Syria: Australian military operations

Renee Westra
Foreign Affairs, Defence and Security Section

**Executive summary**

Australian military operations in Iraq commenced in August 2014 as part of the International Global Coalition to counter the Islamic State in Iraq and Syria (ISIS). A year later, on 9 September 2015, Prime Minister Tony Abbott announced Australia would expand its military commitment from Iraq into Syria to conduct operations against ISIS militants located there. At the time, he said this would ‘help protect Iraq and its people from [ISIS] attacks inside Iraq and from across the border’.

Military action in Syria was not explicitly authorised by any UN Security Council (UNSC) resolution. However, on 10 September 2014, Attorney-General George Brandis explained the Coalition Government’s legal basis for these operations. He noted Australian actions were ‘firmly grounded in international law’ and based on the principle of collective self-defence of Iraq under Article 51 of the UN charter.

At the time, the Government was careful to highlight that Australia’s military objectives and involvement were limited to targeting ISIS through air strikes, rather than pursuing any broader political objectives aimed at unseating the Syrian regime. Under Prime Minister Turnbull the Coalition Government has continued to emphasise that the objective in Syria is to ‘degrade, destroy and defeat’ ISIS. But beyond this there has been no substantial public discussion or parliamentary debate about any long-term plan or strategy in Syria or Iraq, despite the conflict’s evolution and the impending conclusion of major urban military operations against the group.

Operation Okra is the Australian Defence Force’s (ADF) contribution to the international, US-led operations against ISIS in Iraq and Syria. As of June 2017, about 780 Australian personnel are deployed to the Middle East as part of this mission. They are split across the Air Task Group (the only element to operate in Syria and Iraq), Task Group Taji in Iraq and the Iraq-based Special Forces contingent. The ADF contribution is part of a 9,000-strong troop commitment from 23 countries, although 72 nations are part of the broader Operation Inherent Resolve (OIR) Coalition to counter ISIS and provide non-military assistance such as finance, equipment, humanitarian and logistics support.

Throughout the conflict, the overall number of Australian sorties (or air missions) in Syria has remained relatively constant, although that effort has been a small proportion of the overall Australian effort in Iraq and Syria, and an even smaller proportion of the overall—US-dominated—OIR Coalition effort. To date, the ADF has not been involved in any incidents where significant civilian casualties have been proven, though the question of responsibility for civilian casualties is a persistent issue for OIR Coalition operations as a whole.

The conflict is at a significant turning point as the Iraqi Government claims victory over ISIS within its territory and the Syrian Government strengthens its control over areas previously held by the group. This raises a number of questions around strategy, future intent and the durability of any current solution, as arguably, while ISIS’s defeat was a necessary operational goal, it leaves wider strategic issues unresolved. However, while the Australian Government constantly reiterates the importance of dealing with ISIS, its intentions remain unclear beyond the destruction of the group, including in relation to key inter-linked issues such as aid and reconstruction efforts and the future role of Assad.
Contents

Executive summary ........................................................................................................... 1
Introduction .................................................................................................................. 3
Iraq and Syria—interdependent conflict ........................................................................ 3
  The Australian commitment—summary .................................................................... 4
Australia's military contribution .................................................................................... 5
  Operational tempo ...................................................................................................... 6
  Rules of Engagement (ROE) and the operational context .......................................... 7
  Air strikes .................................................................................................................. 8
  Targeting .................................................................................................................. 9
Accountability: incidents and strike reporting ............................................................. 10
  Civilian casualties ................................................................................................. 11
Budget ......................................................................................................................... 13
The broader Coalition construct .................................................................................. 13
  Coalition rate of effort ......................................................................................... 14
  Ground operations ............................................................................................... 15
  Australian ground troops? .................................................................................. 16
The legal basis for Australian operations .................................................................. 17
  International framework ....................................................................................... 17
    Self-defence ......................................................................................................... 17
  The international consensus for action in Syria ...................................................... 18
  Australia’s position .............................................................................................. 20
Conclusion .................................................................................................................. 23
Annex A: OIR Coalition military contributions in Syria, July 2017 ....................... 25

Acknowledgements

The author would like to thank Dr Etienne Henry, Nicole Brangwin and Professor Rob McLaughlin for their valuable assistance in compiling this paper.
Introduction
This paper provides a summary of Australia’s military operations in Syria and an overview of key associated issues, particularly those relevant to the Parliament. Many of these matters are also relevant to the conduct of operations in Iraq, but this paper does not specifically address Australia’s involvement in that theatre.

Iraq and Syria—interdependent conflict
On 8 August 2014, US-led coalition military operations against ISIS (also known as Daesh, ISIL and IS) commenced in Iraq following an urgent request for international assistance from the Iraqi Government. This operation was formalised in September under the US designator Operation Inherent Resolve (OIR). OIR’s mission is described as: ‘by, with and through regional partners, to militarily defeat ISIS in the combined joint operations area (Iraq and Syria) in order to enable whole-of-coalition governmental actions to increase regional stability’.

On 14 August 2014, the Australian Government announced Australian Defence Force (ADF) operations had begun, with humanitarian aid delivered to civilians in Iraq. Air and ground operations in Iraq began soon after.

The evolution of the conflict
ISIS’s success across Iraq and Syria has its roots in the chaos that followed the 2003 US-led invasion of Iraq, aided by the systemic social, political and security issues present in Iraq and the broader region since that time, though these issues arguably have a more complex, long-term history across the Middle East. Sunni disenfranchisement, continued government corruption and mismanagement of basic services and chronic insecurity have all enabled iterations of the group to survive, despite the efforts of Iraqi forces and the US-led Coalition over a decade following 2003. In this sense, ISIS is a symptom that reflects a set of underlying set of issues, common across the region, rather than a single issue that can be divorced from its context.

While iterations of ISIS existed in Iraq long before it moved into Syria, the civil war and the early sectarianisation or radicalisation of the conflict in Syria meant that ISIS was organised and positioned to take advantage of the Assad regime’s decreasing control over its peripheral regions. This allowed it to take over a number of eastern urban centres relatively easily, often with some level of local support. The group’s deliberate, transnational establishment across eastern Syria and Iraq gave it access to a range of resources, as well as providing a measure of geographic sanctuary or defence in depth. As such, any strategy to defeat ISIS needed to address the threat in Syria as well.

The Assad regime’s increasingly tenuous position throughout 2014–15 continued to see ISIS consolidate its Syrian territory and gain ascendancy over other elements of the Syrian opposition, despite the OIR Coalition’s progress against the group in Iraq. However, the tide began to turn in late 2015 with Russia’s entry into the conflict, which augmented Iran’s and Hezbollah’s support for Assad and bolstered the exhausted regime. It is against this complex background that the OIR Coalition is conducting operations against ISIS and other designated terrorist groups. The US and select allies are also providing support to various parties on the ground, such as the Kurdish-led Self Defence Forces. This support is now limited to those groups fighting ISIS, though it previously encompassed select groups fighting Assad.

Initially, OIR Coalition operations focused on Iraq in response to the Iraqi Government’s request for assistance; however, in September 2014 the US informed the United Nations Security Council (UNSC) that it had commenced military operations in Syria to deal with ISIS and Al Qaeda elements (known as the Khorasan Group). US air operations in Syria have since been extended to ground operations, which are publicly announced; however, ground-based involvement by other Coalition partners has generally remained officially unacknowledged.

References
The multi-national OIR Coalition has 72 partners; however, only 23 of these are currently contributing to military operations in Iraq and Syria, and a smaller number again are or have been involved in Syrian operations. While all countries are united in their agreement about the need to combat ISIS, many have drawn a distinction between involvement in Iraq and Syria due to issues of legality, popular support and the nature of any potential commitment. Australia is also one of the 12 members of the small ministerial group that is convened during meetings of the Global OIR Coalition; many of these members also have some involvement in Syria.

Figure 1: ISIS areas of influence—a comparison from January 2015 to September 2017

Source: IHS Conflict Monitor and AFP

The Australian commitment—summary

Augmenting Australia’s initial August 2014 humanitarian commitment, in March 2015, Prime Minister Tony Abbott announced a contribution to the international Building Partner Capacity (BPC) mission with an additional 300 regular troops to train Iraqi security forces. By then, the ADF Air Task Group (ATG) was also flying regular strike and refuelling missions in Iraq, and around 170 Special Forces advisers were assisting Iraqi troops. But while operations in Iraq were making progress, the US was still looking to its allies to provide more support, especially in Syria.

On 9 September 2015, following a request from the US Government, Prime Minister Abbott indicated Australia would expand its commitment from Iraq into Syria, with Australian air strikes to be extended to ISIS targets in eastern Syria. Although the request came from the US Government, at the time there was media speculation that the Australian Government had pushed for the invitation. The Defence Minister explained the Government’s reasoning for the deployment as follows:

The extension of RAAF flights over eastern Syria is very much a practical and logical extension of the current operations in that area and is quite clearly in Australia’s national interest because as we know, Daesh [ISIL] continue


9. T Abbott, (Prime Minister), Humanitarian assistance to Iraq, media release, 14 August 2014; T Abbott (Prime Minister) and K Andrews (Defence Minister), Building partner capacity in Iraq, media release, 3 March 2015. By the end of 2015, the Special Forces contingent was reduced to its present number of approximately 80 personnel.


