

TRACKING CIVILIAN HARM FROM THE USE OF EXPLOSIVE WEAPONS IN POPULATED AREAS

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Monitoring, assessing and preserving civilian casualty claims resulting from explosive weapons use in multiple conflicts. Investigating civilian harm concerns. Seeking transparency and accountability from belligerents, and advocating on behalf of affected communities.

KEY MESSAGES

- x The use of explosive weapons in populated areas is a main driver of civilian harm in modern warfare. Beyond the devastating direct impact it can have on civilians and their way of life, the indirect effects can reverberate through communities for years, cutting off access to education and livelihoods, healthcare systems, housing, and essential services such as clean water and sanitation. As conflicts become increasingly urban, taking place in the midst of civilian life in densely populated areas, the level of harm continues to rise in parallel.
- x Understanding the effect of past and current military operations on civilians forms the foundation for all other efforts to mitigate and minimise harm to civilians that states should undertake as they adopt the commitments of the Declaration. Best practices on civilian harm tracking have emerged from military experience, civil society analysis, and independent practitioners over the last decade, yet there are still significant gaps in many states' approaches to tracking harm, learning lessons from such harm, and responding to findings.
- x Nearly 90 states have recognised this challenge, and the dire need to address it, by endorsing the Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas. The Declaration builds on existing frameworks, including International Humanitarian Law, to build new international norms against the use of heavy explosive weapons in populated areas and invites endorsing states to examine and implement lessons on the effect of such weapons on civilians - and use their findings to adapt military policy and practice.

In November 2022, nearly 90 states signed on to the Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas (the 'Declaration'). This represented a significant milestone after nearly a decade of advocacy by champion states, NGOs, and affected civilians themselves, with states joining efforts for the first time to recognise the catastrophic consequences of explosive weapons in populated areas for civilians.¹

In the years since, the use of explosive weapons in populated areas has increased, with civilians in 75 countries affected by such weapons in 2023 alone.² In this context, the commitments made in the declaration, and the key steps it lays out for signatory states, are more important than ever.

For states seeking to sign on to the Declaration, and for signatory states wishing to strengthen their implementation, the Declarations' commitments on civilian harm tracking are key. By tracking harm to civilians, states can gain an insight into the actual impact of their military operations on civilians, allowing agile adaptations where needed to decrease harm and providing further insight on a military's operations / impact. Effectively tracking harm to civilians, and assessing the findings, are the foundations for all other civilian harm mitigation efforts.

Key among the Declaration's commitments on this are those in paragraphs 1.8, 3.4, and 4.2, which provide guidance on how - and why - states should track civilian harm.³

Paragraph 1.8 reaffirms signatories' commitments to civilian harm tracking:

We recognise the importance of efforts to **record and track civilian casualties, and the use of all practicable measures to ensure appropriate data collection**. This includes, where feasible, data disaggregated by sex and age. When possible, this data should be shared and made publicly available. Improved data on civilian harm would help to inform policies designed to avoid, and in any event minimise, civilian harm; aid efforts to investigate harm to civilians; support efforts to determine or establish accountability, and enhance lessons learned processes in armed forces.

Paragraph 3.4 commits states to:

Ensure that our armed forces, including in their policies and practices, take into account the direct and indirect effects on civilians and civilian objects which can reasonably be foreseen in the planning of military operations and the execution of attacks in populated areas, and **conduct damage assessments, to the degree feasible, and identify lessons learned**.

Paragraph 4.2 commits states to:

Collect, share, and make publicly available disaggregated data on the direct and indirect effects on civilians and civilian objects of military operations involving the use of explosive weapons in populated areas, where feasible and appropriate.

WHAT IS CIVILIAN HARM TRACKING

Civilian harm tracking is a specific military function referring to armed actors' ability to systematically gather data, assess, and analyse a range of negative effects on civilians caused directly or indirectly by its operations. It can refer to a wide set of tools that states use to better track and understand the harm from their own operations, including establishing teams specifically focused on tracking civilian harm, reviewing open-source material on allegations of harm, receiving and processing allegations of harm through reporting mechanisms, and much more.⁴

WHY TRACK CIVILIAN HARM

Understanding the impact of past and current military operations on civilians is the foundation for all other efforts to mitigate and minimise harm to civilians that states should undertake as they implement the commitments in the Declaration. By tracking harm from explosive weapons, armed forces gain real-time insight into the military tactics, strategies, and operations which have negative consequences for civilians, enabling them to adapt their approach where possible. This can also include better understanding of the impact of explosive weapons as a whole, or certain types of weapons, and their use in populated areas.

Beyond the effect this has on minimising civilian harm, strengthening tools to understand the impact of military action on civilians can also provide valuable information on the impact of military action more broadly, including, for instance, whether an operation has had the intended effect on the adversary targeted. If faulty intelligence leads to the wrong people being killed, it can mean both that a civilian has lost their life - and that the actual target has not been struck.

