali soldiers directly, as well as training Kenyan counter-terrorism police forces. Some of these groups have been linked to serious human rights violations in their pursuit of terrorists.[39] However, in response to a parliamentary question on what funding and other support the government has provided, Tobias Ellwood (Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs) insisted that 'we do not provide direct funding to the [Kenyan] Anti-Terrorism Police Unit, but support capacity building in investigative skills, operations management, forensics and evidence recovery as well as infrastructure. Respect for human rights and adherence to the law form key components of all our engagement.'[40] Nevertheless, provision of UK intelligence training to groups with dubious respect of human rights raises questions about British liability if this enables further abuses, whether through partner drone operations or through ground operations.

4.4. Watling and Shabibi's report for Vice also revealed that the UK helped train the Yemeni National Security Bureau (NSB). Ali al-Ahmadi, NSB director between 2012 and 2015, said that SIS mentoring was 'theoretical and operational' and was a key reason behind 'the success of the NSB'.[41] UK personnel also trained Yemen's Political Security Organization, PSO, (secret police) 'in surveillance, communications and intelligence-gathering'. This assistance reportedly helped them to establish positive identifications of targets before drone strikes. The PSO in particular has been implicated in systemic human rights abuses.[42]

4.5. In addition to Yemen and Somalia, the UK has been providing ground assistance to groups in places like Libya, [43] Iraq, Syria,[44] and Afghanistan[45] – countries that have all been subject to US or coalition air campaigns. The role of the UK's intelligence-sharing in enabling these strikes remains unclear, hindered largely by the lack of transparency that surrounds this form of military engagement.

Embedding

5.1. The UK has a long-standing policy of embedding troops in the armed forces of its allies.[46] It currently has 'over 250 exchange personnel in the armed forces of allies including the US, Australia, Canada, Netherlands, Italy, France and Germany'.[47] These troops can only be deployed after Ministerial approval but do not require authorisation or scrutiny from Cabinet or the rest of Parliament.[48] This remains the case when embedded troops carry out combat operations alongside their host nation.

5.2. According to the government, embedded troops, or embeds, are considered part of the force they are embedded in, following their chain of command and Rules of Engagement (RoEs); however, they must also follow UK RoEs and UK law.[49] When the host nation has less restrictive rules than the UK then embedded personnel follow UK law and the laws of armed conflict.[50] There are some checks on potential divergences. For example, UK officers embedded in the International Security Assistance Force (ISAF) in Afghanistan held a 'red card' 'that they can use to refuse or approve a mission request'.[51] There have been instances of British soldiers embedded in US forces having to be taken out of US missions because they may violate UK RoEs.[52]

5.3. In 2014 it was revealed that three British staff were embedded at the Camp Lemonnier base in Djibouti – the US base from which the US launches its controversial unmanned strikes against Al Qaeda in the Arabian Peninsula (AQAP) in Yemen.[53] In response to a written question, Defence Minister Mark Francois MP said: '…there are three UK armed forces personnel embedded with US forces at Camp Lemonnier. They work within the Combined Joint Task Force-Horn of Africa (CJTF-HOA) and are responsible for planning and supporting US military operations in the region.

As embedded military personnel within a US headquarters, they come under the command and control of the US armed forces but remain subject to UK law, policy and military jurisdiction'.[54] The MOD maintained these personnel were not involved in strikes, stating 'UK personnel are not involved in the planning for, or operation of, any US Unmanned or Remotely Piloted Aircraft Systems (UAS/RPAS) from Camp Lemonnier.'[55]

5.4. Reprieve, and a number of others, have long claimed that there is also a possibility UK embeds are taking part in drone strikes above Pakistan. A Reprieve FoI, revealed a 'Memorandum of Understanding' (MOU) between the UK and US governments which indicated 'British pilots have been assigned to the command of American drone squadrons operating out of Creech Air Force Base', the base in Nevada from which Predator drones carrying out strikes in Yemen and Pakistan are controlled. In 2015 the MOD also 'declined to answer' an FoI request that would have confirmed whether its personnel had been 'embedded with US military teams operating drones in the skies above' Pakistan, claiming doing so might jeopardise 'international relations'.[56]

