

# ACKNOWLEDGE, AMEND, ASSIST:

*Addressing Civilian Harm Caused by Armed Conflict  
and Armed Violence*

ACTION ON  
ARMED VIOLENCE

**AOAV**

**HRP**  
HUMAN RIGHTS PROGRAM



**Acknowledge, Amend, Assist:**  
Addressing Civilian Harm  
Caused by Armed Conflict and Armed Violence

Harvard Law School Human Rights Program  
and  
Action on Armed Violence

**List of Contributors**

Bonnie Docherty, Jacob Beswick, Elizabeth Minor, Sahr Muhammedally,  
Marla Keenan, Simon Robins, and Nerina Čevra

**Editor**

Bonnie Docherty

**Consultant**

Iain Overton

**With thanks to**

Majida Rasul

Copyright © 2015 President and Fellows of Harvard College. All rights reserved.

**Cover illustration**

A man carries a young girl who was injured in a reported barrel bomb attack  
by government forces on June 3, 2014 in the northern city of Aleppo, Syria.  
(BARAA AL-HALABI/AFP/Getty Images)

Clarifications or corrections from interested parties are welcome.

Research and publication funded by the Government of Norway, Ministry of Foreign Affairs.

**Design and printing**

Tutaev Design

April 2015

# Contents

---

<b>Introduction</b>	
Bonnie Docherty	1
<b>Casualty Recording</b>	
Jacob Beswick and Elizabeth Minor	4
<b>Civilian Harm Tracking</b>	
Sahr Muhammedally and Marla Keenan	8
<b>Making Amends</b>	
Sahr Muhammedally	11
<b>Transitional Justice</b>	
Simon Robins	15
<b>Victim Assistance</b>	
Nerina Čevra	20
<b>List of Contributors</b>	26
<b>Acknowledgments</b>	28

---



# INTRODUCTION

*Bonnie Docherty*

---

International concern about the civilian impact of armed conflict and armed violence has grown over the past two decades. The concept of human security has shifted attention from national security to the security of individuals. Introduced in the UN Development Programme's 1994 *Human Development Report*, human security has also been used to guide discussions of the conduct of war. Since 1999, the UN Security Council has requested 10 reports on the protection of civilians from the Secretary-General. These reports highlight current threats to civilians from armed conflict and assess promising advances and emerging problems in the field of civilian protection. Humanitarian disarmament, which places the well-being of civilians at the center of disarmament law, has become an accepted method of governing weapons. It originated in the adoption of the Mine Ban Treaty in 1997 and proved its viability with the 2008 Convention on Cluster Munitions.

While these and other developments seek primarily to prevent civilian casualties before they happen, there has also been a move to address the needs of civilians after harm has occurred. Those who work to enhance and expand assistance to civilian victims adopt a range of strategies. They share the common goal of alleviating human suffering, and their achievements to date show that this moral imperative has become a legal and policy priority. Differences among approaches are evident, however. They target either lawful or unlawful harm, assign responsibility for providing assistance to different parties, call for various forms of recognition and aid, and have distinct underpinnings.

This publication examines five methods currently used to mitigate the harm to civilian victims and identifies key issues they raise comparatively. The approaches—(in alphabetical order) casualty recording, civilian harm tracking, making amends, transitional justice, and victim assistance—are described in detail in individual chapters written by experts in the selected fields. By presenting the five approaches together, the publication seeks to increase understanding of the strategies, their shared principles and differences, and the challenges they face individually and collectively. These approaches are not

mutually exclusive and do not represent an exhaustive list of responses to civilian harm, but they serve as a starting point for consideration of how more effectively and efficiently to reduce the suffering of civilians.

## **Origins of Publication**

This publication originated in a two-day summit at Harvard Law School entitled “Acknowledge, Amend, Assist: Addressing Civilian Harm Caused by Armed Conflict and Armed Violence.” The summit, held in October 2013, was co-sponsored by the Harvard Law School Human Rights Program and Action on Armed Violence. It brought experts from governments, militaries, international organizations, nongovernmental organizations (NGOs), and universities together to explore the challenges of meeting victims' needs. Participants all had experience working with one or more of the humanitarian responses listed above. They came from a dozen countries across six continents making it a global event.

The primary objective of “Acknowledge, Amend, Assist” was to examine how to strengthen efforts to address civilian harm. Through a public symposium and a private workshop, participants learned more about one another's approaches and where their work might coincide and/or conflict. By initiating an interdisciplinary discussion, the summit provided an opportunity for experts to consider how assistance could be coordinated and where gaps remained. This complementary publication seeks to build on the collective energy of the summit and present the issues to a wider audience of practitioners and academics as well as the interested public.

## **Approaches to Addressing Civilian Harm**

The individual chapters of this publication discuss five approaches to addressing the needs of civilian victims. The first three—casualty recording, civilian harm tracking, and making amends—are emerging, non-binding norms, while the last two—transitional justice and victim assistance—have a basis in existing law.

Casualty recording and civilian harm tracking both involve gathering casualty data that can acknowledge victims, facilitate assistance, and help prevent future

casualties. Casualty recording, as defined by Jacob Beswick and Elizabeth Minor, documents deaths from armed violence. The term “armed violence” covers a range of situations, such as armed conflict and widespread crime. Proponents urge states to assume primary responsibility for recording casualties because states are more likely to have the mechanisms to do so; they also recommend that other actors, especially NGOs, do independent data collection to hold states to account. In practice to date, NGOs have done the bulk of casualty recording. Recorders compile and disaggregate as many details as they can about specific incidents and the people killed. The aim of casualty recording is to recognize individuals who died, but its results indirectly aid the provision of assistance to those victims left behind.

In contrast to casualty recording, civilian harm tracking deals exclusively with armed conflict and conceives harm broadly to include death, injury, and property damage. According to Sahr Muhammedally and Marla Keenan, tracking is conducted by warring parties, who may rely on internal and/or public sources of information. The collection and analysis of data reveal trends that can lead to changes in military training and tactics and thus prevent future harm. In addition, identification of individual victims allows warring parties better to respond to the needs of those harmed in the past.

Making amends calls on warring parties to recognize and assist civilian victims of harm caused by the parties’ lawful actions in armed conflict. Sahr Muhammedally explains that amends seek to help civilians who were “collateral damage” of lawful attacks. Amends can take a range of forms, including apologies, compensation, and in-kind support. The approach places the burden on warring parties because they inflicted the harm. The provision of amends, however, does not impute legal liability to the warring parties or preclude victims from bringing legal action against a party at a later date.

Transitional justice aims to provide a comprehensive response to the needs of both individual victims and societies as a whole; it encompasses prosecutions, truth-telling mechanisms, and reparations programs. In his chapter, Simon Robins describes how transitional justice can focus on legal remedies to end impunity and/or look to non-retributive measures that promote transparency and reconciliation. States bear primary responsibility for implementing transitional justice, but international actors often step in when states are unwilling

or unable to meet their obligations. As a result, Robins argues, transitional justice has become less attuned to cultural and historical context and the needs of specific victims, and more influenced by externally imposed norms.

Victim assistance requires affected states to meet the needs of victims in areas under their jurisdiction or control. As Nerina Čevra writes, it defines “victim” broadly to include individuals, families, and communities who experience physical, psychological, or socio-economic harm. Building on human rights law, which requires countries to take care of their own people, this approach obliges the affected state to take the lead in providing victim assistance. It also, however, calls on the international community to contribute to the affected state’s efforts. Forms of assistance include medical care, rehabilitation, psychological support, and guarantees of socioeconomic inclusion. In the process of providing assistance, states should not discriminate against or among victims based on the cause of their injury.

#### **Comparative Analysis**

These five approaches are part of a growing movement to address the harm that armed conflict and armed violence inflict on civilians. As a result, they share many overarching principles as well as an ultimate goal of helping victims. For example, the approaches usually define “victim” broadly to encompass not only an affected individual but also families and communities. Most of the approaches envision a wide variety of support, such as financial compensation, medical care, and memorialization. They generally encourage the participation of victims in the process and seek to address victims’ needs. They also recognize that even if one party bears primary responsibility for providing assistance, in practice there will be multiple players involved.

The approaches also differ on several counts. In some cases, their distinctive characteristics complement each other and allow for greater protection of victims. For example, while transitional justice deals with victims of unlawful acts, making amends seeks to fill a hole and address the needs of those caught in the crossfire of lawful operations. Casualty recording and civilian harm tracking focus on collection and analysis of data largely for the purposes of recognizing victims and preventing future harm, yet their information facilitates provision of aid under other approaches, such as making amends and victim assistance.

In other cases, the approaches are based on competing principles, which could interfere with efforts to help victims. Perhaps most notably, civilian harm tracking and making amends assign the warring party primary responsibility for the harm it caused, while the three remaining approaches place a greater burden on the state that has jurisdiction or control over the territory in which the victim resides. This kind of contradiction can lead to tension among advocates and confusion among potential assistance providers. In addition, a lack of consensus surrounds the precise definition of “victim.” Should it cover victims of armed conflict or be expanded to include people who suffer harm during armed violence? Should it apply to individuals killed, both the dead and injured, or those who lost property as well as those who experienced injuries? Such inconsistencies have the potential to let some victims arbitrarily fall through the cracks.

The role of law in addressing the needs of victims is another subject open to debate. At the Harvard summit, some participants argued that hard law has the benefits of binding states parties and influencing non-parties through stigmatization. The codification of victim assistance requirements in the Convention on Cluster Munitions exemplifies that conviction. By contrast, other participants found international law inadequate or too difficult to achieve at this point. For example, proponents for making amends have not sought international legal obligations because they fear losing states’ support; instead they encourage countries to adopt strong national laws and policies. Advocates for casualty recording and civilian harm tracking have similarly focused on standard setting rather than the development of legally binding instruments. Transitional justice, the oldest approach addressed in this publication, rests on a combination of hard and soft law, including international humanitarian, human rights, and criminal law treaties supplemented by global norms.

In addition to revealing points of commonality and difference, the authors’ chapters illuminate obstacles to and critiques of implementation of the five approaches. The three newer strategies require wider political support in order to become firmly established. They also have to overcome resource constraints and practical obstacles to gathering data and determining culturally appropriate amends. Transitional justice is a longer-standing mechanism, but it has evolved from a victim-centered regime to a more international and institutional framework. As a result, it has in practice become detached from specific victims’ needs. Victim assistance has legal weight only in certain disarmament fora, yet it has a broad view of “victim” and prioritizes non-discrimination. It must therefore make efforts to meet the needs of victims of banned weapons while ensuring they do not receive aid at the expense of other victims of armed conflict or armed violence.

#### **Conclusion**

Drawing on the Harvard summit, this publication constitutes a first step in forging an ongoing dialogue about how better to address civilian harm. By examining the five approaches separately and together, it seeks to enhance understanding of the strategies and identify important issues surrounding their relationships. It also considers ways to strengthen the individual approaches while encouraging collaboration among their proponents. Future steps could include further discussion among a broader group of interested actors, increased engagement of victims in the process, and the generation of shared principles. The long-term goal of the initiative begun at Harvard is to promote more effective, coordinated, and complementary assistance that will improve the lot of civilian victims of armed conflict and armed violence.

# CASUALTY RECORDING

Jacob Beswick and Elizabeth Minor

Casualty recording strives comprehensively, systematically, and continuously to record all deaths directly attributable to armed violence as well as the circumstances of these deaths. Casualty recording is particularly concerned with situations of armed conflict, widespread organized or uncontrolled crime, weakened state capacity, or other circumstances in which increased deaths due to violence are common. The call for recording casualties takes into account that despite the understanding that civilians are vulnerable and frequently killed in armed violence, little is done proactively to understand the details of such deaths.

At a minimum, casualty recording captures date, location, individual identities or numbers killed, description of the means of harm/type of violence involved, and sources of this information. The ultimate goal of casualty recording should be the compilation of comprehensive information on victims, incidents, and perpetrators and the public acknowledgment of casualties.

## The Purposes of Casualty Recording

The primary purpose of casualty recording is to recognize individuals killed in armed violence who would otherwise remain nameless and unacknowledged in death. The idea of public recognition relates to the notion that the truth should be disclosed. Casualty recording also addresses families' right to know the fate of their loved ones and communities' demand for full understanding of how violence has affected them.