Building an adequate civilian harm tracking mechanism is also essential when it comes to military legitimacy. The importance of this has been a hard-earned lesson from the last two decades of warfare, which have shown that when militaries fail to account for civilian impact, it fuels distrust and erodes legitimacy.⁵ The impact of effectively mitigating and responding to harm - and the adverse effects when states fail to do so - have been found even when legitimate military targets have been hit. This lesson has been reflected in several policies on the protection of civilians and civilian harm mitigation, with the 2016 NATO Handbook on the protection of civilians emphasising: "PoC failures will generate negative strategic effects and their consequences will reverberate at all levels of command. PoC is therefore key for mission success and legitimacy".⁶

PLACING IT IN CONTEXT

The utility of civilian harm tracking has already been recognised by multiple militaries, coalitions, and international organisations. Several have implemented civilian harm tracking mechanisms which provide important lessons for others wishing to strengthen their implementation of the Declaration by building tracking tools.

The US is the most consistent in tracking civilian harm from its military operations, which it has attempted to some degree in nearly all its military operations since 2011; while improvements are needed - at times urgently - US staff regularly review evidence of civilian harm allegations, including evidence uploaded online by civilians themselves.⁷ Several US commands also have reporting mechanisms where civilians and third-party actors can report allegations of harm.⁸ Through recent policy developments including the Civilian Harm Mitigation and Response Action Plan (CHMRAP) and the Department of Defence Instructions on Civilian Harm Mitigation and Response (DOD-I), the US has committed to further improvements to tracking and analysis mechanisms, for instance through plans to standardise civilian harm-related data collection, assessments and investigations.⁹ This includes creating a centralised database to track harm and identify trends, which would be used to inform both current operations and broader organisational learning. These processes are subject to changes in political leadership and may not be brought into practice as planned due to new priorities by the Trump administration; regardless, they present important lessons for the US' allies.¹⁰

The Netherlands MoD has also recently made significant improvements to its civilian harm tracking mechanisms, providing a roadmap for allies who might wish to undertake similar activities. In late 2024, they launched a civilian harm reporting mechanism, where civilians themselves and third-party actors can submit allegations of harm from Dutch military action.¹¹ The Protection of Civilians team also recently completed a year-long process with independent civilian harm monitor Airwars to build and strengthen their civilian harm tracking and investigations methodology.¹² Finally, a recent investigation into allegations of harm has also included several elements of best practice including a site visit by a research team, interviews with survivors and eyewitnesses to the airstrike, and the collection of information from open sources, the coalition and Iraqi sources.¹³ The MoD is also ensuring that Iraqi interlocutors are kept informed of progress in the investigation. This is providing valuable lessons for allies on establishing and strengthening civilian harm tracking mechanisms.

TRACKING CIVILIAN HARM FROM EXPLOSIVE WEAPONS IN POPULATED AREAS

Signatory states to the Declaration who wish to strengthen their implementation should use the commitments set out in the Declaration as a guide on where to focus efforts and should learn from the lessons of allies who are further into the process. In particular, signatories to the declarations should take the following steps.

1. REVIEW CURRENT NATIONAL PRACTICE

In paragraph 3.1, the Declaration urges signatory states to “Implement, and, where necessary, review, develop or improve national policy and practice with regards to the protection of civilians during armed conflict involving the use of explosive weapons in populated areas”. States should take this as an opportunity to review current civilian harm tracking mechanisms, looking both for good practices to carry forward and for gaps that should be addressed.

In a military workshop on implementing the Declaration in November 2023 held by Airwars and Article 36, several participants emphasised that their states had signed on to the Declaration in the belief that their existing policies and practices were sufficient for implementing their commitments under the Declaration; as a result, the Declaration had brought few marked improvements.¹⁴ However, while several states have made important steps in tracking civilian harm, as highlighted further above, gaps remain to be addressed in all states – no state with an active military is currently fully aligned with the declaration's commitments and the protection of civilians should be seen as an ongoing process of work.