11. T Abbott, (Prime Minister), J Bishop (Minister for Foreign Affairs), K Andrews (Minister for Defence) and M Binskin (Chief of the Defence Force), The Syrian and Iraqi humanitarian crisis: Australia to extend air operations against Daesh into Syria, media release, 9 September 2017.

to provide a security threat, not just to Iraq and those regions of Syria in the Middle East, but it reaches out here to
Australia.13

Prime Minister Abbott also noted that the extended operations would mirror the efforts of other allied nations
already operating in Syria. This would ‘help protect Iraq and its people from [ISIS] attacks inside Iraq and from
across the border’.14 On 10 September, Attorney-General George Brandis explained the Government’s legal
basis for these operations in the Senate (this is covered in more detail in a later section of this paper). He stated
that the decision was ‘firmly grounded in international law’, and was based on the principle of collective self-
defence under Article 51 of the UN charter.15 He also noted that the self-defence provisions also applied to non-
state actors like ISIS—an increasingly invoked, though non-traditional, interpretation of the UN Charter’s use of
force provisions.16

In a September 2015 editorial in The Australian, Senator Brandis elaborated on this, echoing sentiments also
expressed by Prime Minister Abbott, stating:

The Iraqi-Syrian border is not a natural frontier—it is literally a line in the sand, the product of the division of the
Middle Eastern provinces of the Ottoman Empire after World War I by the Sykes-Picot agreement. The Daesh [ISIL]
insurgency does not acknowledge it as an international border and Daesh militias move across it without
impediment. It makes absolutely no sense, from a military or strategic point of view, to be limited by an arbitrary
boundary that the enemy neither recognises nor respects.17

However, the Abbott Government was careful to highlight that Australia’s objectives were focused on combating
ISIS, rather than pursuing any broader political objectives being discussed by other OIR Coalition partners at the
time. In Parliament on 16 September 2015, Defence Minister Kevin Andrews reaffirmed that Australian
operations in Syria were solely directed at ISIS and Australia would not be engaging in the broader Syrian
conflict, though Prime Minister Abbott refused to rule out expanded Australian operations in the future.18

But while the Government’s principal objective in Syria was consistently and clearly stated as being to ‘degrade,
destroy and defeat’ ISIS, there appears to have been little if any serious public or parliamentary debate in
Australia (or by coalition partners) about what constitutes success, when operations may wind up, or what the
Australian role in any reconstruction and follow-on support efforts may be.19

**Australia’s military contribution**

Australia’s military participation is designated Operation Okra, and includes activity in both Iraq and Syria. This
falls under the broader Coalition effort, Operation Inherent Resolve (OIR Coalition), involving the Iraqi
Government, Gulf States and international partners.

As of August 2017, about 780 Australian personnel are deployed to the Middle East in support of Operation
Okra. These personnel are split across three elements:

- Air Task Group (ATG) of approx. 300 personnel operating in Syria, Iraq and across the Middle East
- Special Operations Task Group (SOTG) of approx. 80 personnel and
- Task Group Taji (TG Taji) of approx. 300 personnel in Iraq.20

---

13. The Syrian and Iraqi humanitarian crisis; Australia to extend air operations against Daesh into Syria, op. cit.
14. Ibid.
Abbott hints Australia will join US in carrying out air strikes in Syria’, ABC News, Australian Broadcasting Corporation (ABC), 21 August 2015,
September 2015, p. 10436; The Syrian and Iraqi humanitarian crisis; Australia to extend air operations against Daesh into Syria, op.cit.
19. The nature of and scope of ADF operations in Syria and Iraq have continued largely unchanged under the Turnbull Coalition Government,
though there has been some increases in support provided to Iraq.
The ATG is the only element to operate in Syria. The prospect of further Australian involvement—for example, ground troops—has generally been ruled out by senior government officials (see ‘Coalition operations: ground troops’ section in this report for further detail).

**Air Task Group (ATG)**

The current ATG consists of six F/A-18F Hornets, one E-7A Wedgetail airborne early warning and control (AWAC) and one KC-30A Multi-role Tanker Transport (refueller). As indicated in Figures 1 and 2, the ATG conducts operations in both Iraq and Syria:

- From the commencement of operations to the end of June 2017, the F/A-18 Hornets conducted 50 sorties in Syria, and delivered 68 munitions. During the same period in Iraq, the ADF conducted 2,399 sorties and 2,100 munitions used.

- The KC-30A refueller entered Syrian airspace on 116 occasions between September 2014 and June 2017.

- The E-7A AEW&C entered Syrian airspace 194 times between September 2014 and June 2017.22

Australia’s support aircraft assist not only Australian aircraft during their missions, but other Coalition aircraft as well, which may partly account for their higher rate of effort.

**Operational tempo**

Throughout the conflict, the number of ATG sorties has remained relatively constant, although the rate of effort in Syria is a smaller proportion of the overall Australian effort in Iraq and Syria (see Figure 2). From the commencement of operations to the end of August 2017, the ATG conducted 4,038 sorties and dropped 2,363 unspecified munitions in support of the OIR Coalition mission in Syria and Iraq. Syria accounts for 68 of those munitions (see Figure 2). In Senate Estimates in May 2017, the CDF noted most strike missions employ at least one weapon.

**Figure 2: ADF ATG operations in Syria and Iraq (by number of sorties, platform and operating location)**

Source: Data obtained from HQJOC and collated by the Parliamentary Library.

---


23. The information provided by HQJOC does not allow a more specific breakdown of the Syria/Iraq operations for the KC-30A and E-7A than what is indicated. These aircraft can operate in both Syria and Iraq during a sortie, and HQJOC only notes how many times these aircraft have entered Syrian airspace.

24. Data obtained from ‘Operation OKRA’, op. cit.

25. Ibid.


27. Data obtained from ‘Operation OKRA’, op. cit.
To give a sense of scale, as at 9 August 2017, the OIR Coalition had flown a total of 167,912 sorties in support of operations in Syria and Iraq. However, the Coalition rate of effort has been far more equal across Syria and Iraq than Australian operations may indicate. This disparity reflects the greater US effort in Syria in relation to its Coalition counterparts (see Figure 5), though since June 2017 changes in OIR Coalition reporting means the US effort cannot be distinguished from the activities conducted by other Coalition partners.

The Chief of the Air Force, Air Marshal Gavin Davies, noted in 2015 that ATG missions are determined by the requirements of the Coalition Air Operations Center (located in Qatar). In Senate Estimates on October 2015 he said:

... the derivation of targets and the flow within the coalition determines the rate of effort we fly. But I could categorise that as saying we do have aircraft flying every day. Sometimes that is: fly the Wedgetail Monday, not fly Tuesday, fly Wednesday and then the following week it could be fly Monday, Tuesday and Wednesday but it does vary. It is a fairly steady rate and has remained that way since we arrived.

Figure 3: Number of ADF-dropped munitions in Syria and Iraq (September 2014 to June 2017)

Source: Data obtained from HQJOC and collated by the Parliamentary Library

Rules of Engagement (ROE) and the operational context

US Air Force doctrine provides a good explanation of the purpose behind, and the principles that determine, national ROE:

ROE constrain the actions of forces to ensure their actions are consistent with domestic and international law, national policy, and objectives. ROE are based upon domestic and international law, history, strategy, political concerns, and a vast wealth of operational wisdom, experience, and knowledge provided by military commanders and operators.

While most national operations in Syria are conducted under the auspices of the OIR Coalition, including those of Australia, each contributing nation determines its own rules of engagement, which are usually classified for

---

29. As of 9 August the OIR Coalition had conducted a total of 13,331 strikes in Iraq and 11,235 strikes in Syria. Note that this number differs from the number of sorties flown—multiple strikes can occur in a single sortie. OIR Coalition reporting also notes that strike figures now include ground-based artillery (for example in Raqqa) which also affects the figures.
32. Data obtained from ‘Operation OKRA’, op. cit.
There can also be multiple sets of ROE for different missions or theatres (especially in a Coalition setting) and ROE can change or evolve in response to operational requirements. But generally, all nations are supposed to adhere to the Laws of Armed Conflict agreed to under the Geneva Conventions, particularly the principles of military necessity, humanity, proportionality, and discrimination which provide a common theme to every set of ROE. However, there is still variation within this. For example, some nations may have zero tolerance for any collateral damage or casualties while others may be more flexible depending on their doctrinal guidance, political considerations and what they deem to be ‘proportional’ to their desired outcome. The CDF, Air Chief Marshal Mark Binskin, summarised this during a Senate Estimates hearing in May 2017:

The coalition as a whole abides by the laws of armed conflict—proportionality and discrimination. As to rules of engagement, each have their national rules of engagement, as you would expect. Looking across those rules of engagement, there may be some differences in some areas, but across the board they are relatively similar.