Other outcomes, whether or not intended, have been discerned in the work of nongovernmental, UN, and state entities that record casualties. In particular, research has shown how casualty recording and the information it produces facilitate the efforts of actors working on armed violence. It can provide vital situational awareness and trend analysis and assist in the delivery of

humanitarian services. It can also support accountability and transitional justice procedures.<sup>1</sup> These benefits of casualty recording exist alongside the core purposes centered on individual victims, such as fulfilling the right of the bereaved to know the fate of their loved ones.<sup>2</sup>

## Mechanisms and Actors

Most communities have mechanisms to record deaths. These tend to rely on police and hospital systems through which individuals killed in extraordinary or even mundane circumstances are recorded, their families informed, and, where applicable, investigations into their deaths undertaken. This is the most common way in which casualties are—and should be—recorded.

Where such systems do not exist, are failing, or are inadequate, other forms of casualty recording should be advocated for and undertaken. The approach recommended might depend on the needs of the populations in the environment and the capacities of the actors that are able to undertake casualty recording. For example, in armed conflicts where regular systems underperform or do not exist, in order to ensure the recognition of every casualty it may be appropriate for the central state (insofar as it is functional), nongovernmental organizations (NGOs), intergovernmental organizations, parties to the conflict, or a combination of these actors to develop practices for recording casualties in an effective and systematic way. The specific responsibility to record casualties in this manner arises when the entities normally responsible no longer function. The division of roles is discussed further below.

The Every Casualty Campaign has focused exclusively on deaths caused in armed conflict and armed violence. The campaign, which is coordinated by the NGO Every Casualty, has spearheaded the call for casualty recording.<sup>3</sup> Considering that the term “casualty” can also refer

to people who are injured short of death, however, mechanisms could evolve and record individuals who were injured. Whereas deaths are clearly identifiable, injury recording is somewhat more complex. For instance, if injuries include physical, psychological, and long-term harm, there must be agreement as to the scope of these terms in order to ensure comparability of data.

## Responsibility for Casualty Recording

States are primarily responsible for ensuring that casualty recording is undertaken within territory they control and in other areas in which they operate. Recognition of the principle that every casualty should be recorded is increasing among states. While the call for casualty recording focuses on the actions of states, in principle it applies to all actors engaged in armed violence. Therefore, non-state actors who have de facto control over a territory also bear a responsibility to record casualties.

NGOs play a major role in recording casualties, filling gaps left by inactive state actors and conflict parties. More than 50 such organizations working in conflict and post-conflict environments and situations of widespread armed violence around the world now form an international peer network of casualty recorders, the Casualty Recorders Network.<sup>4</sup> In most contexts, generating an independently produced record of casualties is highly important, for example, to ensure a comprehensive record and to hold state-led recording efforts to account. Therefore, in all situations of armed violence and particularly where a state is unable or unwilling to record casualties, the state and conflict parties should ensure access and protection for those entities recording deaths, such as NGOs, other civil society actors (including religious institutions), and intergovernmental organizations.

Every Casualty is currently working with UN entities in an effort to build their capacity to record casualties. While there is interest in pursuing casualty recording, and evidence that it is occurring in some conflict environments, much work remains to be done in building both the political will and technical capacities of UN agencies and offices to record casualties.<sup>5</sup>

## How Are Casualties Recorded?

Casualties should be recorded in a format that is disaggregated by incident or individual, and by as much further detail as possible about victims, incidents, and groups or persons that have caused harm. Practitioners may record casualties in a database or spreadsheet according to this type of disaggregation.

There are a range of approaches to recording casualties, as identified by Every Casualty's research into the practice of 40 casualty recorders, published in 2012.<sup>6</sup> Different sources and methods of investigation, corroboration, and verification may be available to casualty recorders based on the context, such as whether casualty recording is being done during or after an armed conflict. In general, casualty recording may be done through the gathering and corroborating of documentary sources (including media and social media reports), through on-the-ground investigation using interviews with witnesses, through forensic techniques to identify unknown victims, or through a mixture of these approaches. From its research, Every Casualty identified seven key principles for effective casualty recording that should be followed as long as it is safe to do so. A casualty recorder's work should:

1. Be, and be viewed as, impartial and reliable;
2. Have clear, transparent definitions and inclusion criteria;
3. Have a transparent methodology with robust, multiple-stage checking procedures;
4. Be connected to local communities;
5. Use multiple sources;
6. Publish disaggregated incident/individual level information;
7. Be open to correction, or the addition of new information.

Drawing from these principles, Every Casualty is developing a set of standards for casualty recording practice with practitioners and end-users of their data to be concluded in 2015.<sup>7</sup> The standards will cover the following areas:

<sup>1</sup> For more information on transitional justice, see chapter on Transitional Justice in this publication.

<sup>2</sup> See, e.g., Elizabeth Minor and Serena Olgiati, *Casualty Recording: Assessing State and United Nations Practices, Action on Armed Violence and Oxford Research Group report*, 2014, <http://oxfordresearchgroup.org.uk/sites/default/files/u11/AOAV%2BORG%20joint%20summary%20on%20CR.pdf> (accessed January 23, 2015).

<sup>3</sup> The campaign, a coalition of more than 50 NGOs, calls on states, in partnership with other actors, to recognize every casualty of armed violence by ensuring that all casualties are promptly recorded, correctly identified, and publicly acknowledged. See [www.everycasualty.org/campaign](http://www.everycasualty.org/campaign). The Every Casualty Campaign is coordinated by Every Casualty, a London-based NGO dedicated to advancing the cause of casualty recording worldwide. See [www.everycasualty.org](http://www.everycasualty.org) and contact [team@everycasualty.org](mailto:team@everycasualty.org).

<sup>4</sup> See the Casualty Recorders Network, <http://www.everycasualty.org/practice/ipn> (accessed January 28, 2015).

<sup>5</sup> See Jacob Beswick and Elizabeth Minor, *The UN and Casualty Recording: Good Practice and the Need for Action*, Oxford Research Group report, 2014, <http://oxfordresearchgroup.org.uk/sites/default/files/ORG-UN-and-CR.pdf> (accessed January 23, 2015). Every Casualty was formerly a program of Oxford Research Group.

<sup>6</sup> Elizabeth Minor, *Toward the Recording of Every Casualty: Policy Recommendations and Analysis from a Study of 40 Casualty Recorders*, Oxford Research Group report, 2012, [http://oxfordresearchgroup.org.uk/sites/default/files/TowardsTheRecordingOfEveryCasualty\\_0.pdf](http://oxfordresearchgroup.org.uk/sites/default/files/TowardsTheRecordingOfEveryCasualty_0.pdf) (accessed January 23, 2015).

<sup>7</sup> See Hana Salama, “Developing Standards for Casualty Recording,” Oxford Research Group briefing paper, 2013, <http://www.oxfordresearchgroup.org.uk/sites/default/files/u11/Developing%20standards%20summary%20brief%20HS.pdf> (accessed January 23, 2015).



1. Organizational transparency;
2. Definitions and inclusion/exclusion criteria;
3. Transparent and rigorous methodology;
4. Publishing standards;
5. Ethical and security standards, including data security.

### The Role of Victims in Casualty Recording

Casualty recording is concerned with all lawful and unlawful deaths in an armed violence environment. The term “victim” under this approach is defined broadly to include not only the dead themselves, but also survivors including those injured, their families and loved ones, and populations affected by violence. Survivors and affected populations are both a crucial source of information and an audience or intended beneficiary group for many casualty-recording organizations.

Where these victims are a source of information, attention to ethical and security issues is of key importance in casualty recording, and earning the trust and understanding the needs of victims is crucial. Knowing local languages, having cultural sensitivity, and being aware of the difficulties and traumas that might be experienced by those giving testimony to casualty recorders are highly valuable.

The recognition of victims is at the heart of the concept of casualty recording. Where victims are an intended audience of casualty recorders, a well-established connection or relationship is necessary to produce and relay back information in the most relevant and respectful way, especially to marginalized groups. Victims should, and in many existing efforts do, participate in processes such as memorialization undertaken as a result of casualty recording.

Victims also stand to benefit whenever the results of casualty recording are fed into other mechanisms, such as those for the compensation of injured persons or surviving family members, or in transitional justice and accountability processes.

### Frameworks for Casualty Recording

There is no consistent international legal framework requiring that every casualty of armed violence be recorded. Every Casualty has analyzed whether existing law requires the recording of civilian casualties in armed conflict and concluded that there are some related obligations for armed forces in armed conflict. Drawing on international humanitarian law (IHL) and international human rights law (IHRL), there appears to be a duty to record civilian casualties, but it is fragmented between IHL and IHRL in customary and treaty law. The components of this requirement are found in obligations to identify casualties, notify relatives, bury with dignity, record the sites of the burials, and search for the missing. Of relevance to the recording of casualties of armed violence more broadly, the obligation to search for the missing is a customary law obligation that applies whether a conflict exists or not.<sup>8</sup>

Creating a more formal legal framework to record casualties would require considerable political will. Initially, a set of guiding principles that could be adopted by states, non-state actors, and civil society could be pursued to advance casualty recording globally.

In the absence a legal framework, ensuring recognition of victims through comprehensive data collection is a very real challenge, as is determining the full impact of armed violence. Good practice in casualty recording exists, but consistent global practice must be established. Casualty recording can already be seen to support the implementation and spirit of international frameworks such as the Protection of Civilians in Armed Conflict as well as IHL and IHRL.<sup>9</sup> Moral arguments relating the recording of casualties to human dignity also provide a compelling case for action to record casualties. Operational arguments further help encourage robust and consistent casualty recording practices; they demonstrate how casualty recording supports the programmatic and policy objectives of states, inter-governmental organizations, and NGOs that work to benefit violence-affected populations.

Despite the absence of a definitive international legal framework, the information obtained as a result of current casualty recording practice by states, NGOs, and UN entities contributes, for example, to:

- Effective advocacy with parties to conflict to change policy and practice in order to better protect civilians and reduce civilian casualties;
- Compensation and other mechanisms to assist survivors, such as war benefits;
- Accountability and transitional justice procedures, especially war crimes trials and truth commissions;
- The public acknowledgment of victims through memorialization.<sup>10</sup>

These crucial elements of preventing and addressing civilian harm would be advanced by the adoption of both additional effective mechanisms and a new legal framework for recording the casualties of armed violence.

### For More Information

Jacob Beswick and Elizabeth Minor, “Casualty Recording as an Evaluative Capability: Libya and the Protection of Civilians,” in *Hitting the Target?*, RUSI Whitehall Report 2-13, 2013, <http://oxfordresearchgroup.org.uk/sites/default/files/Casualty%20Recording%20PoC%20Libya%20Beswick%20and%20Minor.pdf>.

Jacob Beswick and Elizabeth Minor, *The UN and Casualty Recording: Good Practice and the Need for Action*, Oxford Research Group report, 2014, <http://oxfordresearchgroup.org.uk/sites/default/files/ORG-UN-and-CR.pdf>.

Susan Breau and Rachel Joyce, “The Legal Obligation to Record Civilian Casualties of Armed Conflict,” Oxford Research Group discussion paper, 2011, <http://www.oxfordresearchgroup.org.uk/sites/default/files/1st%20legal%20report%20formatted%20FINAL.pdf>.

Mirko Miceli and Serena Olgiati, *Counting the Cost: Casualty Recording Practices and Realities around the World*, Action on Armed Violence report, 2014, <http://aoav.org.uk/2014/counting-the-cost/>.

Elizabeth Minor, *Toward the Recording of Every Casualty: Policy Recommendations and Analysis From a Study of 40 Casualty Recorders*, Oxford Research Group report, 2012, [http://oxfordresearchgroup.org.uk/sites/default/files/TowardsTheRecordingOfEveryCasualty\\_0.pdf](http://oxfordresearchgroup.org.uk/sites/default/files/TowardsTheRecordingOfEveryCasualty_0.pdf).