5.5. In July 2015 the Ministry of Defence (MOD) revealed in response to a Freedom of Information (FoI) request that UK troops were embedded in allied forces operating in Syria, and had been since Autumn 2014 - well before Parliament had given permission for the UK to engage militarily in the country.[57] Following the revelation, Fallon gave a statement to the House of Commons in which he said: 'Since the international Coalition commenced military operations against ISIL last year, up to 80 UK personnel have been embedded with US, Canadian and French forces. They have undertaken a range of roles including planning, training and flying and supporting combat and surveillance missions'.[58] It also emerged that these forces had been taking part in strikes. Fallon admitted: 'a small number of embedded UK pilots have carried out airstrikes in Syria against ISIL targets'.[59] This meant that as the UK government was considering taking a vote on whether or not to engage militarily in Syria, the UK military was already engaged – but under the control of allied forces.

<u>Special Forces</u>

6.1. Though very little is known about the activities of Special Forces due to an official government policy of 'no comment' on their operations, occasional news reports give us reason to believe Special Forces play a role in assisting air strikes conducted by UK forces and UK allies. These may include drone strikes.

6.2. In October 2016, a news report suggested that UK Special Forces were calling in Coalition air strikes against Islamic State in Sirte, Libya.[60] This came on top of multiple news reports that UK Special Forces were involved in post-Gaddafi combat operations in Libya.[61] In March 2016, the then-British Foreign Secretary had confirmed that 'military advisers' were deployed in Libya, but he would not comment on what they were doing.[62] This coincided with the release of a leaked memo between Jordan and the US revealing that UK SAS troops have been on the ground in Libya since at least the beginning of the year.[63]

6.3. There is some circumstantial evidence to suggest that UK Special Forces have directed drone strikes or other air strikes over Iraq and Syria. Following the August 2015 UK drone strike on British national Reyaad Khan, the *Sunday Times* reported that the operation was approved by the Director of Special Forces. This may indicate that Special Forces were involved in directing the strike.[64] A close relationship between the use of drones and Special Forces is certainly possible given the presence of Special Forces reported in both countries.

6.4. In June 2016, reports began to emerge that UK Special Forces were fighting on the Syrian frontline from al-Tanf.[65] A commander of the New Syrian Army confirmed in an interview that British troops crossed over from Jordan after a wave of Islamic State assaults, claiming that 'they helped us with logistics, like building defences to make the bunkers safe.'[66] In August 2016, reports of UK Special Forces on the ground in Iraq began to surface, claiming that the UK was reportedly leading a secret mission to capture Islamic State commanders before a major assault on Mosul, and that a UK SAS sniper had reportedly killed an Islamic State suicide bomber in a

village just north of Baghdad.[67] There were numerous similar reports throughout the rest of 2016.[68] It is possible UK Special Forces are also helping to direct air strikes, including drone strikes, as part of their varying roles in the two countries.

Implications and risks of intelligence sharing and assistance

Complicity and UK responsibility for partner actions

7.1. By providing intelligence and other forms of assistance to states involved in conflict or targeted killings, the UK risks becoming legally complicit in internationally wrongful acts that these states may go on to commit. In the past, the UK has relied on a legal doctrine which gives the government immunity for acts perpetrated by a foreign state in order to avoid such legal liabilities. For example, in 2012 a Pakistani man, Noor Khan, whose father was killed in a US drone strike, sued the British government for allegedly providing the US with the intelligence that made the strike possible.[69] The case was eventually dismissed by the court of appeal in 2014, which ruled that it could not make a judgement about a case hinging on the actions of a foreign country, except in exceptional circumstances.[70] However, in January 2017 the UK Supreme Court ruled in a separate case that UK officials, including the former Foreign Secretary Jack Straw, could be tried for collaboration with the former Libyan government in the rendition and torture of Libyan dissident Abdel Hakim Belhaj.[71] This leaves the door open to future prosecutions in cases where Britain has assisted a foreign state, including in relation to drone strikes.