The CDF further clarified that Australia’s rules of engagement are set by Australia and that the ADF is:

bound by our targeting protocols to always abide by international law, always operate within our rules of engagement, and always look to be proportionate, discriminate and ensure that there is a military advantage from that particular engagement.

However, this is a difficult balance to manage. An OIR Coalition spokesman noted in a March statement some of the difficulties the Coalition encounters:

Our goal has always been for zero civilian casualties, but the coalition will not abandon our commitment to our Iraqi partners because of ISIS’s inhuman tactics terrorising civilians, using human shields, and fighting from protected sites such as schools, hospitals, religious sites and civilian neighbourhoods.

Air strikes

Air strikes (missions during which munitions are released from an aircraft) can be deliberate or dynamic. In the context of Syria and Iraq, deliberate strikes are longer-term, planned operations run from the Coalition Air Operations Center (CAOC) in Qatar while dynamic strikes respond to short-notice tasking or operational requirements. As such, a greater amount of work goes into planning deliberate missions and there is a more limited tolerance for collateral casualties in comparison to dynamic strikes. Dynamic strikes are conducted at the behest of ground commanders or intelligence, surveillance and reconnaissance assets, generally in response to an immediate operational need. It has been suggested that, in addition to the devolution of tasking authority to lower-level commanders in the field, the increase in dynamic strikes in the course of operations in Mosul and Raqqa since December 2016 accounts, at least in part, for the dramatic increase in reported civilian casualties caused by the OIR Coalition.

Munitions are also chosen for strikes depending on the desired effect and target. The CDF has noted munition choice can also help to reduce the potential for collateral damage or casualties—for example, low fragmentation

---

34. ROE are usually not published or disseminated beyond those who need to know them. It is argued that enemy knowledge of these rules and limitations would enable an enemy to know how a particular operation may be conducted—for example, in what circumstances soldiers are permitted to open fire.


37. Ibid., p. 79.


40. The CAOC is the ‘nerve centre’ of any air operations throughout the area of operations of US Central Command (CENTCOM). The US Air Force fact sheet states ‘the CAOC plans, monitors and directs sortie execution, close air support and precision air strike; intelligence, surveillance and reconnaissance; airlift; air refuelling; aeromedical evacuation; air drop, and countless other mission-critical operations’. See also: US Air Forces Central Command, ‘Combined Air Operations Center (CAOC)’, US Air Forces Central Command website, accessed 10 August 2017.


munitions can be used in urban areas. On 14 September 2015, Defence Minister Kevin Andrews confirmed the ATG had completed its first strike against an ISIS target in eastern Syria, with an F/A-18 destroying an armoured personnel carrier hidden in a compound (ATG strikes in Syria are annotated in Figure 2). Until May 2017, Defence did not publicly release details of what ATG strikes were achieving beyond the number of munitions dropped, unless specifically noted by the Government (see the ADF strike-reporting section for further detail). Combat aircraft conducting missions in Syria also operate with airborne early warning and control aircraft (AWAC) and other supporting aircraft, such as refuellers. This enables aircraft to operate for extended periods of time and maintain situational awareness of the operational environment. These capabilities also help deconflict potential issues in Syrian airspace, where Russian and Syrian regime aircraft also operate. But while the CDF noted in 2015 that the focus of Russian and Syrian regime forces on central Syria reduced the prospect of potential issues for any Australian aircraft, the Assad regime’s increasing control over its peripheral regions has seen Syrian and Russian aircraft operate across more of the country, potentially changing this dynamic. The US takes the lead—on behalf of the Coalition—working with Russia to deconflict operations and Syrian airspace, and there is a direct communication line between the CAOC and the Russian Air Operations Center.

**Targeting**

In addition to ROE, the CDF’s Targeting Directive (or TD) also provides more specific directions for targeting in support of an operation. The ADF ADDP 3.14 Targeting notes that this directive specifies categories of target, collateral damage estimation methodology, the levels of risk authorised for use by designated commanders, command and control arrangements and national policies on legal issues. In regard to collateral casualties, the Australian Defence Doctrine Publication states:

> The principle of proportionality (as with the principle of ‘military necessity’) involves an implied concession that collateral casualties and damage may in certain circumstances be justified. That is, just because collateral casualties or damage may occur, or are even expected from an attack on a military objective, does not necessarily make that attack unlawful, provided those collateral effects are proportional to the military advantage.

On 1 September 2016, Prime Minister Turnbull and Minister for Defence Marise Payne released a statement confirming the ADF ‘now had full authority to target all members of Daesh [ISIS], in accordance with international law’. However, the Bill to make the necessary changes to Australia’s domestic laws was only introduced to Parliament on 12 October 2016. The Criminal Code Amendment (War Crimes) Bill 2016 aimed to fix an issue that had reportedly been problematic during ADF operations where non-state actors were involved as belligerent parties—perhaps the defining feature of recent conflict.

The Turnbull Government’s amendments to the Criminal Code were designed to allow the ADF to target ‘those who may not openly take up arms but are still key to ISIS’s fighting capability’. This also reflects a broadening of the ISIS target set as the OIR Coalition’s campaign has forced changes in the manner and form in which ISIS operates. The Australian Parliamentary Library’s Bills Digest on the amendments, explains the nature and purpose of the changes:


---

44. K Andrews (Minister for Defence), Transcript of doorstop interview: RAAF first strike in eastern Syria, Canberra, interview, 16 September 2015.
46. Ibid.
50. M Turnbull (Prime Minister) and M Payne (Minister for Defence), Australian Defence targeting of Daesh, media release, 1 September 2017.
52. Australian Defence targeting of Daesh, op. cit.
in the course of a ‘non-international armed conflict’[1] with the requirements of international humanitarian law (IHL). These anomalies (detailed below) are said to limit the capability of the Australian Defence Force (ADF) to undertake international security operations, and may expose members of the ADF to domestic criminal liability despite acting in compliance with the requirements of IHL.53

Prime Minister Turnbull also elaborated on the nature of this amendment in a speech to the Queensland Liberal National Party State Conference:

This legislation for the first time enables our soldiers and aviators in the field in the Middle East to kill terrorists wherever they are, not simply when they’ve got a gun in their hand. Where there was a legal barrier to them having unrestricted targeting access, as soon as that was raised with me, I dealt with it. I got on with it and dealt with it.54

The Bill passed both Houses of Parliament relatively quickly to become law on 7 December 2016.55 These changes do not appear to have had any impact on the ATG’s rate of effort or activity in Syria (see Figure 2).

Accountability: incidents and strike reporting

ADF strike reporting and transparency

On 2 May 2017, the Department of Defence announced a change in the operational reporting publicly released by Headquarters Joint Operations Command (HQJOC). This followed the OIR Coalition’s March review of its own strike reporting.56 These changes came at a time of heightened media interest in the increased number of civilian casualties resulting from operations in Mosul, in which the ADF had participated.57

Until May 2017, Defence only released its monthly sortie and munition numbers, making it impossible to publicly verify any reports of ADF involvement in alleged incidents unless the Government specifically addressed an incident or allegation. In May’s Senate Estimates, the CDF pointed out that the detail on any strikes conducted by Australians was still reported under the banner of OIR Coalition reporting.58 However, that reporting did not, and still does not, distinguish individual nation activity—this makes it impossible to verify any allegations or incidents against the public record. This is one of the main reasons that the widely cited non-government organisation (NGO), Airwars, ranked Australia as one of the least transparent nations in the OIR Coalition in its December 2016 transparency audit of the Coalition air war.59

Although there was no admission that the media interest surrounding operations in Mosul sparked the changes in reporting, from May 2017 HQJOC has been releasing fortnightly reports with significantly more detail on ATG operations.60 Specifically, the reports state the location and nature of targets in any F/A-18 strike operation, increasing the amount of specific information available publicly about the targets and outcomes of ADF strikes in the region. This has, at least in part, solved the issue outlined above and brought Australia’s level of transparency closer to that of other key OIR Coalition partners. Throughout the conflict, many OIR Coalition partners, including the US, UK, Canada, and France, have generally provided more detail on their missions, targets and outcomes relative to Australia.61 They argue that the provision of such information does not compromise operational security or their mission, and that the need for transparency and accountability is important.

56. Department of Defence, Changes to reporting for ADF operations in Iraq and Syria, media release, 2 May 2017.
However, as Australia has increased its individual level of transparency, the Coalition has moved to provide less information on the relative activity of nations within the OIR construct. Since June, the US has stopped distinguishing between its strikes and those of its allies, and figures are now only given as Coalition totals (this also makes Figures 4 and 5 impossible to update). Several news reports note that these changes were a result of media interest in the casualty figures during the Mosul operations, and that they effectively absolve Coalition allies from having to account for any casualties not specifically caused by the US. Up until this point the US was one of the more transparent nations in the OIR Coalition—certainly, it was the only one to admit causing civilian casualties.