<sup>8</sup> For the full analysis, see Susan Breau and Rachel Joyce, “The Legal Obligation to Record Civilian Casualties of Armed Conflict,” Oxford Research Group discussion paper, 2011, <http://www.oxfordresearchgroup.org.uk/sites/default/files/1st%20legal%20report%20formatted%20FINAL.pdf> (accessed January 23, 2015).

<sup>9</sup> The Protection of Civilians in Armed Conflict (PoC) is a broad framework that aims to ensure the physical and legal protection of civilians living through war. It demands that the rights of individuals are upheld through strict compliance with international humanitarian, human rights, and refugee law. UN member states have committed to PoC through UN Security Council resolutions. The primary responsibility lies with parties to armed conflicts and with states at the national level.

<sup>10</sup> For detailed examples, see, e.g., Jacob Beswick and Elizabeth Minor, *The UN and Casualty Recording*; Mirko Miceli and Serena Olgiati, *Counting the Cost: Casualty Recording Practices and Realities around the World*, Action on Armed Violence report, 2014, <http://aoav.org.uk/2014/counting-the-cost/> (accessed January 23, 2015); Elizabeth Minor, *Toward the Recording of Every Casualty*.

# CIVILIAN HARM TRACKING

*Sahr Muhammedally and Marla Keenan*

The tracking of civilian harm by warring parties is an emerging best practice in conflict zones, such as Afghanistan and Somalia. Civilian harm encompasses loss of life, injury, and property damage. When properly implemented, civilian harm tracking has led to fewer civilian casualties. A warring party that prioritizes civilian well-being needs reliable data to assess the impact of its operations, to analyze and learn from the data, and to appropriately respond to civilian harm by both adjusting tactics and training and making amends to civilians harmed.<sup>11</sup>

## The Definition and Process of Civilian Harm Tracking

Civilian harm tracking, analysis, and response is the internal process by which a military or peacekeeping operation gathers data on civilian harm caused by its operations and then analyzes that data for use in future planning and operations. Such information can also be used to guide actions to properly respond to civilian losses.<sup>12</sup>

Data can come from a variety of internal sources, including field liaison reports, battle damage assessments, spot reports, troop movements, weapons discharge and targeting data, reporting chains among troops, and investigations of alleged incidents of civilian harm.<sup>13</sup> It can also come from external sources, such as victims themselves, civil society, hospitals, and the media. Accurate and timely reporting, within the chain of command, of possible incidents of civilian harm is critical to ensure commanders and their staff have the information they need to investigate these events and the circumstances under which they occurred.

A civilian harm tracking, analysis, and response “cell”

requires specialized human resources, information management systems, and technological equipment. The tracking cell staff at headquarters analyzes information for trends and notes protection opportunities and challenges to be addressed by senior military officials in tactical directives or training.

## The Purpose of Civilian Harm Tracking

Over time, tracking of civilian harm accomplishes four things:

1. Creates an awareness among troops/peacekeepers in the field that the impact of their operations on the civilian population is documented and taken seriously by command;
2. Reduces civilian harm by providing commanders and military planners with information and analysis aimed at adjusting tactics to minimize future harm;
3. Helps commanders appropriately respond to confirmed incidents of civilian harm with factual information and credible evidence to push back against false claims;
4. Enables forces to separate out cases that warrant legal investigation for possible violations and to make amends to civilians for cases of incidental harm through the use of detailed information about who was harmed and where.

While tracking is a process internal to a warring party, officials can also release data to report to political institutions such as NATO, the African Union, or the United Nations on mission progress, to respond publicly to any alleged civilian harm, and eventually to recognize civilians who have suffered harm. These actions benefit the civilian population and the mission.

## Why Track Civilian Harm?

There are ethical, strategic, and legal reasons why warring parties should track, analyze, and respond to civilian harm. Warring parties include multinational coalitions, host nation militaries, peacekeeping operations, individual state militaries, and even non-state armed groups.

Ethically, many warring parties—such as countries contributing troops to the International Security Assistance Forces (ISAF) in Afghanistan and the African Union Mission in Somalia (AMISOM)—have publicly stated their concern for civilians caught in the crossfire. Establishing a tracking cell backs those words up with actions and allows warring parties to demonstrate they are assessing the impact of their operations and, when necessary, changing tactics to minimize harm—even if such harm meets key international humanitarian law (IHL) requirements including proportionality and military necessity.

Strategically, warring parties may find that mission success depends on their ability to minimize and mitigate harm to civilians from their operations. Their very success may in fact be measured, at least in part, on their ability to prevent incidental civilian harm and appropriately respond to those harmed. Establishment of a functioning cell and regular release of public information can go a long way toward showing the population that a military is actively working and has a plan in place to reduce and address civilian harm. An effective tracking, analysis, and response mechanism will not in itself “win” the conflict, but the lack of one may very well lose it, turning tactical successes into overall strategic failure.

Legally, civilian harm tracking by a warring party also allows it to illustrate through data the measures the conflict party is undertaking to adhere to—and in some cases go above and beyond—international humanitarian law. IHL requires warring parties to ensure proportionality, which means the anticipated harm caused to civilians and civilian objects cannot be excessive in relation to the expected military gain. Also, combat operations must not be directed specifically at civilians or civilian objects. Warring parties must take “all feasible precautions” to minimize incidental harm to civilians and civilian objects. While tracking civilian harm is not a formal IHL requirement, warring parties who abide by an ethos of

civilian protection can implement this tool to further reduce even incidental harm. For instance, a tracking cell allows the conflict party to compare post-operation data with pre-operation estimates; the comparison may reveal that targeting assumptions were correct, or in cases where the assumptions were incorrect, that intelligence gathering and targeting decisions should be modified in the future.

## Civilian Harm Tracking in Practice

There is growing recognition among states and the United Nations of the importance of civilian harm tracking and analysis. The 2013 UN Secretary-General’s Report on the Protection of Civilians in Armed Conflict recommended that:

In recognition of the proven utility of civilian casualty tracking as a means of informing military strategy to reduce harm to civilians, parties to conflict, including in the context of multinational peacekeeping operations and United Nations peacekeeping missions involved in offensive operations, should establish and implement such mechanisms.<sup>14</sup>

## Afghanistan

In the early years of the war in Afghanistan, the US Department of Defense did not keep track of civilian casualties and the numbers were publicly referred to as “minimal.” Reports of civilian harm by the United States were often denied in the media, only to be admitted days later as evidence arose. Lack of acknowledgment of and inability to address civilian harm left the United States and its allies with a massive credibility deficit, both locally within Afghanistan and, eventually, at the international level.

Recognizing the importance of addressing the problem of civilian harm, in 2008 General David McKiernan, then head of the International Security Assistance Forces in Afghanistan, established the first-ever Civilian Casualty Tracking Cell (CCTC).<sup>15</sup> The aim of this cell was to document and analyze information in order to inform commanders of the impact of their and the insurgents’ operations on the civilian population. Though understaffed and underfunded, the creation of this cell

<sup>11</sup> “Making amends” is the emerging practice of warring parties providing recognition and assistance to civilians they harm within the lawful parameters of their combat operations. The practice of making amends to civilians suffering combat losses is a gesture of respect to victims. Amends can take a variety of forms, but must be culturally appropriate. They can include public apologies, monetary payments, livelihood assistance programs, and other offerings in accordance with victims’ needs and preferences. For more information, see chapter on Making Amends in this publication.

<sup>12</sup> Civilian casualty recording, by contrast, describes efforts by states and civil society to record deaths from armed violence in a systematic and continuous way and is distinct from tracking and analysis of civilian harm by parties to a conflict. For more information, see chapter on Casualty Recording in this publication.

<sup>13</sup> Field liaison reports, battle damage assessments, and spot reports are reporting tools commonly used by military actors. Field liaison reports, for example, generally come from specific troops in the field who have been trained to feed up information regarding civilian harm. Battle damage assessments are investigations done by military actors to determine what type of civilian harm may have occurred as a result of an operation. Spot reports are the first data points communicated after a situation where troops may have engaged with hostile forces. These reports can form the foundation from which additional investigations and information gathering can take place.

<sup>14</sup> UN Secretary-General, “Report of the Secretary-General on the Protection of Civilians in Armed Conflict,” S/2013/689, November 22, 2013, [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2013/689](http://www.un.org/ga/search/view_doc.asp?symbol=S/2013/689) (accessed January 23, 2015), para. 70.

<sup>15</sup> Throughout history, militaries have often “counted” the deaths of their adversaries in order to measure progress toward mission success or inform military planning. It should be noted that tracking goes far beyond this and is actually focused on all forms of civilian harm, including injury and loss of property, and analyzing data to inform better protection of civilians.



showed that ISAF recognized the importance of tracking civilian harm in a systematic way.

In July 2011, ISAF created the Civilian Casualty Mitigation Team (CCMT) to oversee the CCTC and to analyze data gathered, identify civilian casualty trends, and advise the ISAF commander on ways to reduce civilian harm. This tracking mechanism was one of the first steps ISAF took to identify incidents of civilian harm, and it gathered important data that was analyzed, raising red flags about harmful trends. Information and analysis from the CCMT allowed commanders to make adjustments and issue tactical directives, resulting in a documented decrease in civilian casualties and in ways to better address harm caused.

The creation of these mechanisms also resulted in the first efforts to hold civil-military working groups in which civil society and ISAF could compare data and analysis. The working groups allowed civil society and military actors to have a constructive dialogue about casualties and other forms of civilian harm.

### Somalia

In 2011 in response to several high profile cases of alleged civilian casualties, the African Union Mission in Somalia contracted a retired British general who in turn contacted the Center for Civilians in Conflict to consult with AMISOM on an indirect fire policy aimed at restricting the use of such fire in order to reduce civilian harm. The indirect fire policy (AMISOM 2011) recommended that AMISOM:

Create a civilian casualty (CIVCAS) tracking cell, which collates all information from Operations, Intelligence, [Public Affairs], legal staff, Force Fire Directive Center and contingents to brief the Force Commander on the incidents. . . . This cell will investigate all incidents to enable accurate attribution of responsibility and AMISOM's follow up. . . . The cell will also contribute to the [After Action Reviews] and lessons learnt process.<sup>16</sup>

The UN Security Council also recognized the importance of civilian casualty tracking in two subsequent resolutions. In extending its authorization for the AMISOM

mission, the Security Council endorsed the tracking cell. Its 2013 resolution:

*Recalls* AMISOM's commitment to establish a Civilian Casualty Tracking, Analysis, and Response Cell (CCTARC), *underscores* the importance of its establishment, *requests* AMISOM to report on the progress made in establishing the CCTARC and *calls* on international donors and partners to further support the establishment of a CCTARC.<sup>17</sup>

Over the course of 2012 and early 2013, AMISOM mapped out existing information systems and created an implementation plan for their CCTARC. At this writing, the CCTARC is being staffed up and should be operational in early 2015.

### Conclusion

With any military mission—and especially those claiming civilian protection as their mandate—success can hinge on the ability and effort of the warring party to minimize civilian harm and respond to the harm that is caused. Expectations of protection among the civilian population are often high. A warring party must understand where, when, and how its operations have harmed civilians both to learn lessons that can prevent future harm to civilians and to address properly the harm that does occur.

### For More Information

Center for Civilians in Conflict, “Backgrounder: Civilian Harm Tracking,” August 2013, <http://civiliansinconflict.org/resources/pub/backgrounder-tracking-civilian-harm>.

Center for Civilians in Conflict, *Civilian Harm Tracking: Analysis of ISAF Efforts in Afghanistan*, May 2014, [http://civiliansinconflict.org/uploads/files/publications/ISAF\\_Civilian\\_Harm\\_Tracking.pdf](http://civiliansinconflict.org/uploads/files/publications/ISAF_Civilian_Harm_Tracking.pdf).

Marla Keenan, “Operationalizing Civilian Protection in Mali: The Case for a Civilian Casualty Tracking, Analysis, and Response Cell,” *Stability: Journal of Security and Development*, vol. 2(2), art. 21 (May 2013), <http://civiliansinconflict.org/resources/pub/operationalizing-civilian-protection-in-mali>.