In conducting reviews of existing civilian harm tracking mechanisms, most states are likely to find elements of current practice that can be useful elements in tracking civilian harm, but which may need improvements or adjustment to fulfil this function. Most states are, for instance, already conducting some form of Battle Damage Assessment (BDA) to assess the impact of the use of explosive weapons, primarily focused on whether the munition used functioned as expected, whether the intended target was struck, and what the impact was on enemy combatants. BDAs are not, in essence, tools created to give an insight into harm to civilians, especially as they often rely on aerial surveillance which cannot show civilians caught under rubble - a common occurrence after the use of explosive weapons in populated areas. The evidence of such harm often only becomes apparent in the hours, days, and weeks following military action, when a BDA will already have been completed.¹⁵ Yet states can build on such existing post-strike reviews to develop new mechanisms that allow for more comprehensive and accurate tracking of civilian harm. It should be a priority to ensure that reports by third-party actors, such as civil society organisations, local journalists, and open-source analysts can be incorporated into such mechanisms as such actors are often more likely to identify the civilian impact of a strike compared to the military unit that quickly moves on after impact. In the US-led Coalition war against the so-called Islamic State, third party referrals accounted for more than 70 percent of investigations into civilian harm.¹⁶ In building on current practices to develop the methodologies for tracking harm, states should consider specifically soliciting information about the possibility of civilian harm in reporting after the use of explosive weapons, and ensuring that open-source material is assessed for a longer period after impact.

Several states have already started reviews of existing practices with a view to identify gaps. For instance, both the US CHMRAP and the US DoDI laid out reforms for the DoD, built on extensive internal - and external - reviews of the challenges that were causing civilian harm.¹⁷ Both documents frankly identify current gaps and lay out how these will be addressed. Objective 6 of the CHMRAP, for instance, points to current gaps in data management on civilian harm tracking and why these must be addressed;

“The U.S. military has not maintained an enterprise-wide, comprehensive database for civilian harm operational reporting and data management. Maintaining reliable operational data and effective knowledge management on civilian harm incidents is critical to understanding the root causes of civilian harm, characterizing harm, and identifying

measures to mitigate civilian harm in future operations while preserving mission-effectiveness and force protection.”¹⁸

Both the Dutch and British Ministries of Defence are also currently undertaking baseline reviews to better evaluate the strength of their current mechanisms and identify areas of improvement. They have taken different approaches with the Netherlands focusing on uniformed personnel undertaking the review of military practices to build on existing trust, and the UK focusing instead on hiring an external evaluator to pursue a more objective review of its approach to human security more broadly.¹⁹ Both have included some civil society engagement, with the UK organising a workshop on the baseline review for civil society organisations, NGOs, and academics. Both these national reviews will have valuable lessons and methodological processes that would be highly beneficial to allies about to undertake similar reviews. The UK MoD has committed to releasing a public version of their findings, while the Dutch continue to explore whether a public version of the report will be published. We urge both nations to publish the results to the extent possible, to ensure that independent actors can build future recommendations on the findings, and to allow allies to learn from existing processes.

2. CREATE A NATIONAL APPROACH

Once current civilian harm tracking mechanisms have been assessed, states should build on their findings to fill gaps and strengthen current good practices, to create a national approach to collecting information about the damage to civilians and civilian infrastructure from the use of explosive weapons.

In 2024, the Dutch MoD announced that several aspects of its strengthened approach to civilian harm mitigation would form a foundation

Significant lessons have emerged on good and best practices in civilian harm tracking over the last two decades from militaries, coalitions, international organisations, and independent monitors. In setting up civilian harm tracking mechanisms for harm from explosive weapons in populated areas, states should build on these and consider the lessons below.

1. Establishing a team focused specifically on mitigating and tracking civilian harm

- ✗ The composition, size, and placement of the team will - and should - vary from state to state, in line with the resources and funding available to its military. Yet it is best practice to have a team with the skills, resources, and training to specifically gather, review, and investigate allegations of civilian harm.²⁰ Where possible, staff in this team should have local language skills of the areas where the state is conducting military operations.

2. Develop methodologies and standard operating procedures for tracking civilian harm

- ✗ The teams responsible for civilian harm tracking should develop clear Standard Operating Procedures (SOP), methodologies, and data management systems for tracking harm based on best practices. These systems

should be institutionalised to ensure continuity and to build institutional knowledge.

- ✗ This should include guidance on the kinds of information that should be sought, including, but not limited to, the following.
 - The date and location of the incident which harmed civilians.
 - The number of civilians killed and injured.
 - Disaggregated data on these civilians, including the name, age, and sex.
 - Impact on infrastructure that is likely to have indirect and reverberating consequences for civilians, such as hospitals, schools, water or sanitation systems, industrial centres, etc.²¹
- ✗ It should also include guidance on how to gather and review information, including, but not limited to:
 - Information directly from those affected by the explosive weapon in question, including survivors, eyewitnesses, and those who loved lost ones.
 - Information gathered through a site visit, where possible. Clear guidance should be given to staff on what to look for during such visits, what budget is available for the visits, and how to secure the required security for a site visit.
 - Data available in the public sphere, such as social media posts and local media reporting.²² The teams tracking civilian harm should build an understanding of how civilians and others in the relevant context themselves document and upload evidence of harm from explosive weapons. Local populations will have preferred and trusted platforms (e.g. Facebook or Telegram) where they share allegations of harm and important evidence. Understanding this and including relevant data where it is available in open source environments, is critical to ensure civilians’ own documentation efforts are not ignored.
 - Information from military sources, including those within the targeting cell, involved in any after-action reviews
- ✗ There should also be clear guidance on what information to report publicly on allegations of harm gathered and the eventual outcome of assessments/investigations into such allegations. This is both to ensure accountability to civilians themselves, and to ensure third-party monitors can include the outcome in their own monitoring reports. There is good practice on this from several states, with the US reporting regularly on civilian harm to congress, the British MoD releasing regular and timely updates on weapons releases (though not civilian harm) during Operation Inherent Resolve, and the Dutch military providing details on all airstrikes during Operation Inherent Resolve as well as a full overview of all allegations of harm submitted as a result of these airstrikes.²³ The Dutch MoD also now reports publicly on all investigations that are conducted into civilian harm, with a clear