But while the ADF’s recent release of additional strike information has increased the level of transparency around the location and type of air operations conducted in Syria and Iraq, broader questions about the relative lack of transparency remain, given the disparity with the level of information shared by most allies. The limited release of information from the Department of Defence has also been replicated in Parliament. While regular updates on ADF Operations were given in Parliament by defence ministers John Faulkner and Stephen Smith under the Rudd and Gillard Labor governments, the Abbott and Turnbull Coalition governments have decreased the number and detail of operational updates provided to Parliament, with the last Defence Portfolio Ministerial update provided to Parliament in September 2015.

Civilian casualties

The reportedly high number of civilian casualties resulting from Coalition air strikes has been an issue of ongoing concern in this conflict, although it is broadly recognised that the urban nature of the war and ISIS tactics exacerbate the potential for civilian casualties. Air campaigns in Libya, Syria, and Yemen show that civilian casualties are not only likely, but inevitable in this type of campaign, regardless of the measures that are taken to avoid them.

However, even the UN has expressed concern over the conduct of the air campaign in Iraq and Syria, asking whether all measures have been taken to minimise the loss of life. Experts, analysts and the media also continue to ask about the disparity between the number of casualties recorded by NGOs and those recorded by the Coalition. The NGO AirWars estimates that from the beginning of operations in 2014 to 8 August 2017, between 14,056 and 20,543 civilians are likely to have died in 1,995 separate reported Coalition incidents in Iraq and Syria, which it notes means the OIR Coalition is responsible for more civilian deaths than Russia. Notwithstanding the significant challenges in verifying casualties, this estimate is radically different to the total of 603 for which the OIR Coalition assesses it has been responsible since the beginning of military operations in August 2014.

To date, the US is the only Coalition nation to admit it has inadvertently killed civilians. The US, through the Combined Joint Task Force, Operation Inherent Resolve (CJTF-OIR), releases a monthly civilian casualty report which addresses allegations that Coalition strikes have resulted in civilian casualties. However, there remains a number of confirmed civilian deaths attributed to Coalition strikes for which the US does not take responsibility.

---

71. These are found on the Operation Inherent Resolve news page and are generally released at the beginning of each month. For example, the latest report is: CJTF-OIR, ‘Combined Joint Task Force—Operation Inherent Resolve monthly civilian casualty report’, Operation Inherent Resolve website, 2 June 2017, accessed 5 July 2017. Airwars notes in its ‘Limited accountability’ report that a number of studies—including some by the UN—show that the ratio of civilian fatalities to strikes in air campaigns in Afghanistan, Pakistan, Somalia and Yemen is around 1:10, rather than the estimated 1:51 ratio claimed by the OIR Coalition in Iraq and Syria.
which effectively attributes them to allies. In its April 2017 monthly casualty report, US Central Command (CENTCOM) stated, ‘additionally, it is assessed that 80 civilian casualties attributable to Coalition strikes to defeat ISIS in Iraq and Syria from August 2014 to the present had not previously been announced’.  

A joint Foreign Policy-Airwars investigation notes that CENTCOM officials confirmed these deaths were attributed to allies. None of the 12 counter-ISIS Coalition partners that have operated in Syria—including Australia—have publicly conceded any role in these incidents, nor any others that have resulted in civilian casualties. However, the ADF did note in May 2017 that Australian strike aircraft have been involved in a small number of incidents resulting in credible claims of civilian casualties, though none have been confirmed. Reinforcing the level of care taken in its own procedures, the ADF specifically stated:

Prior to an air strike, Australia’s Air Task Group undertakes meticulous and comprehensive mission planning including national and international approvals. Once a mission is complete, ADF staff thoroughly review every weapon strike to ensure the strikes are consistent with pre-strike approvals.

In Senate Estimates in May 2017, the Director-General of the ADF Legal Service, Air Commodore Hanna, also noted the following ADF processes in relation to civilian casualty incidents:

If there were allegations in relation to laws of armed conflict violations made against the ADF, those allegations would be covered, firstly, through our notifiable incidents reporting. There is capacity for it to be moving into the investigative processes both within the Australian Defence Force and wider. You may recall that over the last number of years, where there have been allegations of civilian casualty incidents, that is where the Australian Defence Force has been conducting its own inquiries into each of those events.

But the predominantly air-only nature of the war in Syria makes any investigative process extremely difficult as post-strike assessments are often based on surveillance video analysis. Investigators do not have the same access as they did in conflicts like Afghanistan. This is likely true of Australian strike review processes in Syria. ABC News also detailed an ADF response to a Freedom of Information Act request where it was noted that the Government ‘does not specifically collect authoritative (and therefore accurate) data on enemy and/or civilian casualties in either Iraq or Syria and certainly does not track such statistics’ (as the OIR Coalition does this). The OIR Coalition said in April nations are responsible for tracking this data themselves, which raises some questions about the gap between these two stated processes.

In June 2017 the OIR Coalition changed its strike and incident reporting so that the activities of individual nations (of the US and its allies) can no longer be distinguished in overall reporting, arguably reducing the level of transparency for all nations involved and avenues for victims to seek compensation.

18 September 2016 strike on Syrian Government troops

On 18 September 2016, Australian aircraft were involved in Coalition-led air strikes targeting what were believed to be ISIS fighters near Dayr az Zawr, Syria. However, these later turned out to be Syrian Government, or Syrian Government affiliated troops—the exact nature of which remains unclear (this reflects the complexity of the Syrian conflict environment and the number of semi-official militias and groups that have fought for the Assad regime).
In November 2016, the Chief of Joint Operations, Vice Admiral David Johnston, relayed the findings of the Coalition investigation into the incident. He noted that two F/A-18 combat aircraft and one E-7A AW&C Controller had been involved, but the investigation found that the strikes were conducted in full compliance with the rules of engagement and Laws of Armed Conflict. While there had been no disregard of targeting procedures, several recommendations were made to improve the targeting processes in the Qatar-based CAOC and reduce the possibility of future targeting errors. Discussing the incident at Senate Estimates in October 2016, Acting CDF Vice Admiral Griggs highlighted that ‘we [the ADF] have been patently clear that Australia would never intentionally target a known Syrian government military unit or actively support Daesh’. Defence Minister Marise Payne also said Australia would never intentionally target a known Syrian military unit or actively support ISIS. This reflects the restricted objectives and mandate of Australian operations in Syria, limited to targeting ISIS in the collective self-defence of Iraq.

**Budget**

The 2017–18 Department of Defence budget allocated $453.6 million to Operation Okra for the 2017–18 financial year. The estimated actual cost of Operation Okra for 2016–17 was $353.9 million. The operational costs provided in the Defence Portfolio Budget Statement are additional costs. That is, they are additional to the already existing costs of personnel and equipment. Note that elements of Operation Accordion provide support to Operation Okra as well as other ongoing operations in the Middle East Region. There is no way to separate the cost of operations in Iraq from the cost of those in Syria. The Australian Strategic Policy Institute (ASPI) stated in its latest Defence budget review publication, *The Cost of Defence*, that the ‘cumulative real cost’ of Defence operations against ISIS in Iraq from 2014–15 to 2019–20 was approximately $1.3 billion.

The OIR website notes that as at 30 June 2017, the total cost of US operations related to ISIS since kinetic operations started in August 2014, is US$14.3 billion. The average daily cost over 1,058 days of operations is US$13.6 million.

**The broader Coalition construct**

The OIR notes that as at 30 June 2017, there were 9,000 troops from 23 countries supporting efforts to defeat ISIS in Iraq and Syria. Eleven of those countries have conducted some form of operations in Syria itself. But frontline military support is only one form of contribution. Other contributions to the mission have come in the form of financial, equipment, humanitarian and logistics support. The military commitment and activity of OIR Coalition nations has also varied given the different national caveats in place, tolerance for risk, and likely variation in national rules of engagement. Each nation decides its own rules of engagement.

The following countries have conducted air strikes in Syria: Australia, Bahrain, Canada, Denmark, France, Jordan, the Netherlands, Saudi Arabia, Turkey, the United Arab Emirates, the UK and the US. But not all have an ongoing commitment (see Annex A for more specific information on individual contributions). The US, UK and France have provided the largest most consistent contributions.

Many other Coalition countries, for example Canada, Germany and Poland, provide ‘enabler’ capabilities such as air-to-air refuelling, and surveillance and reconnaissance assets. These capabilities support Coalition air operations. Since October 2016, NATO has also provided direct AWAC support to the OIR Coalition; however, NATO leaders have sought to highlight that such assistance ‘does not make NATO a member of this coalition’.

It is misleading to try and order the relative size or impact of contributions—personnel numbers can fluctuate, national contributions vary over time and troops may be put to different tasks. Additionally, personnel are spread across a variety of supporting locations and platforms (for example, ships). The rotation of the French.