## MAKING AMENDS

*Sahr Muhammedally*

Making amends refers to the emerging practice of warring parties to recognize and provide assistance to civilians harmed within the scope of lawful combat operations. At its core, the practice of making amends to civilians who have suffered loss, injury, or other harm during armed conflict is a gesture of respect to victims and may help ameliorate their suffering. Amends can take a variety of forms, but must be culturally appropriate. They can include explanations, apologies, monetary payments, livelihood assistance programs, and other offerings in accordance with victims' needs and preferences.

International humanitarian law and other legal frameworks have key rules in place to protect civilians in wartime, such as the requirement of proportionality of the use of force and the need to take all feasible precautions to minimize civilian harm. Warring parties are obliged to abide by these rules and conduct hostilities accordingly. Violation of these rules can result in a range of accountability measures, including international and national criminal prosecutions and reparations to victims. If use of lethal force was lawful, however, and there has been no identified violation of international humanitarian law, warring parties are under no legal obligation to help or even recognize the civilians who have suffered harm as a result of their operations.

Such civilian harm leaves victims themselves to recover from injuries and pick up the pieces of lost lives, property, and livelihoods. As a result, a family killed in the course of a proportionate attack on a legitimate military target, a teenage passerby wounded in a sudden skirmish between opposing forces, or a farmer killed by a ricocheting bullet are all considered “collateral damage.” There is currently no obligation for the party responsible for the harm to help these civilians. This leaves civilians

with no acknowledgment of their losses, no apology or explanation for what happened, and no assistance to cope with the loss.

Making amends fills a void in warring parties' responsibilities and is a way to recognize and address the civilian suffering that results from their operations.

### Basis for Making Amends

The principle of humanity in international humanitarian law is the foundational underpinning of making amends. The Martens Clause, which first appeared in the 1899 Hague Peace Convention and has been reiterated in many international humanitarian law instruments since, exemplifies how important humanity is to the laws of war.<sup>18</sup> It states that, along with custom, “principles of humanity” and the “dictates of the public conscience” serve as sources of law in the absence of other international agreements.<sup>19</sup> With no formal obligation for warring parties to recognize or help civilians considered “collateral damage” under international law, making amends promotes humanity by offering recognition and some degree of dignity to civilians suffering losses.

The principle of making amends also has roots in cultural traditions. For Pashtuns in Afghanistan under local customary law (*Pashtunwali*), the family of someone accidentally killed is entitled to compensation to ensure the honor of the victim. In Somalia, informal clan laws (*xeer*) require payment of “blood money” (*diya*) for civilian suffering. The Ugandan rite called *mato oput* restores community relations after intentional or accidental deaths. The clan of the person responsible must pay “blood money,” and a Council of Elders arranges for a reconciliation ceremony where animals are sacrificed as a reminder of a life lost. The rite “embodies the principle

<sup>16</sup> AMISOM, Indirect Fire Policy, 2011 (on file with authors).

<sup>17</sup> UN Security Council, Resolution 2093 (2013), S/RES/2093 (2013), [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2093%282013%29](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2093%282013%29) (accessed January 23, 2015), para. 11 (emphasis in original). See also UN Security Council, Resolution 2036 (2012), S/RES/2036 (2012), [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2093%282013%29](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2093%282013%29) (accessed January 23, 2015), para. 17.

<sup>18</sup> Hague Convention (II) with Respect to the Laws and Customs of War on Land, adopted July 29, 1899, 32 Stat. 1803, entered into force September 4, 1900, pmbl. Similar language has also appeared, *inter alia*, in the preamble to the Hague Convention (IV) Respecting the Laws and Customs of War on Land, adopted October 18, 1907, 36 Stat. 2227, entered into force January 26, 1910. Language on the principle of humanity also appears in: Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted June 8, 1977, 1125 U.N.T.S. 3, entered into force December 7, 1978, art. 1(2); Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1125 U.N.T.S. 609, entered into force December 7, 1978, pmbl., para. 4; and Convention on Cluster Munitions, adopted May 30, 2008, Dublin Diplomatic Conference, CCM/77, entered into force August 1, 2010, pmbl., para. 11.

<sup>19</sup> Protocol I, art. 1(2). See also Harvard Law School International Human Rights Clinic, *Legal Foundations for Making Amends*, 2012, [http://civiliansinconflict.org/uploads/files/publications/Harvard\\_Making\\_Amendments\\_Foundations\\_Paper\\_Feb\\_2012%28WFinal2.10.12%29.pdf](http://civiliansinconflict.org/uploads/files/publications/Harvard_Making_Amendments_Foundations_Paper_Feb_2012%28WFinal2.10.12%29.pdf) (accessed January 23, 2015).

that society and the perpetrator contribute to the extent possible to the emotional restoration and repair of the physical and material well-being of the victim.”<sup>20</sup>

For warring parties that abide by an ethos of civilian protection while conducting combat operations, there are many reasons to make amends for the harm that they cause. First, making amends recognizes inherent human dignity. The act is a logical extension of civilian protection mores and could be called a moral imperative. Second, making amends entails addressing the loss and frustration of the local population. It can therefore be valuable as a measure for fostering trust and goodwill among the people. Finally, making amends can be a pragmatic step to further healing, stability, and reconciliation and thus constitute an effective peacebuilding measure.

Amends are beginning to be recognized at the United Nations. The 2010 and 2012 UN Reports of the Secretary-General on the Protection of Civilians in Armed Conflict describe the making of amends as an emerging norm and “welcomed the practice.”<sup>21</sup> The 2010 report of the UN Special Rapporteur on Extrajudicial Killings Philip Alston called on the international community to pay attention to the emerging practice of making amends and to study its significance.<sup>22</sup>

### Reparations versus Amends

In contrast to amends, reparations are a legal remedy to which victims are entitled for violations of international human rights, humanitarian, and criminal law.<sup>23</sup> Amends for incidental harm are not legally mandated for warring parties. The practice therefore comes from a policy decision rather than a legal obligation.

Amends and reparations do share similarities, however. Both concepts are rooted in principles of human dignity and humanity, which are universal to all victims regardless of how they have been harmed in armed conflict.

Furthermore, both amends and reparations can and should take a variety of forms, each of which should be sufficiently victim-centric. Reparations can take the form of financial redress such as compensation, as well non-financial redress such as rehabilitation, satisfaction, and guarantees of non-repetition. Similarly, in practice, warring parties’ amends have ranged from monetary payments and in-kind assistance to apologies to victims.

It is important to note that accepting amends does not disqualify victims from subsequently pursuing any applicable legal claims against a warring party for alleged violations of domestic or international law. Conversely, the provision of amends by a warring party is not prima facie evidence of legal liability for a violation.

### Who Should Make Amends, and How?

As discussed above, making amends is rooted in the recognition of human dignity, and warring parties, out of a sense of ethical obligation, should provide some assistance to victims for incidental harm. In order to do so, warring parties, including non-state armed groups, should have policies and processes in place to respond to all civilian harm including loss of life, injuries, and property damage. Warring parties should also make their policies and processes for making amends known to local governments, civil society, and civilians in theater so civilians know where to go and what to do if they have been harmed.

Since the nature of civilian harm varies from conflict to conflict, and expectations of recognition and assistance differ from culture to culture, amends in practice must be both tailored to specific cases and culturally appropriate. In some cultures, monetary payments not accompanied by an apology, or vice versa, may be insulting.

The US military was the first among coalition partners to make “condolence payments” in Iraq and Afghanistan for civilians harmed during combat operations.<sup>24</sup> Other

troop-contributing countries within the International Security Assistance Force (ISAF) in Afghanistan also made monetary payments, provided medical assistance, and engaged in rebuilding efforts for civilians incidentally harmed during their combat operations. The African Union Mission in Somalia (AMISOM) has provided monetary payments for incidental harm caused by its actions in Somalia.

Separately, conflict-specific non-monetary schemes created and funded by the US government have also assisted victims of harm. The Afghan Civilian Assistance Program was established to assist Afghan civilians who “have suffered losses as a result of US military operations against insurgents and the Taliban” in the country.<sup>25</sup> It has offered assistance such as education and training, medical care, livestock provision, and infrastructure development. The program has been funded through appropriations from legislation that does not specifically address the legality of the US military attacks, but instead states that “funds shall be used for humanitarian and reconstruction assistance for the Afghan people including health and education programs, housing, to improve the status of women, infrastructure, and assistance for victims of war and displaced persons.”<sup>26</sup> In Iraq, the Marla Ruzicka Iraqi War Victims Fund similarly has provided help to affected communities and families for rehabilitation and livelihood assistance programs.<sup>27</sup> In Pakistan, the Conflict Victims Assistance Project, funded by the US government, helps the Pakistani government provide medical, psychological, and livelihood assistance to conflict-affected families in Khyber Pakhtunkhwa and since 2013 the Federally Administered Tribal Areas (FATA).<sup>28</sup>

### Challenges

Changing the behavior of warring parties globally has its challenges. Identifying the real scope of the problem is a key challenge. The need for amends is clear in any given conflict, but difficult to measure with precision. How many civilians have been harmed in combat operations, and how many never received the amends

they deserved? Indices of civilian suffering are subtle, and not all types of harm can be statistically recorded.<sup>29</sup> The same challenges hold true for civilians who have already received amends: Were the amends enough, and by what measure? Do the recipients qualify for more? As with compensation payments for reparations, if amends are made for incidental harm, how is the loss valued? What is the appropriate methodology for answering these questions?

Another challenge is: what is an appropriate response to the harm? It is logical that as a dignifying gesture, amends should be tailored to the needs and wishes of civilian victims given their specific culture and traditions. It may also be that a civilian suffering loss may not want to receive a certain form of amends or any at all from the injurer. In Afghanistan, some civilians harmed felt insulted with just monetary payments and wanted, instead, a trial in a courtroom, even if the harm they suffered was not unlawful under the laws of war and their legal claim carried no weight.<sup>30</sup> Relatedly, how does one expect a warring party to recognize and assist a civilian population perceived to be a subset of the enemy?

### Conclusion

There is no consensus among warring parties about what constitutes amends, and addressing civilian harm in this way is still the exception rather than the rule in warfare. The examples of amends made and amends called for clearly show a specific set of practices beginning to develop. Every example of amends made will reveal their utility, adaptability, and moral power bolstering the call for future warring parties to follow suit. Each example also clarifies the content of the norm, exposing best or worst practices.

Essentially, making amends ensures that civilian victims, whether individuals, families, or entire communities, have their dignity and humanity recognized through apologies, compensation, community aid, or in-kind assistance. One instance of making amends can change the destiny of a single family; the impact of all warring

<sup>20</sup> Sarah Holewinski, “Making Amends,” in *Civilians and Modern War: Armed Conflict and the Ideology of Violence*, eds. Daniel Rothbart, Karina V. Korostelina, and Mohammed D. Cherkaoui (New York: Routledge, 2012), p. 320 (citing James Ojera Latigo, “Northern Uganda: Tradition-Based Practices in the Acholi Region,” in eds. Luc Huyse and Mark Salter, *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences* (Stockholm: International IDEA, 2008), p. 108).

<sup>21</sup> UN Secretary-General, “Report of the Secretary-General on the Protection of Civilians in Armed Conflict,” S/2012/376, May 22, 2012, <https://docs.unocha.org/sites/dms/Documents/SG%20Report%20on%20PoC%2022%20May%202012.pdf> (accessed January 23, 2015), para. 29. The 2010 report states, “I note the emerging practice of several States, one that other parties to armed conflict might consider, of acknowledging the harm they cause to civilians and compensating victims. The practice of making amends may range from public apologies to financial payments and livelihood assistance provided to individuals, families and communities. This practice must not be seen, however, as an alternative to prosecuting those responsible for violations of international humanitarian and human rights law and delivering justice to the victims and their families and communities.” UN Secretary-General, “Report of the Secretary-General on the Protection of Civilians in Armed Conflict,” S/2010/579, November 11, 2010, <http://reliefweb.int/node/375487> (accessed January 23, 2015), para. 93.

<sup>22</sup> UN Human Rights Council, “Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston,” A/HRC/14/24, May 20, 2010, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.pdf> (accessed January 23, 2015), paras. 84–88.

<sup>23</sup> Reparations fall under the rubric of transitional justice. For more information on reparations, see chapter on Transitional Justice in this publication.