overview of where cases are in the investigation process and what the outcomes are.²⁴

3. Ensure civilians and third-party actors can report allegations of civilian harm and submit evidence

- ✗ States should establish mechanisms for civilians and third-party actors to submit allegations of harm and evidence gathered. This is a particularly acute need in campaigns fought primarily through airstrikes and the use of explosive weapons, where there are seldom soldiers on the ground for civilians to report harm to.
- ✗ Reporting mechanisms can take the form of websites or physical forms available to the civilians in areas of operations, for instance in embassies or outposts.
 - It is vital that these are available in a format that is accessible to civilians, including by being available in their own language and in a format that is usable to the majority of civilians in these contexts. It is also vital to consider whether there might be security implications for civilians wishing to report harm, who might for instance be at risk if they are seen to communicate directly with military forces.
 - Reporting mechanisms can only work if civilians in the relevant areas are aware of their existence. The existence of the reporting mechanism should be actively promoted in areas where a military is operating.
 - Ensure civilians receive acknowledgement when they report civilian harm - and that they are informed about the eventual outcome of an assessment of harm.
- ✗ Reporting mechanisms are not, in themselves, sufficient to effectively track civilian harm. They should be seen as tools that allow for pieces of evidence to be submitted, not to provide an answer in themselves on what has happened. It is also worth noting that recent websites built for this purpose by US commands have received high numbers of allegations and spam emails from automatic spammers. Yet even when this is the case, the information gathered through reporting mechanisms can be compared to a military's own record of the time and location of weapon deployments. This is a relatively straightforward process to ensure that channels remain open to pieces of evidence that might emerge through such reporting mechanisms.

4. Coordinate with allies and coalition partners on civilian harm tracking mechanisms

- ✗ When civilians experience harm from explosive weapons in populated areas, they are unlikely to be able to identify exactly which state was responsible for the harm caused. It is therefore vital that states coordinate with their allies and coalition partners on their respective reporting mechanisms and ensure that these coordinate with any coalition-wide civilian harm tracking tools.
- ✗ Militaries should use their own civilian harm tracking mechanisms as a baseline in all operations. If they participate in a coalition that has a more efficient system, the national one can then be used to feed into the wider

system. This is an approach increasingly used by The Netherlands, which has recently emphasised, for instance, that while a coalition-wide reporting structure is to be preferred to ease coordination, the national reporting mechanism will be used if a coalition-wide one is not available. Having a clear internal understanding of such a national baseline approach is valuable.

- ✗ Where harm has been reported to a nation, but it has been found that this nation is not responsible based on the time/location of the incident, or other information, nations should ensure that their allies who operated in the same theatre are aware of the allegation, so they may investigate their own possible involvement. Civilians should not be expected to know which nation was responsible for their harm.

5. Ensure civilian harm tracking mechanisms feed into other tools

- ✗ Tracking civilian harm is an important first step in understanding civilian harm from explosive weapons in populated areas. Yet to be effective, it must feed into effective investigation mechanisms, which in turn should feed into response mechanisms.
- ✗ Data gathered on civilian harm, including if it becomes clear that a specific type of weapon or tactic is repeatedly causing civilian harm, should feed into lessons learning mechanisms. States should not assume that this is being done automatically but instead assign responsibility for picking up on such lessons, for instance by making this part of the civilian harm tracking teams' responsibilities.
- ✗ States should communicate clearly on the level of evidence required for an allegation of harm to be assessed, what level of information is required for it to move to a more in-depth investigation, and what kind of information is required for an allegation of harm to be considered plausible. This is helpful in providing civilians and third-party actors, such as independent monitors, with guidelines on the kind of evidence that is helpful.
- ✗ Militaries should communicate effectively on the civilian harm they have tracked, the outcome of initial assessments or more thorough investigations, and what will happen in terms of response.

ENDNOTES

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