7.2. The same is true of arming local groups. Following reports of extrajudicial killings carried out by Kenyan counter-terrorism police forces hunting members of al-Shabaab,[72] Britain's assistance to the units involved has come under greater scrutiny. As has its support to other groups, such as the PSO in Yemen, who have also 'been implicated in systemic human rights abuses.'[73] As Government guidance notes, assistance to these groups 'is not always straightforward' and can present 'human rights or IHL risks, which in certain circumstances may give rise to legal, policy or reputational risks for the UK'.[74]

7.3. Even if the UK is not judged legally complicit in the actions of another state, it might be judged politically or morally complicit. For example, the UK is currently being accused by human rights groups of complicity in the Saudi bombing campaign in Yemen, despite no UK aircraft being involved.[75] This is due to the extensive arms transfers between the UK and Saudi Arabia, and Britain's role in training and advising the Saudi armed forces. This impression may also have permeated into sections of Yemen's population. For example, in a Sky News report in December 2016, the prime minister of the Houthi Yemen government said that '[Britain has] sold cluster bombs to Saudi Arabia…They are participating in the bombing of Yemen people.' In the same report, a local Yemeni man in Sa'dah was quoted as saying, 'We used to think Britain was our friend…Now we think they are criminals because of what's happening here. They're committing crimes, killing our children and pregnant women.'[76] Similarly, on a trip to Sa'dah in January 2017, former International Development Secretary Andrew Mitchell encountered posters declaring that 'British and American bombs are killing Yemeni people'.[77]

7.4. Perceived complicity carries a risk of anti-British feeling that could undermine UK diplomacy. It may also extend to other instances of UK assistance to partners, including assistance to US drone strikes in Pakistan, which might be considered a strategic risk given the potential for radicalisation amongst Pakistani diaspora communities in the UK. The recent Court case, where Campaign Against the Arms Trade challenged the UK's decision to supply arms to Saudi Arabia, provides some important lessons on the risks of cooperation.[78] While the UK Government won the case, having its relationship with an ally scrutinised by a Court is neither beneficial to domestic opinion nor to international relations.

Accountability and transparency deficit

8.1. There is very little transparency for the UK's intelligence sharing. The government normally invokes a 'neither confirm nor deny' policy on intelligence sharing matters. For example, in 2012,

when asked about the UK's intelligence sharing role in Pakistan, former Foreign Secretary William Hague MP said: 'Once you comment on one case you have to comment on many hundreds of other cases. I can't comment on who we share intelligence with, and on what subjects.'[79] When the Snowden documents raised questions over the government's role in drone strikes in Yemen and Pakistan in June 2015, the government simply said: 'It is the longstanding policy of successive UK governments not to comment on intelligence operations…We expect all states concerned to act in accordance with international law and take all feasible precautions to avoid civilian casualties when conducting any form of military or counter-terrorist operations'.[80]

8.2. Similarly, there is less transparency than normal for UK troops if they are embedded in the armed forces of another state. Fallon said that while 'it has been standard practice not to publicise the placing of embeds with other countries' forces', the government 'will always confirm details if and when asked to do so'.[81] He also pointed to the government's past replies to 'a number of parliamentary questions asking for details of embedded forces' as proof of this. When it was discovered UK embeds were operating in Syria, Fallon did commit 'to increased transparency by publishing an annual update to the House on embedded personnel'.[82] However, the annual update has been criticised for being 'hopelessly vague.'[83] The information represents a snapshot of the number of troops embedded on one day meaning it provides no insight into the continuation or trends of these operations. It is also not true that the government will always confirm details of UK embeds, particularly when they are in areas considered sensitive. In 2015, for example, the Ministry of Defence 'declined to answer a freedom of information request that would confirm whether its personnel have been embedded with US military teams operating drones in the skies above' Pakistan, claiming doing so might jeopardise 'international relations'[84]