---

81. vice Admiral David Johnston speaks about the investigation findings, ABC News (online), 30 November 2016, accessed 29 June 2017.
85. Ibid.
Carrier Group in and out of the operation can, for example, have a significant impact on the number of French troops and capabilities ‘assigned to the mission’, though it is not an ongoing role in the way that the Australian Task Group’s role is.

See the Coalition contributions table at Annex A for more detail on the operations of the individual countries involved.

**Coalition rate of effort**

As at 21 June 2017, the OIR Coalition had conducted 18,117 strikes in Iraq and Syria, 440 of which were conducted in Syria by non-US Coalition members—Figure 4 gives an indication of the overall Coalition effort in terms of strikes/targeting and Figure 5 shows the relative level of US effort compared to other allies.\(^{90}\) Since June, Coalition reporting has not separated the activity of the US from its allies, which makes this graph impossible to update. Strike numbers also include ground artillery activity in Syria, which distorts any comparisons with the data of previous months. But it is likely the US continues to conduct the vast majority of strikes on behalf of the Coalition.

The bulk of the OIR Coalition’s air activity remains focused on Syria, and strikes in Syria have outnumbered those conducted in Iraq since mid-2016 (see Figure 4).\(^{91}\)

It is worth noting that in all these discussions and comparisons the term ‘strikes’ as used by the US does not equate to either munitions or sorties for which specific Australian figures are publicly available.\(^{92}\) Multiple aircraft munitions drops and locations could be included in one ‘strike’. Therefore, it is not possible to make any specific judgements about the exact proportion of Australian efforts within the OIR Coalition, though Figure 5 still provides a sense of scale.

**Figure 4: Number of strikes per month, in Iraq and Syria.**

---

91. October 2016 is an exception as the campaign against ISIS in Mosul meant the Coalition’s rate of effort in Iraq surpassed that in Syria.
Ground operations

The US has also carried out a range of ground-based operations supporting local forces and targeting ISIS and other extremist groups in Syria. This has more recently involved conventional troops (not just Special Forces), which are effective, easier to deploy and increasingly the capability-of-choice in complex environments. Other OIR Coalition members have played no publicly acknowledged role in US ground operations, though Special Forces from multiple OIR Coalition countries have allegedly been involved in targeting and training operations (see below).

The presence of US ground troops in Syria has been well-documented and officially acknowledged since October 2015 when the first group of Special Forces to operate in Syria was announced. In December 2016, US Defence Secretary Ash Carter announced that the US would deploy an additional 200 troops to Syria, supplementing the 300 Special Forces troops already there ‘advising and assisting’ in the fight against ISIS. Carter stated that in addition to providing training, US Special Forces would ‘over time, be able to conduct raids, free hostages, gather intelligence, and capture ISIL leaders’ and eventually conduct unilateral operations in Syria.

US troops have been operating with Kurdish forces in the vicinity of Manbij Northern Syria (see Figure 6) since March 2017. While the Pentagon no longer releases specific troop numbers, a spokesman noted in June 2017 that ‘hundreds’ of US troops were involved in the operation to retake Raqqa. US forces have also been in the al Tanf Area (on the Jordanian border) for some time, training and advising Syrian partner forces engaged in the fight against ISIS. There has been no indication of what may be planned for these troops following the conclusion of operations in Raqqa.

Source: Airwars

95. S Collins, ‘Carter: U.S. will deploy more troops to Syria to combat ISIL’, DoD News: Defense Media Activity, 10 December 2016, accessed 2 July 2017. The practice of announcing troop numbers is an Obama-era policy which the Trump administration has moved away from. For more detail see R Westra, ‘Creeping normalcy: the boots are already on the ground in Syria’, FlagPost, Parliamentary Library blog, 3 April 2017.
In August 2016, UK Special Forces were pictured in Syria in the vicinity of al Tanf, although, in line with standard policy on Special Forces operations, there was no comment from the UK Government.\textsuperscript{99} There have also been reports of French and German Special Forces operating in northern Syria, though the German Government denied these reports.\textsuperscript{100} There have been no reports of Australian Special Forces conducting similar activities.

Figure 6: The Syrian Arab Republic

Source: UN Cartographic Section

Australian ground troops?

In 2015 Prime Minister Abbott refused to rule out the deployment of ground troops to the broader fight in Iraq or Syria; however, Defence Minister Kevin Andrews later confirmed that the Government was not considering any such deployment to Syria.\textsuperscript{101} In October 2015, the CDF explained in Senate Estimates the nature of the ADF’s commitment in Syria, stating that it was ‘not even so-called; we do not have boots on the ground’.\textsuperscript{102} Two years later, in a February 2017 interview, Foreign Minister Julie Bishop also confirmed ‘Australia did not have boots on the ground [in Syria] in the common understanding of the term’.\textsuperscript{103} The common understanding of the term—which is by no means definitive—is generally taken to mean troops that can engage in direct combat. It generally does not refer to train-and-advise missions even though those troops can (and often do) technically accompany those they train to the front lines.\textsuperscript{104}

\textsuperscript{99} Q Sommerville, ‘UK special forces pictured on the ground in Syria’, \textit{BBC News} (online), 8 August 2016, accessed 29 June 2017.

\textsuperscript{100} ‘Damascus says German special forces in Syria, Germany denies’, \textit{Reuters} (online), 15 June 2017, accessed 10 August 2017.

\textsuperscript{101} D Wroe, ‘Islamic State: Tony Abbott refuses to rule-out combat forces as Syria air strikes announced’, \textit{The Sydney Morning Herald} (online), 9 September 2015, accessed 29 June 2017.

\textsuperscript{102} \textit{Official committee Hansard}, 21 October 2015, op.cit., p.140.

\textsuperscript{103} ‘Julie Bishop sees Assad as part of a political resolution to Syrian civil war’, \textit{SBS News} (online), 24 February 2017, accessed 10 July 2017.

\textsuperscript{104} R Westra, ‘Creeping normalcy: the boots are already on the ground in Syria’, op.cit.
The legal basis for Australian operations

International framework

Article 2, paragraph 4 of the Charter of the United Nations states:

> All members [UN member states] shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.¹⁰⁵

While the intent of the UN Charter is to prevent conflict between states, there is generally broad acceptance of three exceptions to Article 2, or legal justifications for the use of force (although this is still subject to a level of interpretation and they are not all explicitly spelt out in the Charter). These are:

- consent (including an invitation from the state seeking specific foreign military support)
- Chapter VII authorisation by the UN Security Council (UNSC) (under Articles 39, 41 and 42 of the UN Charter) or
- the right of individual self-defence or collective self-defence (Article 51).

States might draw on one or a number of these exceptions to justify military action in another state.¹⁰⁶ For example, OIR Coalition members have justified their operations in Iraq under the consent and Article 51 collective self-defence provisions.¹⁰⁷

Self-defence

The right to self-defence is universally accepted and enshrined in international law as an exception to the general prohibition on the use of force by states. Self-defence can be individual or collective—NATO’s collective self-defence treaty is a classic example of this.¹⁰⁸

The criteria for what constitutes self-defence are drawn from both conventional and customary international law sources (which include the UN Charter, pre-charter customary law and post-charter customary law).¹⁰⁹

Professor of Public International Law at the University of Reading, James Green, notes:

> Taken together, these sources of law provide the three primary criteria against which self-defence claims must be tested (armed attack, necessity and proportionality), as well as two additional, secondary, criteria (reporting to the Security Council and the expiration of the right once the Security Council has taken action).¹¹⁰

However, the scope and circumstances in which the right of self-defence is used is still subject to debate. Since the September 11 attacks in particular, the use of force in self-defence has been continually applied to new circumstances involving non-state actors, namely international terrorist groups, although the traditionally accepted interpretation of Article 51 is that armed attack had to be ascribed to a state.¹¹¹ The limitation of the Article 51’s provisions, namely that it can only be applied to state on state conflict, was reaffirmed in the 2004 judgment of the International Court of Justice in Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), which has technically not been overturned.¹¹² But an increasing number of states have supported a broader interpretation of the right to use force in self-defence to intervene against non-

---

¹⁰⁷. O Flasch, ‘The legality of the air strikes against ISIL in Syria: new insights on the extraterritorial use of force against non-state actors’, Journal on the Use of Force and International Law, 3(1), 2016; S Sengupta and C Savage, ‘US invokes Iraq’s defence in legal justification of Syria strikes’, The New York Times (online), 23 September 2014, accessed 10 August 2017. It is also worth noting here that the commonly touted Responsibility to Protect (R2P), or humanitarian intervention concepts, are not legal justifications in and of themselves; they are instead political justifications. One or more of the above exceptions still technically needs to be invoked for an operation to have a legal basis or justification for military action in international law.
state actors whenever and wherever they operate. In a 2017 speech on the modern law of self-defence, the UK Attorney-General noted:

Many states now hold the view, and have acted on the basis, that the inherent right of self-defence extends to the use of force against non-state actors, and includes the right to use force in response to both an actual and an imminent armed attack by that non-state actor.