<sup>24</sup> US Army Regulation 2-20, para. 10, authorizes use of solatia payments as an expression of sympathy towards civilian victims or family for harm suffered, if culturally appropriate.

<sup>25</sup> Office of Inspector General, *Audit of Afghanistan Civilian Assistance Program*, Audit Report No. 5-306-10-004-P, December 15, 2009, <http://oig.usaid.gov/sites/default/files/audit-reports/5-306-10-004-p.pdf> (accessed January 23, 2015), p. 1.

<sup>26</sup> Consolidated Appropriations Resolution, 117 Stat. 164, 2003, <http://www.gpo.gov/fdsys/pkg/PLAW-108publ7/pdf/PLAW-108publ7.pdf> (accessed January 23, 2015).

<sup>27</sup> US House of Representatives Report 109-072, May 3, 2005, [http://thomas.loc.gov/cgi-bin/cpquery/?&dbname=cp109&sid=cp109Pr1br&refer=&r\\_n=hr072.109&item=&sel=TOC\\_113828&l](http://thomas.loc.gov/cgi-bin/cpquery/?&dbname=cp109&sid=cp109Pr1br&refer=&r_n=hr072.109&item=&sel=TOC_113828&l) (accessed February 11, 2015), sec. 2108: Marla Ruzicka Iraqi War Victims Fund.

<sup>28</sup> USAID, “Conflict Victims Support Project, Pakistan,” October 1, 2013, <https://scms.usaid.gov/sites/default/files/documents/1871/CVSP.pdf> (accessed February 11, 2015).

<sup>29</sup> While capturing all incidences is challenging, civilian harm tracking by warring parties can facilitate the collection of such data. For more information, see chapter on Civilian Harm Tracking in this publication.

<sup>30</sup> Based on research by the Center for Civilians in Conflict in Afghanistan and in other theaters, it is useful, where feasible, to have the warring party meet in-person or through a trusted intermediary with the victim to express sympathy and sorrow for the losses and to explain the circumstances of the incidental harm although it may not completely change a victim’s perspective on judicial accountability.

parties making amends could change the outcome of war for civilians on a large scale. No amount or kind of amends by a warring party can wholly restore the lives of the victims of the conflict, but for civilians caught in the crossfire it is a chance for some kind of remedy.

#### For More Information

Center for Civilians in Conflict, *Compensating Civilian Casualties: "I am sorry for your loss and I wish you well in a free Iraq,"* 2008, <http://civiliansinconflict.org/resources/pub/compensating-civilian-casualties-i-am-sorry-for-your-loss-and-i-wish-you-we>.

Center for Civilians in Conflict, *Guiding Principles of Making Amends*, [http://civiliansinconflict.org/uploads/files/publications/Making\\_Amends\\_Principles.pdf](http://civiliansinconflict.org/uploads/files/publications/Making_Amends_Principles.pdf).

Sarah Holewinski, "Making Amends," in *Civilians and Modern War: Armed Conflict and the Ideology of Violence*, eds. Daniel Rothbart, Karina V. Korostelina, and Mohammed D. Cherkaoui (New York: Routledge, 2012).

Scott Paul, "The Duty to Make Amends," *Tulane Journal of International & Comparative Law*, vol. 22 (2013), p. 87.

University of Amsterdam Law Clinic and Center for Civilians in Conflict, *Monetary Payments for Civilian Harm in International and National Practice*, 2013, <http://civiliansinconflict.org/resources/pub/valuation-of-life>.

## TRANSITIONAL JUSTICE

Simon Robins

The discourse of transitional justice has emerged as a response to the needs of societies emerging from conflict or political violence and has become a common lens through which to examine democratizing states. It is typified by institutional responses to violations of international humanitarian law, human rights law, or domestic law that occurred during a previous regime. Transitional justice emerged from a legal standpoint, and while emphasizing a prosecution-based response to violations, it depends on a broader understanding of the concept of justice that includes non-prosecutorial mechanisms. The goals of transitional justice include:

- Addressing the divisions in society that both caused the conflict and were created or deepened by the conflict;
- Seeking closure and healing wounds of both individuals and society at large through "truth telling";
- Providing justice to victims, and making perpetrators accountable;
- Creating an accurate historical record for society;
- Restoring and strengthening the rule of law;
- Reforming institutions to promote democratization and human rights;
- Ensuring that human rights violations are not repeated; and
- Promoting national reconciliation, co-existence, and sustainable peace.

These aims target primarily broader societal goals, the objects of intervention typically being both the state and the nation. While transitional justice is about past events, it seeks to modify outcomes in the future, i.e., "to address the past in a constructive future-oriented manner."<sup>31</sup> The agenda of transitional justice in any particular context is of course highly contested, and there remain debates about who drives such processes and whose goals are or should be privileged. Transitional justice emerged in

middle-income states emerging from authoritarianism, but its practice in the twenty-first century has become focused on post-colonial states with histories of inequality and poverty, addressing legacies of internal armed conflict.

Although a majority of its objectives do not prioritize victims or their needs, transitional justice has always claimed to have a victim orientation. It has been described as having a *victim-centered approach*, a term that emerged from the work of the South African Truth and Reconciliation Commission (TRC).<sup>32</sup> Some experts have criticized the contention that transitional justice revolves around the interests of victims as largely rhetorical,<sup>33</sup> while others claim that the broader goals of transitional justice demand that it look beyond those perceived as victims.<sup>34</sup> Transitional justice has the potential to assist victims in several ways, not least by providing justice, truth, and reparations. Where victims' needs align with what global practice seeks to deliver, transitional justice can ensure that perpetrators are tried and punished, violations become more difficult to deny, and the state provides both material and symbolic reparation. However, where victims' needs go beyond these core "pillars" of transitional justice and, for example, call for addressing histories of exclusion and structural violence, transitional justice can be perceived as failing them. Transitional justice could more effectively serve victims if it ensured their participation in the process, offered them the promise of transformative change, and augmented victim-centered reparations.

#### Approaches to Transitional Justice

Contemporary literature on transitional justice has been dominated by two general orientations: a legalistic approach that is normatively driven, and a more pragmatic consequentialist approach, premised on achieving certain goals.<sup>35</sup> The legalistic approach is based upon the primacy of a universal standard of justice, and is

<sup>31</sup> Andrew Rigby, *Justice and Reconciliation: After the Violence* (Boulder, CO: Lynne Rienner, 2001), p. 2.

<sup>32</sup> Republic of South Africa, *Truth and Reconciliation Commission of South Africa report* (final report), <http://www.justice.gov.za/trc/> (accessed February 5, 2015).

<sup>33</sup> Michael Humphrey, "From Victim to Victimhood: Truth Commissions and Trials as Rituals of Political Transition and Individual Healing," *The Australian Journal of Anthropology*, vol. 14 (2003), pp. 171-87.

<sup>34</sup> Kieran McEvoy and Kirsten McConnachie, "Victims and Transitional Justice: Voice, Agency and Blame," *Social & Legal Studies*, vol. 22 (2013), pp. 498-513.

<sup>35</sup> Leslie Vinjamuri and Jack Snyder, "Advocacy and Scholarship in the Study of International War Crime Tribunals and Transitional Justice," *Annual Review of Political Science*, vol. 7 (2004), pp. 345-62.



characterized by an emphasis on judicial process to enforce international law. This approach has heavily influenced the human rights community and, in particular, nongovernmental organizations (NGOs). It drove, for example, the campaign to create the International Criminal Court (ICC). The consequentialist approach stems largely from political realism, and it takes into consideration power relations in transition as well as the self-interest of elites in preventing retributive justice. Pragmatists are more likely to believe that trials are not always feasible, given limiting political factors. Such an outlook is more likely to consider non-retributive mechanisms as an alternative route to justice, pending the possibility of prosecutions at some point in the future. Attempts to define transitional justice have traditionally been framed by these two approaches.<sup>36</sup>

### Responsibility for and Scope of Transitional Justice

Transitional justice is guided by both a normative legal framework, deriving from public international law (most notably the bodies of human rights law and international criminal law), and a set of softer norms that have evolved in recent decades (e.g., the reports of the UN Secretary-General of 2004 and 2011).<sup>37</sup> These norms give the state the overriding responsibility for implementing transitional justice, supported by international actors and civil society. Given that many poor states emerging from conflict lack significant resources or expertise to design and implement such processes, international actors linked to Western donors, international agencies, and the United Nations will often take a leading role. As a result, the discourse of transitional justice refers far more to priorities that emerge from global norms than to those that arise in a particular time and place, located in the culture and society in which a victim lives.

In all contexts, the extent of any transitional justice process is limited by the political will of the leaders of the concerned states, who in many cases have been involved in the violence that preceded transition. Thus there is often political resistance to such processes, especially around accountability mechanisms that could

target those close to power. Early transitional justice processes were driven by truth commissions, on the understanding that in the delicate political environments in which they were unfolding justice was not—or at least not yet—possible. This approach reached its apogee with the much lauded South African Truth and Reconciliation Commission. Such processes are premised on the belief that the public telling of truth leads to healing for victims individually, and through the broader truths that emerge, healing and reconciliation for the nation as a whole. This notion has been called a “therapeutic ethic,”<sup>38</sup> and in South Africa truth-telling was linked to a broad process of amnesty for violations.

In the two decades since the South African TRC, a new judicial absolutism has come to dominate transitional justice processes, with the idea of trading amnesty for truth being no longer perceived as appropriate. Indeed, amnesty for gross violations of human rights is often claimed to be in contravention of international legal norms. Contemporary transitional justice discourse perceives accountability for serious violations as a priority, as evidenced by the resources given to the ICC. Truth commissions have become an international expectation after regime change, but as something that will complement, or even drive, a prosecutorial process.

### Defining Victims

In principle, victims are defined by what has been done to them, that is, by what violation of law they have suffered. For example, the 2006 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations state:

[V]ictims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with

domestic law, the term “victim” also includes the immediate family or dependents of the direct victim.<sup>39</sup>

In practice, victimhood does not emerge naturally from the experience of being harmed, but is constructed socially and subjectively, with a range of factors determining who will be recognized as a victim. Most formally, bodies established to deal with victims, such as truth commissions or prosecutorial bodies, will determine who is considered a victim. In many contexts at the local level, victims’ groups and NGOs will engage with victims and define criteria that incorporate understandings of victimhood within communities. Often, however, such understandings are overly influenced by discourses external to communities and as a result they may or may not coincide with those of victims themselves. A political agenda or a certain narrative of the conflict may privilege a particular conception of victimhood. Victims constitute a part of the contested terrain of the memory of the conflict, at both national and local levels, often creating a hierarchy of victimhood.<sup>40</sup>

While the victim has become a central rationale for and moral driver of transitional justice processes globally, in many post-conflict interventions both the individual and collective consequences of violations on victims remain largely unexamined by either states or other actors promoting transitional justice, even as such processes unfold. In turn the effectiveness of transitional justice is understood not in terms of how it has affected victims, but in how it has more broadly seen a state move from violating or neglecting individuals’ rights to upholding them. That transitional justice practitioners are most concerned with judicial process and institutionally produced truth leads them to focus on perpetrators and violations rather than on victims and the impacts on victims.

### The Participation of Victims in Transitional Justice

Victims’ roles in transitional justice processes vary. In early transitional justice processes, victims were organized and mobilized to become major actors in the advocacy work that led to the implementation of

mechanisms of truth and justice. The most notable example is that of the Madres de Plaza de Mayo of Argentina, mothers of those disappeared by the regime, whose demand for the truth about the disappeared led to the creation of CONADEP,<sup>41</sup> one of the first truth commissions, tasked with recovering the truth concerning those missing.

As transitional justice practice has become formalized, however, it has been more difficult for victims to influence such processes. In many low-income contexts where transitional justice is unfolding, victims are fetishized by civil society and authorities, invited to meetings and listened to respectfully as they give their testimony. However, significant control is rarely afforded to victims over agendas or funding. At its extreme, a conversation between government and elite civil society in the capital around mechanisms can effectively exclude victims’ voices. Consultation and outreach have become conventional indicators of inclusive process, with the opinions of victims and others being sought. However, such efforts are often perfunctory, and the results of such consultation rarely permitted to impact on processes that still unfold according to a global paradigm.<sup>42</sup> While consultation with victims has become a staple of the rhetoric of transitional justice, in practice a global mimetic model is often ill adjusted to victims’ priorities.