8.3. Where the UK provides capabilities to allies, be they states or local groups, rather than taking an active lead in operations, it does not necessarily need to report them to Parliament. This is especially true where Special Forces are used to assist foreign partners, when there is no transparency and very little public accountability. The government maintains a policy of 'no comment' on Special Forces operations. For example, when claims surfaced in February 2016 that British Special Forces were spearheading a 'secret war' against ISIS in Libya, including covert discussions about supplying weapons and training armies and militias, the MoD responded that it is a 'long-held policy… not to comment on Special Forces'.[85] Similarly, when Lord Hodgson asked in November 2016 whether Special Forces in Iraq and Syria are working with a kill list to target British nationals fighting with Islamic State, Defence Minister Earl Howe responded that 'The Government has a long-standing policy not to comment on the activities of our Special Forces.'[86]

8.4. There is also little information in the public domain about the military's advise and assist activities. While some narrative is given in the MoD's annual reports,[87] this only gives a snapshot of activities in a selection of countries where the UK works. Because budgetary information is rarely given, and because the information given is not necessarily comparable or consistent between countries or over time, it is very difficult to get a sense of how much time and effort the UK is putting in to capacity building and engaging with its local allies. This makes judging the effectiveness of UK efforts, as well as understanding risks associated with those partnerships, particularly challenging.

8.5. Where military assets are being used to support Special Forces, they are also likely to be covered by the 'no comment' policy. This means, in theory, that drones and drone strikes might not be declared if they are being used specifically in support of Special Forces operations. For example, the UK's Special Forces Support Group (SFSG) – set up in 2006 - includes 'regular' (albeit elite) units like the Paras (The Parachute Regiment) and the Royal Marines. These units train separately, but work to support the 'core' of UKSF. They have been reported as working on the ground alongside the SBS in places like Sirte, Libya in 2016, in connection with strikes against ISIS, but when pressed the government refused to comment on the story.[88] The UK government recently confirmed that the SFSG is often subject to the same no comment policy as UKSF. Fallon stated: 'When under the operational command of the Director of Special Forces, units of the Armed Forces attached to the Special Forces Support Group are subject to the same disclosure policy as other elements of the Special Forces.'[89] This raises interesting questions as to how

expansive the UK government considers its no comment policy to be, for example as to whether it would extend to drone operations undertaken in support of Special Forces.

Lack of democratic scrutiny

9.1. Conventional military deployments will normally invoke the War Powers Convention if they are to involve combat operations.[90] This means Parliament will be able to debate and vote on the decision to go to war. However, the War Powers Convention is not invoked by intelligence sharing, train and assist missions (with the recent and unusual exception of David Cameron's commitment to give MPs a vote over arming Syrian rebels), embedded personnel, or Special Forces, even when they are in support of parties to conflict, meaning they are exempt from this sort of rigorous democratic scrutiny and consent.[91] Replying in October 2016 to a letter from Caroline Lucas MP in which she asked him how the War Powers Convention applies to these forms of remote warfare, Fallon stated that 'the Convention does not apply to military personnel embedded in the Armed Forces of other nations, as they operate as if they were the host nation's personnel, under that nation's chain of command.'[92] He also reaffirmed that 'It is the Government's policy not to comment on Special Forces activity', and said: 'If we were to attempt to clarify more precisely circumstances in which we would consult Parliament on training and advisory missions, we could constrain the operational flexibility of these and other missions.'[93]

9.2. Members of Parliament are able to ask parliamentary questions on non-confidential military missions, including train and assist missions and embedded personnel. Sometimes the government will decline to answer parts of questions or the whole of certain questions on security grounds or will provide only a vague response, but this does normally provide an avenue for parliamentarians to exert some scrutiny.[94] However, intelligence sharing and Special Forces operations are both considered confidential activities, and the government can decline to answer questions from parliamentarians on either.