A number of states have also confirmed their view that self-defence is available as a legal basis where the state from whose territory the actual or imminent armed attack emanates is unable or unwilling to prevent the attack or is not in effective control of the relevant part of its territory. 113

However, there is some reluctance to accept these changing interpretations of when and how the right to self-defence can be invoked as new precedents in international law—particularly as these form the core of the OIR Coalition’s justification for operations in Syria. There is also an argument to be made that the lack of comment from states in regard to this interpretation of self-defence also does not indicate acquiescence or solid acceptance of this as a new precedent. 114 For example, the Non-Aligned Movement, comprised of around 120 states, has expressed its collective reservations about the gradual expansion of the definition in which use of force is permitted. In February 2016, in an open debate before the UN Security Council, the Movement reaffirmed that ‘consistent with the practice of the UN and international law, as pronounced by the International Court of Justice, Article 51 of the UN Charter is restrictive and should not be re-written or re-interpreted’ (S/PV.7621, 15 February 2016, at 34). 115

This tension surrounding the expansion of the criteria under which states use force in self-defence is a challenge for the international legal order. Many are concerned this new interpretation broadens the criteria against which self-defence claims are made, especially given the definition or classification of a terrorist group is more subjective than that of a state. For example, Turkey has repeatedly invoked the right of self-defence to conduct operations in northern Iraq against the Kurdistan Workers Party (PKK), arguing that the Iraqi Government has been unwilling or unable to deal with the threat. 116 This is the same justification Iraq used to push for the OIR Coalition to use force in Syria, while repeatedly condemning the Turkish actions in northern Iraq. 117

The international consensus for action in Syria

The legality of foreign military activity in Iraq is broadly accepted given that the Iraqi Government’s 2014 invitation requesting assistance provided a clear mandate, or consent. 118 However, the justification for the use of force in Syria is more complex even though it is ostensibly based on the same Iraqi invitation and (albeit expanded) collective self-defence principles. For a number of states, operations in Syria are also a matter of individual self-defence (discussed further below).

The UNSC has not provided any form of explicit legal cover for military operations in Syria as Russia and China, with their veto powers as permanent UNSC members, have opposed any form of Chapter VII mandate. However, a number of resolutions have been passed by the UNSC condemning the violence and urging member states to take all action possible against ISIS, including resolutions 2170, 2178, 2199 and 2249. 119 Resolution 2249 specifically labelled ISIS an ‘unprecedented threat’ and called upon member states with the capacity to do so to take all necessary measures to prevent and suppress the group in Syria and Iraq. Many legal authorities note that the wording of this resolution provided a level of ambiguity on the use of force which could be taken to

119. These resolutions include provisions that call on member states to take action to stymie IS financing, provide humanitarian relief, conduct counter-messaging campaigns and provide stabilisation support.
Syria: Australian military operations

... calls upon Member States that have the capacity to do so to take all necessary measures, in compliance with international law, in particular with the United Nations Charter, as well as international human rights, refugee and humanitarian law, on the territory under the control of ISIL also known as Da’esh, in Syria and Iraq, to redouble and coordinate their efforts to prevent and suppress terrorist acts committed specifically by ISIL also known as Da’esh as well as ANF, and all other individuals, groups, undertakings, and entities associated with Al Qaeda, and other terrorist groups, as designated by the United Nations Security Council, and as may further be agreed by the International Syria Support Group (ISSG) and endorsed by the UN Security Council, pursuant to the Statement of the International Syria Support Group (ISSG) of 14 November, and to eradicate the safe haven they have established over significant parts of Iraq and Syria.121

As such, all OIR Coalition members operating in Syria have justified their actions on the basis of the collective self-defence of Iraq, given that ISIS had established bases in Syria which presented a direct threat to the security of Iraq and Australia invited the US to assist. In a letter to the UNSC the Iraqi representative stated:

As we noted in our earlier letter, ISIL has established a safe haven outside Iraq’s borders that is a direct threat to the security of our people and territory. By establishing this safe haven, ISIL has secured for itself the ability to train for, plan, finance and carry out terrorist operations across our borders. The presence of this safe haven has made our borders impossible to defend and exposed our citizens to the threat of terrorist attacks. It is for these reasons that we, in accordance with international law and the relevant bilateral and multilateral agreements, and with due regard for complete national sovereignty and the Constitution, have requested the United States of America to lead international efforts to strike ISIL sites and military strongholds, with our express consent. The aim of such strikes is to end the constant threat to Iraq, protect Iraq’s citizens and, ultimately, arm Iraqi forces and enable them to regain control of Iraq’s borders. 122

Another component of this justification is the notion that Syria was unable or unwilling to prevent ongoing armed attacks by ISIS on Iraq, though not all states participating in operations mention this doctrine.123 As such, other states argue they are justified conducting operations in Iraq’s defence beyond Iraqi borders because they are acting in collective self-defence of Iraq. This raises questions of whether consent could have been obtained from Syria—this was not ruled out by Damascus—or whether the country’s ability to deal with the threat of ISIS may have now changed, although these issues are far too complex to explore in the context of this paper.124 Any notion of Syria ‘passively consenting’ to Coalition military operations was also dashed when Damascus singled out the US, UK and Australia for conducting air strikes in what they regard as a blatant violation of Syrian sovereignty, and the Syrian Foreign Minister stated on 6 February 2016 that any foreign ground troops entering Syria would ‘return home in wooden coffins’.125

The US, UK, France and Turkey have also used an additional, individual self-defence justification, noting that the presence of terrorist groups in Syria is a direct threat to their homelands.126 The US stated as much in 2015

---


following strikes against the Khorasan Group (although it has since referenced self-defence in a broader context). The UK did the same following an air strike it conducted on a British citizen in 2015, as did France following the Paris attacks.127

**Australia’s position**

The Government of Iraq’s request for assistance in combating ISIS, based on the principle of collective self-defence under Article 51 of the UN Charter, forms the basis of Australia’s legal justification for operations in Syria.128 On 10 September 2015, the day after Prime Minister Abbott announced operations would be expanded into Syria, Attorney-General George Brandis advised the Senate of the Government’s legal basis for the action, saying that it:

> relied, as did other participating members of the international community, upon the principle of collective self-defence in article 51. That principle applies to non-state actors and can extend, in an appropriate case, beyond the borders of the requesting state.129

Department of Foreign Affairs and Trade talking points, obtained under a FOI release, noted that the Government considers there to be ‘a clear legal basis for striking Daesh [ISIS] targets in Syria: the collective self-defence of Iraq’ and that ‘our allies and partners have cited this legal basis for their operations’.130 Specifically, the US, the UK and Canada all cited as justification the collective self-defence of Iraq in letters to the Security Council relating to action in Syria.131 A key component of this justification was that Syria was unable or unwilling to prevent ongoing armed attacks by ISIS into Iraqi territory.132

The Australian Government informed the UN of its intention to conduct operations in Syria via a letter dated 9 September 2015, highlighting that the focus of its operations would be to support Iraq in its fight against ISIS. The letter to the UN stated:

> In response to the request for assistance by the Government of Iraq, Australia is therefore undertaking necessary and proportionate military operations against ISIL in Syria in the exercise of the collective self-defence of Iraq. These operations are not directed against Syria or the Syrian people, nor do they entail support for the Syrian regime. When undertaking such military operations, Australia will abide by its obligations under international law.133

However, the Australian Government also provided some parameters on the broader action. During a 9 September 2015 press conference, Prime Minister Abbott noted that Australia had ‘no legal basis, at this point in time, for wider strikes in Syria’ (beyond ISIS targets in eastern Syria), and Defence Minister Andrews noted on 16 September that ‘we will not be engaging in the broader conflict in Syria’.134 However, the Prime Minister did not completely rule out future consideration of expanded operations in Syria:

> … Obviously, the Assad regime is not the kind of government that we could ever support. Obviously, the consolidation of a terrorist State in Eastern Syria and Northern Iraq would be a catastrophe for us as well as a calamity for the people of that benighted region. So, do we want Assad gone? Of course we do. Do our military operations contribute to that at this time? No, they don’t.135

Given that self-defence was the basis of the legal justification for OIR Coalition operations, the widespread collapse of ISIS in large areas raises more urgently the question of when ISIS can be considered ‘defeated’ or at

---


128. Australia also relied on invitations from the host Government to deploy troops in the Solomon Islands in 2003, and East Timor in 2006. See ‘Solomons Cabinet endorses Australian-led intervention’, AM, Australian Broadcasting Corporation, 5 July 2013.


130. FOI release 15/46222, op.cit., p. 7.

131. Ibid., p. 9.

132. Ibid.


135. Ibid.; The Syrian and Iraqi humanitarian crisis: Australia to extend air operations against Daesh into Syria, op.cit.
least no longer representing an existential threat to Iraq raises a number of issues. The end-state for operations against ISIS in Iraq and Syria was unstated, and still remains open-ended. At what point will Australia consider ISIS ‘defeated’, or at least to no longer represent an existential threat to Iraq, and withdraw its military forces? If ISIS were to no longer directly threaten Iraq, would the focus of operations change and with it, the legal justification?