Many victims desperately demand that perpetrators be tried and punished and truth be told, but their agendas are often far broader, seeking an end to the structural violence and violations of social and economic rights that facilitate acts of violence. Although addressing such human rights violations is formally contained within the ambit of transitional justice, they have traditionally been marginalized in favor of violations of civil and political rights. Furthermore, the nature of transitional justice mechanisms can serve to distance victims. In the prosecutions that have most defined transitional justice, the victim is a limited actor in a process that is often both alien and alienating, particularly for marginalized rural people with little engagement with officialdom. It is almost universally presumed that prosecutions help victims and that impunity is in itself traumatic for

<sup>36</sup> For example, Ruti Teitel gives a legalistic definition: “Transitional justice can be defined as the conception of justice associated with periods of political change, characterised by legal responses to confront the wrongdoings of repressive predecessor regimes.” Naomi Roht-Arriaza offers a broader definition that looks beyond purely legal processes: “[T]ransitional justice includes that set of practices, mechanisms and concerns that arise following a period of conflict, civil strife or repression, and that are aimed directly at confronting and dealing with past violations of human rights and humanitarian law.” Ruti G. Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2000), p. 69; Naomi Roht-Arriaza, “The New Landscape of Transitional Justice,” in *Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice*, eds. Naomi Roht-Arriaza and Javier Mariezcurrena (Cambridge: Cambridge University Press, 2006), p. 2.

<sup>37</sup> UN Secretary-General, “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies,” S/2004/616, August 23, 2004, <http://www.unrol.org/doc.aspx?n=2004+report.pdf> (accessed March 1, 2015); UN Secretary-General “The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies,” S/2011/634, October 12, 2011, [www.unrol.org/files/S\\_2011\\_634EN.pdf](http://www.unrol.org/files/S_2011_634EN.pdf) (accessed March 1, 2015).

<sup>38</sup> Christopher Colvin, “‘Brothers and Sisters, Do Not be Afraid of Me’: Trauma, History and the Therapeutic Imagination in the New South Africa,” in *Contested Pasts: The Politics of Memory*, eds. Katharine Hodgkin & Susannah Radstone (London: Routledge, 2003), p. 9.

<sup>39</sup> UN General Assembly, “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,” Resolution 60/147, A/RES/60/147 (2006), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx> (accessed February 28, 2015), para. 8.

<sup>40</sup> Heidi Rombouts, “Importance and Difficulties of Victim-Based Research in Post-Conflict Societies,” *European Journal of Crime, Criminal Law and Criminal Justice*, vol. 10 (2002), pp. 216-32.

<sup>41</sup> Comisión Nacional sobre la Desaparición de Personas (National Commission on the Disappearance of Persons).

<sup>42</sup> Tshepo Madlingozi, “On Transitional Justice Entrepreneurs and the Production of Victims,” *Journal of Human Rights Practice*, vol. 2 (2010), pp. 208-28; Simon Robins, “Transitional Justice as an Elite Discourse: Human Rights Practice between the Global and the Local in Post-Conflict Nepal,” *Critical Asian Studies*, vol. 44 (2012).

survivors. The empirical evidence that the prosecutorial process is beneficial, however, remains unconvincing,<sup>43</sup> and in many contexts the presumed primacy of prosecutions does not resonate with victims' expressed needs. The truth commission has been widely lauded as "victim-centered" but is an institution that operates through the objectification of the victim to support the broader aims of the state: it is not clear that the victim, who is the essential performer in the exercise, truly benefits.<sup>44</sup> The view of truth as reconciliation appears to be rooted in little empirically tested practice and there is some evidence that it can be either irrelevant to victims,<sup>45</sup> or actively damaging and retraumatizing.<sup>46</sup> For some, particularly those who have been victims of sexual violence, any public testimony risks retraumatization.

Where disempowerment is a major impact of victimhood, state-centered mechanisms in which victims have no agency risk perpetuating such disempowerment. There remains a need for both victim engagement and transitional justice processes to be empowering for victims, and this is likely to require the greater participation of victims in the design and development of such transitional processes.<sup>47</sup> One route to empowerment is through victim mobilization, such that victims' representatives can provide a connection between victims and those steering transitional justice processes.

### Reparation as a Victim-Centered Process

In practice, transitional justice—increasingly involving lower-income states of the Global South—has come to describe institutional responses to violations, created by national elites and supported by an international community with an agenda of liberal statebuilding. As a result, the transitional justice processes of trials, truth commissions, and reparations that some victims want unfold according to an international model. Transition is presumed to have the goal of liberal democracy, while justice is seen as a narrow legal and institutional justice

often removed from the broader justice demands of victims who want all their rights to be respected and needs to be addressed.

From a victim perspective, this prescriptive approach has been criticized for:

- Seeking to ensure respect for rights often conceived in the abstract, rather than understanding and addressing the highly contextual concrete needs of victims;<sup>48</sup>
- Prioritizing violations of civil and political rights rather than the social, economic, and cultural rights violations that are both the cause and result of conflict; and
- Failing to understand the particular specificities of any one context, and especially the contingency of victims' needs.

Reparations processes are the one mechanism that are necessarily victim centered although they are rarely prioritized and often largely absent or token. When comprehensive, and well designed and implemented, a reparations process can address many of the needs of victims, both individually and collectively. A reparations process will ideally offer victims both acknowledgment and restitution, and can comprise compensation, rehabilitative support, such as medical and psychosocial, and symbolic reparation around memorialization. Guarantees of non-repetition are also an essential part of reparations, linking them to judicial and truth processes. The obligation of states to provide reparations to victims and principles on how this should be done are outlined in a number of international instruments, most notably the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations.<sup>49</sup> Despite such guidelines, however, reparation is often neglected entirely or recommended by truth commissions and others, but never implemented.

### Toward a Transitional Justice that Better Serves Victims

The critiques outlined above suggest how transitional justice is failing to achieve its potential to serve victims of rights violations, even though it claims to place victims at the heart of its practice, and its stated goals resonate with what victims typically seek. Several areas emerge where transitional justice practice can be adapted to better serve victims.

#### Victim participation in transitional justice processes

Victims should ideally be actors at all stages of transitional justice, with their needs driving approaches taken. Involving victims will ensure that transitional justice processes address their needs and challenge prescriptive approaches that do not consider the nature of a specific context. Such involvement is likely to demand, first, that victims are mobilized in ways that allow the voices of ordinary victims to reach elites in the capital and, second, that those leading transitional justice processes are prepared for victims to be represented in all relevant institutions.

#### Transformative justice for victims

Rather than being driven purely by an agenda of building the institutions of the liberal state, transitional justice should also seek to address the disempowerment and exclusion that underlie victimhood in situations of political violence and situations that drive conflict. Transitional justice should not seek to restore victims to the poverty and marginalization that facilitated violations against them, but should strive to be transformative in challenging structural violence on the basis of ethnicity, locality, or gender.<sup>50</sup>

### Prioritization of the reparative agenda

Reparation remains the poor relation of transitional justice processes, with the recommendations of truth commission reports and other routes to reparation often frustrated by government refusal to implement them, or by a lack of resources. Reparation is the one transitional justice process that is intrinsically victim centered and advancing comprehensive reparations as a part of transitional justice is an effective way to address many victims' needs.

### For More Information

Priscilla B. Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (London: Routledge 2010).

Ruti G. Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2000).

UN Secretary-General, "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies," S/2004/616, August 23, 2004, <http://www.unrol.org/doc.aspx?n=2004+report.pdf>.

UN Secretary-General "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies," S/2011/634, October 12, 2011, [www.unrol.org/files/S\\_2011\\_634EN.pdf](http://www.unrol.org/files/S_2011_634EN.pdf).

<sup>43</sup> Jamie O'Connell, "Gambling with the Psyche: Does Prosecuting Human Rights Violators Console Their Victims?" *Harvard International Law Journal*, vol. 46 (2005), pp. 295-345.

<sup>44</sup> Simon Robins, "Challenging the Therapeutic Ethic: A Victim-Centred Evaluation of Transitional Justice Process in Timor-Leste," *International Journal of Transitional Justice*, vol. 5 (2012), pp. 1-23; Michael Humphrey, "From Victim to Victimhood: Truth Commissions and Trials as Rituals of Political Transition and Individual Healing," *The Australian Journal of Anthropology*, vol. 14 (2009), pp.171-87; Gearoid Millar, "Local Evaluations of Justice through Truth Telling in Sierra Leone: Postwar Needs and Transitional Justice," *Human Rights Review*, vol. 12 (2011), pp. 515-35.

<sup>45</sup> Centre for the Study of Violence and Reconciliation, *Survivors' Perceptions of the Truth and Reconciliation Commission and Suggestions for the Final Report* (1998), <http://www.csvr.org.za/old/wits/papers/papkhul.htm> (accessed March 1, 2015).

<sup>46</sup> Derrick Silove, Anthony B. Zwi, and Dominique le Touze, "Do Truth Commissions Heal? The East Timor Experience," *The Lancet*, vol. 367 (2006), pp.1222-23; Trudy de Ridder, "The Trauma of Testifying: Deponents' Difficult Healing Process," *Track Two*, vol. 6 (1997).

<sup>47</sup> Simon Robins, "From Victims to Actors: Participation in Transitional Justice Processes" (paper presented at ISA Annual Convention, San Francisco, April 3-6, 2013).

<sup>48</sup> Simon Robins, *Addressing the Needs of Families of the Missing: A Test of Contemporary Approaches to Transitional Justice* (London: Routledge, 2013), pp. 28-62.

<sup>49</sup> UN General Assembly, "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law."

<sup>50</sup> Paul Gready and Simon Robins, "From Transitional to Transformative Justice: A New Agenda for Practice," *International Journal of Transitional Justice*, vol. 8 (2014), pp. 339-61.

## VICTIM ASSISTANCE

Nerina Čevra

Assistance to victims has been promoted in different contexts, including the International Criminal Court,<sup>51</sup> transitional justice initiatives,<sup>52</sup> and programs to help victims of torture, crimes, and abuse of power.<sup>53</sup> Perhaps the most holistic approach and one that aims at structural change (rather than individual responses) has emerged from the implementation framework of three weapons treaties: the 1997 Mine Ban Treaty, 2003 Protocol V to the Convention on Conventional Weapons (CCW) on Explosive Remnants of War (ERW), and, most recently, the 2008 Convention on Cluster Munitions. Under these instruments and associated documents, victim assistance has evolved from a voluntary endeavor, mainly sketching what donor assistance might look like, to a well-developed, analytical, and legally binding framework.

Within this framework, states have recognized that victim assistance is an “issue of human rights,”<sup>54</sup> intended to enable survivors to maximize their potential as equal members of their societies in all areas of life. In the 15 years of implementation of the Mine Ban Treaty, states have defined priority areas for assistance based on the views of survivors themselves, including: emergency medical care, rehabilitation, psychological support, economic and social inclusion, data collection, and the development of relevant laws and policies.<sup>55</sup> States have acknowledged that medical treatment alone is unlikely to allow survivors to reclaim their rightful place in society. Assistance measures must also address victims’ lack of access to adequate employment, to a means of providing for their families, and to conditions for participating

in the life of the community. These measures should be grounded on reliable and relevant data collection.