9.3. The parliamentary committee system does provide a level of scrutiny for some of the aforementioned methods of cooperation. For example, the Intelligence and Security Committee provides extensive oversight, albeit confidentially, of intelligence sharing arrangements. This has included regular visits by parliamentarians to the National Security Agency headquarters in the USA, where they have been briefed by senior officials and have been able to meet with British personnel embedded within the Agency.[95] Moreover, the Foreign Affairs Committee has been able to probe somewhat into the UK's assistance to allies. For example, the Committee raised questions about this kind of support to Saudi Arabia in their 2016 report into the use of UK-manufactured arms in Yemen, prompting the government to clarify a number of issues around its role in the country.[96]

9.4. However, many have raised serious concerns about how effective the ISC, and non-security cleared committees, have been at holding the government to account. This is especially true following the release of its heavily redacted report on the Reyaad Khan strike, in which the ISC's Chair, Dominic Grieve MP, called the Government's reluctance to release 'what we consider to be relevant documents … profoundly disappointing.'[97] Moreover, key aspects of remote warfare – such as train and assist missions – remain so secretive that they are exempt from parliamentary scrutiny.

9.5. Moreover, neither the Intelligence and Security Committee nor the Defence Committee or Foreign Affairs Committee currently have oversight over Special Forces. A number of senior politicians have raised concerns about this in recent weeks. The chair of the House of Commons Defence Committee, Julian Lewis MP, said, during an evidence session with Fallon, 'would it not be sensible for Parliament to fill what is apparently a scrutiny gap' over UK Special Forces. He noted that the intelligence agencies had already done so with the ISC and added that other countries had provided some oversight of their own Special Forces 'without impeding operational capabilities'.[98] Dominic Grieve, Chair of the ISC also stated that there should be some oversight of Special Forces if the UK is to be a 'modern democracy'.[99]

Implications for UK strategy

10.1. By providing assistance to other states' military operations, it might be logical to assume the UK may be able to gain some strategic and tactical influence over the conduct of those operations. This could then be used to reduce the chances of war crimes or human rights violations. However, the UK's failure to win strategic influence over the Saudi campaign in Yemen should serve as a cautionary tale. Despite providing significant support, the UK seems to have been unable to reign in the campaign's excesses. For example, figures for the number of children killed or injured in the conflict in 2016 were six times higher than in 2014.[100] Of the casualties, 60% (510 deaths and 667 injuries) were attributed to the Saudi-led coalition and 20% (142 deaths and 247 injuries) to the Houthis.[101] The United Nations verified 101 incidents of attacks on schools and hospitals, which is double the number verified in 2014. Of the attacks on schools and hospitals, 48 per cent were attributed to the coalition, 29 per cent to the Houthis and 20 per cent to unidentified perpetrators.[102]

10.2. The failure to gain strategic influence introduces the risk of supporting ineffective approaches that are at odds with British strategic interests. For example, the UK military has increasingly come to view high levels of civilian casualties in conflict as both a moral and strategic failure because of their potential to alienate the population. As the British Army Field Manuel on countering insurgency states: 'Maintaining the consent and confidence of the population, minimising friendly force and civilian casualties and limiting opportunities for insurgent propaganda are all essential to mission success.'[103] However, by supporting the Saudi bombing the UK is effectively supporting an approach that risks undermining local confidence in the military campaign and handing propaganda ammunition to the Houthis.