Moreover, does ongoing instability in Iraq mean that Coalition troops will be present for years to come? Successive victories against ISIS have changed patterns of territorial control across Syria and Iraq, exacerbating pre-existing disputes and divisions between various groups and increasing overall instability. These problems will become more prominent as the fight against ISIS becomes less of a priority compared to a range of other conflicts between states, sectarian groups and international powers—though arguably ISIS has not been completely defeated and the same problems that enabled the group’s dramatic re-emergence in 2014 are still present. The question therefore becomes how willing is the Coalition to prop up or assist local governments and entities to prevent any resurgence of ISIS or similar groups?

These are questions and issues that have not been addressed by the Australian Government or any other OIR Coalition partner to date, even though they are an integral part of addressing the ISIS problem.

Bipartisan—mostly

The Australian Labor Party has consistently underscored its support for the war against ISIS, and its bipartisan approach to most matters of defence and security, which included support for the Abbott Government’s expansion of air strikes into Syria. But while quick to support the Abbott Government’s expansion of operations into Syria, Opposition Leader Bill Shorten noted in Parliament on 9 September 2015 that Labor’s support was not unconditional, but subject to the following conditions:

1. ADF operations in Syria must be constrained by the proposed legal basis of Iraq’s collective self-defence. We call on the Government to confirm that any Australian use of force will be limited to that necessary to halt or prevent cross border attacks on Iraq or to defend Australian personnel, be proportionate to that threat, and be subject to international law.

2. The Government must provide assurance that an effective combat search and rescue capability will be in place to meet the risks evident for any RAAF personnel downed in hostile territory. This assurance should precede any ADF operations in Syrian airspace.

3. The Government’s overall approach must include a substantial commitment to address the deepening humanitarian crisis in the Middle East, and in Syria in particular. Labor welcomes the Government’s announcement of an additional 12,000 humanitarian refugee places to assist people affected by the crisis in Syria. Labor also welcomes the announcement of $44 million in additional humanitarian relief funding for the crisis in Syria, but we call on the Government to match Labor’s proposal of $100 million in additional funding given the enormous need.

4. The Government must formally notify the United Nations Security Council about Australia’s decision, including our assessment of the legal basis for action, and advocate strongly for the UN to renew efforts around a long-term, multilateral strategy to resolve the Syrian conflict.

5. The Government must outline to Parliament their long term strategy regarding Australia’s changing role in the defence of Iraq and allow for appropriate parliamentary discussion - consistent with the Government’s prior commitment to keep Parliament updated on national security matters.

Former Shadow Foreign Minister Tanya Plibersek also called on the Prime Minister to address Parliament, outline Australia’s long-term strategy in Iraq and Syria and allow for appropriate parliamentary discussion, highlighting that ‘our role militarily must be matched by renewed efforts toward a long-term, multilateral strategy to resolve the Syrian conflict’. In a 9 September 2015 speech to the Australian Strategic Policy Institute, Tanya Plibersek also called on the Prime Minister to address Parliament, outline Australia’s long-term strategy in Iraq and Syria and allow for appropriate parliamentary discussion, highlighting that ‘our role militarily must be matched by renewed efforts toward a long-term, multilateral strategy to resolve the Syrian conflict’.

---

138. T Plibersek (Shadow Minister for Foreign Affairs), Transcript, ABC Insiders, 13 September 2017; T Plibersek (Shadow Minister for Foreign Affairs), Speech to the Australian Strategic Foreign Policy Institute, Canberra, speech, 9 September 2015.
Institute, she highlighted that a bipartisan approach requires a level of cooperation and information-sharing between parties, and pointed out that ‘if the Government is genuinely looking for bipartisanship on important and complex matters it might in future consider putting more effort into working cooperatively with our Shadow Ministers’.  
However, the Opposition was consistently careful to note that it was not questioning the Government’s prerogative powers, or Labor’s support for the deployment or its legal basis, and underscored its bipartisan approach to the issue and its acceptance of the Government’s legal justification for the expansion of operations. 

Foreign policy scholars have noted, as did Labor in 2015, that while this bipartisan approach has clear benefits, immediate and largely unconditional bipartisan support on defence and foreign policy issues can limit the level of debate, discussion and publicly available information on these issues. On 9 September 2015, Australian Greens senator Scott Ludlam forced a vote in the Senate in an effort to debate the war and make the Government provide more information about its reasoning and long-term strategy. The motion was voted down 37-10, with only the Greens and Senator Jacqui Lambie voting in favour. There has been no other parliamentary debate on Iraq or Syria since, and Labor’s initial calls for debate and discussion have not been reiterated. As such, with the two major parties in agreement on the issue of ADF deployments, there has been little need for the Government to explain its plans or reasoning.

The decision to extend operations into Syria without parliamentary consultation, debate or voting contrasts with the extent of debate and discussion over these issues—including Syria specifically—in similar parliamentary democracies such as the UK and Canada. France’s parliament also debated the merits of military operations in Syria, an opportunity the French Government used to explain its reasoning and approach.

Since the 2016 federal election, the Labor leadership has not commented in any substantial way on broader government strategy or requested a debate on military operations in Syria or the situation more broadly; a possible indication there is no substantial or developed policy on the matter. The key exception was Shadow
Foreign Minister Penny Wong’s comments following the April 2017 US strike on Syria in retaliation for the Khan Sheikhoun chemical weapons attack in Idlib. Senator Wong expressed support for the US strike, reiterating the Labor Party’s solidarity with the Government’s handling of operations targeting ISIS. She also called on all sides of the conflict to ‘move towards a peaceful solution to end the suffering of the Syrian people’ and to ‘hold the Assad Regime to account for the crimes it has committed against its people’. 146 However, these comments did not allude to, or appear to constitute part of any specific policy on the region.

Conclusion
The conflict in Syria and Iraq is at a significant turning point as the Iraqi Government claims victory over ISIS within its borders and the Syrian Government strengthens its control over areas previously held by the terrorist group. But with the conflict against ISIS receding (at least for now), pre-existing disputes and divisions between groups in Syria and Iraq are once again coming to the fore, exacerbated by the changes in territorial control and the rise of various groups that are challenging the pre-ISIS status quo. This raises a number of questions around strategy, future intent and the longevity of any solution for the region. Arguably, ISIS is a symptom of underlying, systemic issues and a problem that can only be solved by addressing these other issues. ISIS’s defeat was a necessary operational goal, but it leaves wider strategic issues unresolved. As such, the threat from ISIS or potential follow-on entities will not be comprehensively defeated without addressing the broader economic, social and political problems that exist across the Middle East, especially while the increasing securitisation of the problem exacerbates the marginalisation and repression at the root of these issues.

As a tool that can be applied to fix these systemic issues, and mitigate the problems that feed into these strategic conflicts, ongoing reconstruction assistance is more necessary than ever to address local grievances and prevent the loss of hard-won gains in both Iraq and Syria, although there seems to be little appetite among OIR Coalition members for the careful consideration or application of this measure. The lack of consensus on the lessons learnt from the expensive and ultimately less-than-successful endeavours in Iraq and Afghanistan in past decades also adds to the reluctance to go down this path. But pursuing various short-term operational goals in the absence of a clear strategic end-state is also unlikely to be successful.

The US has not been forthcoming with any specific long-term plans for its activities in Syria and Iraq, beyond emphasising that stabilisation is a priority and that it will not engage in any form of nation-building. 147 This is particularly pertinent in Syria where there is an understandable reluctance to own any part of the problem post-ISIS. 148 In an interview alongside US Defense Secretary James Mattis and Chairman of the Joint Chiefs Joseph Dunford, the US Envoy to the OIR Coalition, Brett McGurk, explained the ‘stabilisation’ approach the administration is taking:

Stabilization is not nation-building. We’re not attempting to dictate political outcomes nor is it long-term reconstruction where projects are chosen by outsiders often with no connection to the local community costing and often wasting billions of dollars. Instead, stabilization is a low-cost, sustainable, citizen-driven effort to identify the key projects that are essential to returning people to their homes such as water pumps, electricity nodes, grain silos, and local security structures, local police. 149

However, the concern here is that this approach does not solve the issues that created and sustained ISIS. 150 And while trying to avoid further entanglement, the US also appears to be digging deeper into the Syrian conflict through its ongoing cooperation with opposition groups on the ground. The US now has military infrastructure in Syria, and continues to provide critical support (including weapons) to the Kurds, who arguably would face significant problems without an ongoing US presence. 151 As such, US actions do not appear to reflect any form of transient short-term commitment, or one that will end when ISIS is dislodged from its last urban strongholds.