The ultimate aim of victim assistance is to ensure the realization of the full range of victims’ human rights. It requires effective participation and inclusion of landmine and ERW survivors—including women, girls, men, and boys, and the families of those killed or injured—in the social, cultural, economic, and political life of their communities. This aim is consistent with one of the guiding principles of the 2006 Convention on the Rights of Persons with Disabilities (CRPD): “full and effective participation and inclusion in society.”<sup>56</sup>

### A Human Rights Approach

Rights-based victim assistance, as articulated in the Mine Ban Treaty and its implementing documents, applies states’ existing duty to ensure enjoyment of human rights to all persons in their jurisdiction or control, to the specific circumstances in which victims of landmines live. States have recognized that landmine survivors are a subgroup of persons with disabilities and mandated that victim assistance be provided in a way that does not discriminate among victims of different causes, or between victims and other persons injured or with disabilities.<sup>57</sup>

States applied this principle to cluster munitions victims and codified it in the Convention on Cluster Munitions.<sup>58</sup> The following year, in the report of the Mine Ban Treaty’s 2009 review conference, states reaffirmed the importance of non-discrimination. The report states that “victim assistance efforts should promote the development of

services, infrastructures, and policies to address the needs of all women, men, boys and girls with disabilities, regardless of the cause of the disability.”<sup>59</sup> Moreover, the report emphasizes that “the circumstances and experience of all persons in vulnerable situations in mine-affected communities, including internally displaced persons, the elderly, people living in extreme poverty and other marginalised groups, should also be considered in victim assistance efforts.”<sup>60</sup>

A rights-based victim assistance framework guides states on how to meet the needs of a subgroup of the general population living in particularly vulnerable circumstances and facing barriers to inclusion and participation in society. States should incorporate victim assistance within the broader frameworks of human rights, development, and disability, in order to increase sustainability and efficacy.<sup>61</sup>

### Definition of Victim

The Convention on Cluster Munitions was the first disarmament treaty to include a legally binding definition of the term “victim.” In Article 2(1), it states that:

“Cluster munition victims” means all persons who have been killed or suffered physical or psychological injury, economic loss, social marginalisation or substantial impairment of the realisation of their rights caused by the use of cluster munitions. They include those persons directly impacted by cluster munitions as well as their affected families and communities.<sup>62</sup>

This treaty’s definition draws on the UN General Assembly definition of victims of violations of human rights and humanitarian law that appears in the 2006 Basic Principles and Guidelines on the Right to a Remedy and Reparation. That document defines victims as:

persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term “victim” also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.<sup>63</sup>

An identical or similar version is included in other international instruments, including documents implementing recent disarmament treaties.<sup>64</sup>

These definitions share three main elements. First, a victim has experienced harm, which can vary in nature from physical injury to emotional suffering, economic loss, or the impairment of fundamental rights. Second, victims include not only persons who were the direct target of the violation but also other affected persons, such as family members. Third, the harm can be of a type experienced by an individual, or by a particular group, such as a group targeted by genocide.<sup>65</sup>

The expansiveness of the definition of “victim” highlights the full breadth of victimization caused by landmines and ERW. For example, after more than a decade of efforts to assist individual antipersonnel landmine victims, the states parties to the Mine Ban Treaty agreed in 2009 that victim assistance-related efforts should accord more attention to the impact on the family of those killed or injured, particularly in areas such as psychological support, economic empowerment, and support for the education of children.<sup>66</sup>

<sup>51</sup> For example, the Victims Rights Working Group promotes the rights and interests of victims before the International Criminal Court. See <http://www.vrwg.org/>.

<sup>52</sup> For more information on such initiatives, see chapter on Transitional Justice in this publication as well as the website of the International Center for Transitional Justice, <http://www.ictj.org/>.

<sup>53</sup> See generally UN Office for Drug Control and Crime Prevention and Centre for International Crime Prevention, *Handbook on Justice for Victims: On the Use and Application of the Declaration of the Basic Principles of Justice for Victims of Crime and Abuse of Power* (1999), [http://www.unodc.org/pdf/criminal\\_justice/UNODC\\_Handbook\\_on\\_Justice\\_for\\_victims.pdf](http://www.unodc.org/pdf/criminal_justice/UNODC_Handbook_on_Justice_for_victims.pdf) (accessed February 28, 2015).

<sup>54</sup> First Review Conference of the Mine Ban Treaty, Nairobi, “Final Report,” APLC/CONF/2004/5, February 9, 2005, [http://www.nairobisummit.org/fileadmin/APMBC-RC1/documents/final\\_report/RC\\_Final\\_Report\\_en.pdf](http://www.nairobisummit.org/fileadmin/APMBC-RC1/documents/final_report/RC_Final_Report_en.pdf) (accessed February 28, 2015), para. 66 [hereinafter Nairobi Review Conference, “Final Report”].

<sup>55</sup> *Ibid.*, para. 69.

<sup>56</sup> Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006, entered into force May 3, 2008, <http://www.un.org/disabilities/convention/conventionfull.shtml> (accessed February 28, 2015), art. 3(c).

<sup>57</sup> Nairobi Review Conference, “Final Report,” para. 68.

<sup>58</sup> Convention on Cluster Munitions, adopted May 30, 2008, Dublin Diplomatic Conference, CCM/77, entered into force August 1, 2010, <http://www.clusterconvention.org/the-convention/convention-text/> (accessed February 28, 2015), art. 5(2)(e).

<sup>59</sup> Second Review Conference of the Mine Ban Treaty, Cartagena, “Final Report,” APLC/CONF/2009/9, June 17, 2010, <http://www.cartagenasummit.org/fileadmin/APMBC-RC2/2RC-FinalReport-17June2010.pdf> (accessed February 28, 2015), para. 100 [hereinafter Cartagena Review Conference, “Final Report”].

<sup>60</sup> *Ibid.*, para. 116.

<sup>61</sup> Second Review Conference of the Mine Ban Treaty, Cartagena, “Cartagena Action Plan 2010-2014: Ending the Suffering Caused by Anti-Personnel Mines,” December 11, 2009, <http://www.cartagenasummit.org/fileadmin/APMBC-RC2/2RC-ActionPlanFINAL-UNOFFICIAL-11Dec2009.pdf> (accessed February 28, 2015), para. 13 (“Victim assistance should be integrated into broader national policies, plans and legal frameworks related to disability, health, education, employment, development and poverty reduction, while placing particular emphasis on ensuring that mine victims have access to specialised services when needed and can access on an equal basis services available to the wider population.”).

<sup>62</sup> Convention on Cluster Munitions, art. 2(1).

<sup>63</sup> UN General Assembly, “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,” Resolution 60/147, A/RES/60/147 (2006), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx> (accessed February 28, 2015), para. 8.

<sup>64</sup> See, e.g., Nairobi Review Conference, “Final Report,” para. 5; CCW Protocol V, Victim Assistance Plan of Action, <http://www.unog.ch/80256EE600585943/%28httpPages%29/ECEBD38C355D8C6AC125791F004CDA9D?OpenDocument> (accessed February 28, 2015), pmb1, para. 9.

<sup>65</sup> Cordula Droegge, *The Right to a Remedy and to Reparation for Gross Human Rights Violations: A Practitioners’ Guide*, International Commission of Jurists guide, 2006, p. 32.

<sup>66</sup> Cartagena Review Conference, “Final Report,” para. 99.



Addressing the rights and needs of both the individual and the family of those killed or injured has the potential to have greater impact on the ground and to improve victims' daily lives and overall well-being. The attention to the individual and family is consistent with the approach taken by the Convention on the Rights of Persons with Disabilities. The preamble of the CRPD promotes the understanding that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities."<sup>67</sup>

A focus on the individual and the family should not be seen as ignoring the broader definition of "victim," which includes the affected community. The community is the indirect beneficiary of victim assistance-related efforts that improve infrastructure and services and the direct beneficiary of landmine and ERW clearance and ERW risk education activities. Addressing the full breadth of victimization caused by landmines and ERW on communities also requires strengthening the links between mine action and development.

The evolution of disability discourse suggests that the more empowering term "survivor" should normally be used in relation to those individual women, girls, men, and boys who have survived a landmine or ERW accident. Several factors have led to the ongoing use of the term "victim" in instruments of international humanitarian law, but civil society actors who are very active in this area tend to use both "victim" and "survivor."

### State Responsibility for Victim Assistance

Under international law, states bear the primary responsibility for assisting victims in their jurisdiction or control. States owe such a duty to victims by virtue of their obligation to ensure the full enjoyment of human rights of all persons in their jurisdiction or control. In addition, according to various international frameworks for cooperation and assistance, other states are required to support the domestic efforts of affected states. Notably, the international community as a whole also has the

obligation under the UN Charter to cooperate and assist states in meeting their human rights duties.<sup>68</sup> The most recent disarmament treaties, including the Mine Ban Treaty, CCW Protocol V, and the Convention on Cluster Munitions, codify the obligation of international cooperation and assistance into a legally binding framework for assistance to a group living in vulnerable circumstances.<sup>69</sup>

A number of actors have a role to play in addressing the rights and needs of landmine and ERW victims, including the United Nations and other international, regional, and nongovernmental organizations. However, relevant ministries of the affected state must be at the forefront of efforts to enhance coordination and to avoid duplication of efforts. With this in mind, states agreed to specify in the Convention on Cluster Munitions that states should implement their victim assistance obligations by, among other things, ensuring they have a focal point within the government for coordination of efforts on this front.<sup>70</sup>

The key components of victim assistance—emergency and continuing medical care, physical rehabilitation, psychological and psychosocial support, social and economic inclusion, data collection, and laws and policies—all fall within the mandates of various state ministries.<sup>71</sup> For example:

1. **Emergency and continuing medical care** falls under the mandate of a ministry of health. In most states, a plan of action has been developed for the healthcare sector to promote the good health of the population. To guarantee the rights and meet the needs of landmine and ERW victims, it is essential that these plans address emergency response capabilities and trauma care, and establish well-equipped facilities, with skilled healthcare providers at all levels, that are appropriate and accessible for persons with traumatic injuries and disabilities, and in close proximity to affected areas.
2. **Physical rehabilitation** usually falls under the mandate of a ministry of health but can also involve other ministries such as those with responsibility for social affairs, education, livelihoods, and war veterans.

Some states have developed a multi-sectoral rehabilitation plan to promote the physical well-being of the population, including persons with disabilities. To guarantee the rights and meet the needs of landmine and ERW survivors, it is essential that plans adopt a multidisciplinary approach to the provision of appropriate services. They should also include such objectives as the provision, maintenance, and repair of assistive devices and establishment of well-equipped facilities, with skilled rehabilitative care personnel at all levels, that are appropriate and accessible for persons with disabilities.

3. **Psychological and psychosocial support** may fall within the mandate of several ministries including those with responsibility for health, rehabilitation, social affairs, education, livelihoods, and war veterans. Formal and informal support may involve a wide range of actors including doctors, nurses, psychologists, other healthcare professionals, rehabilitation specialists, social workers, teachers, employment advisors, disability rights experts, community support groups, and survivors themselves. To guarantee the rights and meet the needs of landmine and ERW survivors, appropriate psychological and psychosocial support from suitably qualified personnel should be available and accessible at all stages of recovery and reintegration and in close proximity to affected areas.
4. **Social and economic inclusion** may fall within the mandate of ministries with responsibility for such issues as labor, vocational training, education, sports, social welfare, and war veterans. To guarantee the rights and meet the needs of landmine and ERW survivors, plans and policies should take into account the special needs of persons with disabilities. Furthermore, programs to improve the social and economic status of survivors and their families should be available and accessible and in close proximity to affected areas.
5. **Data collection** provides the foundation for the development of services and programs. Several ministries may have different mechanisms to gather information about the population, including landmine and ERW victims. For example, a ministry of health

may have a hospital information system or a national injury surveillance mechanism. A ministry with responsibility for social affairs or war veterans may have a system to record information on those accessing services. A ministry with responsibility for planning may conduct a national census. To ensure that a national injury information system captures as complete a picture as possible, such a system could include the category of mine or ERW incident as a cause of injury.

6. The development of **laws and policies** falls under the mandate of various government ministries and agencies. It is essential that relevant national laws and policies guarantee the rights of persons with disabilities, including mine and ERW survivors, to access treatment, services, and opportunities on an equal basis with others.

### The Role of Victims in Victim Assistance

The principle of participation and inclusion is well understood in the context of the Mine Ban Treaty, CCW Protocol V, and the Convention on Cluster Munitions, with states parties to each heeding the message of "nothing about us without us." The participation of persons with disabilities, including landmine and ERW survivors, in all aspects of planning, coordination, implementation, monitoring, and evaluation of activities that affect their lives is essential. The CRPD makes clear that persons with disabilities shall be consulted and involved in the development and implementation of measures necessary to implement the convention.<sup>72</sup> Survivors and other persons with disabilities have a unique perspective on their own situation and needs. Survivors can and should be constructive partners in all victim assistance efforts.