10.3. Similarly, the Foreign Affairs Committee's assessment of UK strategy in Libya worried about the long-term implications of supporting groups from Misrata – who are not controlled by the internationally backed Government of National Accord.[104] Libyan expert, Alison Pargeter, also notes how the UK's operations in Libya:

> …demonstrated that there are long-term consequences of working with particular local groups in the interests of countering IS. Doing so alters the balance of power on the ground, which has the potential to further undermine the prospects for peace. In addition, … empowering certain factions … not only creates tensions with other components in the conflict, but also potentially sets off more internal power struggles.

10.4. David Betz and Anthony Cormack said of Iraq and Afghanistan, 'Britain has never had a clear political aim or an overall plan …[and] [a]s a result, it has never had the coordinated government machinery that success requires.'[105] As a means to try and check these failures, a number of changes have been put in place; for example, the decision to deploy conventional troops is no longer at the behest of the Prime Minister, and their closest advisers, but is debated by public and Parliament, providing a forum for decisions to be justified and scrutinised.

10.5. However, despite efforts to address the pitfalls of Iraq and Afghanistan, a reliance on remote warfare risks repeating them.[106] Despite the UK's extensive engagement in many parts of the world, its operations have lacked satisfactory scrutiny and the government has not articulated a strategy that might knit these engagements together into a coherent response to the threat of terrorism.

10.6. The opacity that surrounds remote warfare may be contributing to a lack of strategy, with the potential to have damaging implications for the effectiveness of UK foreign policy.[107] External scrutiny is a necessary partner of internal oversight, particularly to prevent the sorts of group-think and political dominance criticised in the Chilcot report.[108] Civil liberties lawyer Ben Jaffey reported that, in his experience, when one judge is in charge of saying "yes" or "no" to an operation but is dependent on the government for their access to information, which often lacks

a satisfactory challenging argument, they may be unable to fully consider their judgements.[109] Moreover, as noted, the reticence of UK Government to increase the transparency of these operations means that there is little chance for informed, external debate about government strategy.

10.7. This is out of step with many of the UK's allies, who have already improved some of the oversight surrounding these types of operations. For example, Canada, France, Australia, the US and New Zealand are just some of the countries who now allow for the release of declassified information about the deployment of their Special Forces.[110] This has allowed for a greater debate over a number of issues, including the effectiveness of their deployments and the impact an increased tempo is having on the troops themselves.[111]

Conclusions and recommendations

It is entirely legitimate for the UK to cooperate with partners in pursuit of its interests. However, the potential risks and complications of such cooperation need to be fully appreciated. Moreover, the accountability and transparency framework around such cooperation, and the system for democratic scrutiny of it, must be sufficiently robust.

This submission has highlighted a number of areas where assistance to partners raises questions over complicity, transparency, and accountability. It has shown how embedded personnel can be deployed into combat without having to invoke the War Powers Convention, how Special Forces can be used outside of the system of parliamentary oversight that applies to the rest of the armed forces, and how the actions of partners can leave the UK liable to legal action, moral complicity, and strategic failure.

There are some ways to help reduce such risks and increase transparency and accountability when the UK provides assistance to drone strikes and other military activities carried out by foreign states. Specifically, we propose the following:

- The deployment of embedded military personnel into combat situations, or in support of combat operations, should be subject to the War Powers Convention in line with other combat deployments of British troops.

- Details about the number, purpose, and locations of embedded military personnel should be published on an annual basis and be made available on request to parliamentarians.

- Special Forces should be overseen by a parliamentary committee.

- The no comment policy on Special Forces should be amended so that the government can provide unclassified briefings that would not reasonably endanger operations or personnel.

- The government should develop a strategy and publish a policy, in the form of consolidated guidance, on managing the risks of intelligence sharing, training, advisors, and other forms of assistance.

- The government should consider tightening existing controls over security and justice assistance by introducing a commitment to suspend any intelligence-sharing, training, deployment of advisors, and other forms of assistance to partners where there is significant evidence of sustained human rights violations or war crimes.

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