146. P Wong (Shadow Minister for Foreign Affairs), Targeted military strike in Syria, media release, 7 April 2017.
The US has recognised this to a point—US Defense Secretary Mattis noted in May 2017 that some form of stability would be required in Syria before any US withdrawal, but this ignores the challenges to be overcome in order to achieve stability in the first place.152

As a junior Coalition partner Australia will never drive the overall trajectory of the campaign. However, in this sense it is more critical to have a clearly articulated set of goals to avoid being drawn into any escalation of the conflict that may not align with broader national interests. Yet, beyond the destruction of ISIS, the Australian Government’s future intentions remain unclear, including in relation to key interlinked issues such as the future role of Assad and Australian involvement in aid and reconstruction efforts. As CDF Air Chief Marshal Mark Binskin noted in Senate Estimates in May 2017, Australia’s continued military involvement is predicated on the mission to degrade and defeat Daesh (ISIS) while it remains a threat to Iraq:

The operations we do into Syria are in the collective self-defence of Iraq. So, all along, the mission has not changed since October 2014, when we went in, which was to be a part of a coalition that was looking at degrading and ultimately defeating Daesh in Iraq and giving the Iraqis the wherewithal to secure their borders. That mission has not changed in that period. So if we were to change that mission, it would require us to go to government and government to provide a whole new consideration of what we may or may not do.153

As such, the question of Australia’s continued involvement in a conflict after ISIS is ‘defeated’, or at least no longer represents an existential threat to the Iraqi Government, is also a pertinent one given that it is the basis for the justification of Australian operations in Syria. So, if the mission changes, the framing and extent of Australia’s participation in any future operations may need to be revisited. But to date, the possibility that the mission may change has not been raised publicly. While the Government’s objective in Syria has clearly been to ‘degrade, destroy and defeat’ ISIS, there has been no serious public discussion or parliamentary debate about what comes next. Neither the Government nor the Opposition has outlined any current plan, strategy or coherent policy for Australian involvement in the region beyond defeating ISIS or contributing funds to Iraq for reconstruction, even though it looks increasingly likely it will be a long-term commitment.154


Annex A: OIR Coalition military contributions in Syria, July 2017

The following table provides a snapshot of the military support Coalition members have provided to operations in Syria (and Iraq, when these can be separated). Note that there may be some elements that are not public and which are therefore not included in the table (for example, Special Forces activities). The exact platforms and capabilities in theatre may also vary depending on rotations, serviceability and other national priorities.

<table>
<thead>
<tr>
<th>Country</th>
<th>Syria</th>
<th>Iraq</th>
<th>Size and details of contribution</th>
<th>Parliamentary approval/role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Air and Ground</td>
<td>Air and Ground</td>
<td>F/A-18 Hornet fighters, KC-30A tanker aircraft and E-7 airborne control aircraft operating in Syria and Iraq. A total of 680 personnel operate in Iraq and the UAE.</td>
<td>No vote or debate required—executive branch approval only. 156</td>
</tr>
<tr>
<td>Bahrain</td>
<td>Air</td>
<td>—</td>
<td>No specified number of aircraft; participation likely low-level, if still existent. Reportedly operated out of Jordan in 2015. 157</td>
<td>—</td>
</tr>
<tr>
<td>Belgium</td>
<td>Air</td>
<td>Air</td>
<td>Four F-16 fighters operating in Syria and Iraq, and 100 support personnel based in Jordan. 158</td>
<td>Deployment approved by the Belgian parliament on 26 September 2014. 159</td>
</tr>
<tr>
<td>Canada</td>
<td>—</td>
<td>Air and ground</td>
<td>Canada conducted air strikes in Syria and Iraq until 15 February 2016, and still maintains a presence in Iraq. It has also retained its air-to-air refuelling, surveillance and reconnaissance assets in theatre. 160</td>
<td>The Canadian parliament voted to extend the Iraq mission into Syria. Cabinet can approve deployments, but the former Harper government made it customary to hold a vote in advance. 161</td>
</tr>
<tr>
<td>Denmark</td>
<td>—</td>
<td>Ground</td>
<td>The June 2016 deployment of seven F-16s, a C130-J transport aircraft and 400 support personnel based at Incirlik in Turkey was for six months and ended in December 2016. There is a small support contingent in Iraq. 162</td>
<td>Military operations in Syria commenced in August 2016, after the parliament approved the expansion of operations from Iraq. 163</td>
</tr>
<tr>
<td>France</td>
<td>Air</td>
<td>Air and ground</td>
<td>Strike, surveillance, and support aircraft including, but not limited to: six Dassault Rafale M multi-role fighters and eight Dassault Mirage 2000D fighters. Also one KC-135FR tanker, one E-3F AWAC on a rotational basis, and one Breguet Atlantique. Plus, carrier strike group assets as ships rotate in and out of theatre. Non-carrier group assets operate out of the UAE and Jordan. 164</td>
<td>The first French air strikes in Syria were conducted on 27 September 2015. At the end of November 2016, the French parliament voted to extend air strikes to Syria. 165</td>
</tr>
</tbody>
</table>

156. D McKeown and R Jordan, Parliamentary involvement in declaring war and deploying forces overseas, Background note, Parliamentary Library, Canberra, 22 March 2010.
158. K McInnis, Coalition contributions to countering the Islamic State, op. cit., p.9.
162. ‘Denmark to pull fighter jets out of Syria and Iraq’, The Local (online), 2 December 2016, accessed 7 July 2017.
164. K McInnis, Coalition contributions to countering the Islamic State, op. cit., p.9.
<table>
<thead>
<tr>
<th>Country</th>
<th>Type</th>
<th>Aircraft</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jordan</td>
<td>Air</td>
<td>No specified number of aircraft. Jordan also allows the Coalition to use Prince Hassan Airbase.</td>
<td>In February 2015, after ISIS captured and tortured a Jordanian pilot, Jordan increased its role in the Syrian air war and began air operations in Iraq.</td>
</tr>
<tr>
<td>Netherlands</td>
<td>Ground</td>
<td>Dutch aircraft were withdrawn from theatre on 28 June 2016. The Dutch deployment of F-16s in Syria and Iraq was replaced by Belgium in June 2017.</td>
<td>Parliament does not have the formal right to authorise the use of force, but has to be notified of deployments.</td>
</tr>
<tr>
<td>Saudi Arabia</td>
<td>Air</td>
<td>No specified number of aircraft, and only operating in Syria. Previously operated F-15s from Incirlik in Turkey. The Yemeni war is likely limiting current participation.</td>
<td>—</td>
</tr>
<tr>
<td>Turkey</td>
<td>Air and ground</td>
<td>On 29 August 2015, Turkey formally joined the Coalition to conduct air strikes against ISIS in Syria, but its focus has been on Kurdistan Workers Party targets and affiliates. The Turkish military has deployed into northern Syria and currently occupy the territory between two Kurdish areas.</td>
<td>—</td>
</tr>
<tr>
<td>UAE</td>
<td>Air</td>
<td>No specified number of aircraft, and only operating in Syria. Likely limited activity.</td>
<td>—</td>
</tr>
<tr>
<td>UK</td>
<td>Air and ground</td>
<td>Air and ground Strike, surveillance, and support aircraft. This includes: eight Tornado GR4 fast jet aircraft, six Typhoon combat aircraft (from 2 December 2015), Reaper Remotely Piloted Air Systems, Airseeker surveillance aircraft, Voyager air-to-air refuelling aircraft, two C130 transport aircraft, E3-D Sentry aircraft and Sentinel surveillance aircraft. RAF Akrotiri in Cyprus is the main operating base. Approximately 850 personnel are currently supporting the strikes on ISIS in Iraq and Syria. There is also a training contingent in Iraq of 500 personnel.</td>
<td>Parliamentary approval is not required for deployments, but it has become customary for the government to put potential action to a vote. In September 2014, parliament voted to support offensive military action in Iraq, but this did not extend to Syria. A debate and vote on extending offensive military action against ISIS in Syria was subsequently held on 2 December 2015.</td>
</tr>
</tbody>
</table>

166. K McInnis, *Coalition contributions to countering the Islamic State*, op. cit., p.9.
170. ISIS/Daesh: the military response in Iraq and Syria, op. cit., p. 32.
171. Ibid., p. 33.
172. K McInnis, *Coalition contributions to countering the Islamic State*, op. cit., p.11.
| United States | Air and ground | Air and ground | **Strike, surveillance and support aircraft.** Aircraft have included F-15, F-16, F/A-18, F-2253 fighter aircraft, B-154 and B-52 bombers, and MQ-1 Predator drones. Ship-based systems have also been employed. Intelligence, surveillance and reconnaissance missions have continued using a mixture of manned and unmanned systems.\(^{176}\) | The US Constitution allocates the power to authorise military operations to both the executive and the legislature, but exactly how this works is controversial. While Congress technically needs to be consulted, presidents have not always done so. Since 2001, deployments have been authorised under two existing authorisations for the use of military force (AUMF) (**2001** and **2002**), but since 2016 they have been augmented by a new AUMF.\(^{177}\) |

\(^{176}\) C Mills, *ISIS/Daesh: the military response in Iraq and Syria*, op. cit., p. 28.