For victims, full and effective participation and inclusion goes beyond being consulted and participating in meetings. Inclusion is a much broader concept that involves providing opportunities for everyone to participate in the most appropriate manner possible. It may require adapting the environment to suit the individual or providing services such as physical rehabilitation, education, or psychological support to facilitate equal access to the social, cultural, economic, and political life of the community.

<sup>67</sup> CRPD, pmbi., para. x.

<sup>68</sup> UN Charter, art. 56.

<sup>69</sup> Mine Ban Treaty, adopted September 18, 1997, entered into force March 1, 1999, [http://www.un.org/Depts/mine/UNDocs/ban\\_trty.htm](http://www.un.org/Depts/mine/UNDocs/ban_trty.htm) (accessed February 28, 2015), art. 6(3); CCW Protocol V on Explosive Remnants of War, adopted November 28, 2003, entered into force November 12, 2006, <https://www.icrc.org/ihl/INTRO/610> (accessed February 28, 2015), art. 8(2); Convention on Cluster Munitions, art. 6(7).

<sup>70</sup> Convention on Cluster Munitions, art. 5(2)(g).

<sup>71</sup> For elements of victim assistance, see Nairobi Review Conference, "Final Report," para. 69.

<sup>72</sup> CRPD, art. 4(3).

### Gaps and Challenges

The main challenges to victim assistance lie in three areas:

- The scope and application of the relevant legal frameworks,
- The overlap among legal frameworks, and
- The capacity of states to meet their human rights obligations to individuals within their jurisdiction or control.

### Scope and Application

There are two limitations to the scope and application of victim assistance. First, the victim assistance obligations imposed on states parties to the Convention on Cluster Munitions do not touch upon civil and political rights, access to justice, or due process. Article 5(1) of the convention provides:

Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion.<sup>73</sup>

While it is appropriate that the Convention on Cluster Munitions does not create new rights, but refers to ones existing in international human rights law, the omission of practical obligations related to the protection and promotion of civil and political rights prevents full recovery of victims. This element should be incorporated into victim assistance program design.

Second, the major source of hard victim assistance obligations is currently weapon-specific treaty regimes, namely the Mine Ban Treaty, CCW Protocol V, and the Convention on Cluster Munitions. For this reason, they ostensibly only arise with respect to a narrow group of victims: victims of landmines and ERW, including cluster munitions. To address this limitation in part, the Convention on Cluster Munitions includes a context-specific non-discrimination principle. The treaty provides that, in fulfilling their victim assistance obligations, states parties:

[shall] not discriminate against or among cluster munition victims, or between cluster munition victims and those who have suffered injuries or disabilities from other causes; differences in treatment should be based only on medical, rehabilitative, psychological or socio-economic needs.<sup>74</sup>

The question arises as to how victim assistance obligations from a weapon-specific treaty regime can ensure that an elevated class of victims is not created. A dedicated international framework applicable to assistance of all victims of armed violence could minimize this threat. Such a framework should serve the ultimate end of ensuring equal access to the same quality of services and infrastructure, regardless of location, which in turn would allow victims of armed violence the opportunity to realize their full range of rights.

### Overlapping Frameworks

Victim assistance has evolved from one treaty to the next. However, in terms of actual legal obligation, the prior articulations are not superseded since they cover different subject matter, that is, different weapons. As a result, victim assistance remains somewhat piecemeal, as a weapon-by-weapon obligation and conception. It is unclear how well conceptions of victim assistance in different treaties coordinate with one another. The questions of which body of law (international human rights or humanitarian law) applies in a given context and how it applies may also complicate this dynamic.

### Capacity and Resources

With the realities of post-conflict resource deficits in affected states, and the creation of a strong international framework for inter-state cooperation and assistance, the implementation of victim assistance depends significantly on external funding. Although there has been a strong focus on the capacity of national institutions to meet the needs of victims and thus fulfill hard obligations, limited resources pose a persistent challenge in any expansion of victim assistance to all victims of armed violence.

### Conclusion

It is important to place victim assistance within a larger picture of other mechanisms and approaches to addressing civilian harm, including amends, transitional justice, and even traditional reparations. Unlike the other approaches discussed in this publication, victim assistance has largely avoided the involvement of states or actors responsible for the initial harm. This is in part for strategic reasons, considering that the legal framework was contained in a treaty and required the full agreement of state signatories. Nevertheless, it would be worth exploring whether, drawing from the practices of making amends and transitional justice, there should be a greater role for states and actors responsible for the initial harm.

### For More Information

Sue Eitel, “Defining the Pillar of Victim Assistance,” *Journal of Mine Action*, issue 3.3 (October 1999), [http://www.jmu.edu/cisr/journal/3.3/focus/va\\_eitel.htm](http://www.jmu.edu/cisr/journal/3.3/focus/va_eitel.htm).

International Campaign to Ban Landmines Working Group on Victim Assistance, “Guiding Principles for Victim Assistance,” n.d., <http://www.icbl.org/media/919871/VA-Guiding-Principles.pdf>.

Landmine Survivors Network, *A Human Rights Approach to Disability: The Legal Framework for Survivor Assistance in 24 States Parties* (2005).

Stuart Maslen, *Commentaries on Arms Control Treaties: The Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and Their Destruction* (Oxford: Oxford University Press, 2006).

Gro Nystuen and Stuart Casey-Maslen, eds., *The Convention on Cluster Munitions: A Commentary* (Oxford: Oxford University Press, 2010).

United Nations Institute for Disarmament Research (UNIDIR), “Implementing the Convention on Cluster Munitions,” *Disarmament Forum*, no. 1 (2010), <http://www.unidir.org/files/publications/pdfs/implementing-the-convention-on-cluster-munitions-en-318.pdf>.

<sup>73</sup> Convention on Cluster Munitions, art. 5(1).

<sup>74</sup> *Ibid.*, art. 5(2)(e).

## LIST OF CONTRIBUTORS

(in order of appearance)

### Bonnie Docherty

Bonnie Docherty is a lecturer on law and senior clinical instructor at the International Human Rights Clinic at Harvard Law School. She is also a senior researcher in the Arms Division of Human Rights Watch. She specializes in disarmament and international humanitarian law. Docherty has done extensive field research on the civilian effects of war and has worked on the negotiation and implementation of multiple treaties. She has played an especially active role in the campaign against cluster munitions. More recently, she has been at the forefront of the emerging movement to ban fully autonomous weapons and of efforts to strengthen international law on incendiary weapons. Docherty received her J.D. from Harvard Law School and her A.B. from Harvard University.

### Jacob Beswick

Jacob Beswick is policy and advocacy officer at the British Red Cross where he works on UK policy relating to refugee family reunion and refugee destitution. Previously, he was policy officer at Every Casualty where he led engagement with the United Nations and states. He also conducted a number of independent and collaborative research projects, including one on UN casualty recording practice and another on the 2011 intervention in Libya. Beswick joined Every Casualty in 2011. He holds an M.Sc. in comparative politics from the London School of Economics and is now studying economics at Birkbeck College, University of London.

### Elizabeth Minor

Elizabeth Minor is a researcher at Article 36, a UK-based nongovernmental organization that works to prevent the unintended, unnecessary, or unacceptable harm caused by certain weapons. She is the former senior research officer at Every Casualty and was the principal researcher on a two-year study to investigate practice in casualty recording worldwide. Her research has also examined UN casualty recording and challenges posed to casualty recording by new ways of war. Minor joined Every Casualty in 2009, overseeing the inauguration of the Casualty Recorders Network. She holds an M.Sc. in comparative politics, conflict studies from the London School of Economics and Political Science.

### Sahr Muhammedally

Sahr Muhammedally is a senior program manager at the Center for Civilians in Conflict. She manages research and advocacy on civilian harm mitigation in the Middle East/North Africa region and South Asia, and on US counterterrorism policies. In this capacity, Muhammedally also provides technical advice to governments and militaries on harm mitigation during military operations including on tracking of civilian harm, investigations, and post-harm response. Muhammedally has worked for over a decade in the fields of armed conflict, human rights, and counterterrorism. She previously worked at Human Rights Watch and Human Rights First, and she practiced law in New York with Gibbons PC.

### Marla Keenan

Marla Keenan is managing director at the Center for Civilians in Conflict (CIVIC) and a security fellow at the Truman National Security Project. She is a subject matter expert on civilian harm mitigation including civilian harm tracking mechanisms and consequence management of civilian harm. Keenan helps shape CIVIC's programs in conflict zones and oversees operational aspects of the organization. Since joining the organization in October 2005, she has managed programs and research in Afghanistan, Iraq, Pakistan, Somalia, Syria, Lebanon, Mali, Israel, Jordan, Nepal, Georgia, and the Central African Republic.

### Simon Robins

Simon Robins is a humanitarian practitioner and researcher with an interest in transitional justice, humanitarian protection, and human rights. His work is driven by a desire to put the needs of victims of conflict at the heart of efforts to address its legacies, and this has led to his engaging with victim-centered and therapeutic approaches to histories of violence, and critical approaches to human rights. Robins has worked in a range of contexts globally, with an emphasis on Nepal, Timor-Leste, and north and east Africa. He is a senior research fellow at the Centre for Applied Human Rights at the University of York, and he consults for a range of international agencies.

### Nerina Čevra

Nerina Čevra is programme manager for the Westminster Foundation for Democracy in Bosnia and Herzegovina. Prior to that, Čevra was victims' rights coordinator for Action on Armed Violence, working on international law and policy related to the rights of all armed violence victims. Čevra spent a decade advocating for the rights of landmine survivors and persons with disabilities within the frameworks of the Mine Ban Treaty and the Convention on the Rights of Persons with Disabilities (CRPD). Čevra represented her native Bosnia and Herzegovina in the CRPD negotiations and helped negotiate the Convention on Cluster Munitions, focusing on its rights-based victim assistance provisions. In addition, Čevra trained armed violence survivors and persons with disabilities in rights-based advocacy and disability rights. A Bosnian war refugee, Čevra received a J.D. from the American University Washington College of Law.



## ACKNOWLEDGMENTS

---

Bonnie Docherty of the Harvard Law School Human Rights Program served as editor of this publication. Action on Armed Violence (AOAV) provided support for the project, contents, and design, and Iain Overton of AOAV served as a consultant.

This publication emerged from a two-day summit “Acknowledge, Amend, Assist: Addressing Civilian Harm Caused by Armed Conflict and Armed Violence” held at Harvard Law School in October 2013. The Harvard Law School Human Rights Program and AOAV wish to thank Majida Rasul, formerly of AOAV, for her valuable assistance in organizing the summit as well as for proposing and editing an earlier version of this volume that was distributed to summit participants.

Over the past two decades, there has been a growing movement to address the needs of civilians harmed in armed conflict and armed violence. Those who work in the field share the aim of alleviating human suffering, and their achievements show that this moral imperative has become a legal and policy priority. Differences among their approaches are evident, however.

*Acknowledge, Amend, Assist* examines five methods used to mitigate the harm to civilian victims: casualty recording, civilian harm tracking, making amends, transitional justice, and victim assistance. The publication strives to increase understanding of the strategies, their commonalities and differences, and the difficulties they face individually and collectively.

The approaches share many overarching principles as well as the goal of helping victims. They generally define “victim” broadly, envision a wide range of support, encourage victim participation in the process, and aim to address victims’ needs. They recognize that even if one party bears primary responsibility for providing assistance, in practice there will be multiple players involved.

The approaches also diverge on several counts. They target either lawful or unlawful harm, assign responsibility for providing assistance to different parties, call for various forms of recognition and aid, and have distinct underpinnings. The role of law in addressing the needs of victims is another subject open to debate.

This publication originated in a two-day summit held at Harvard Law School in October 2013. The summit provided an opportunity for experts to explore the challenges of meeting victims’ needs and to learn about where their work might coincide and/or conflict. This complementary publication seeks to present the issues to a wider audience. It constitutes a first step in forging an ongoing dialogue about how better to address civilian harm.

**Action on Armed Violence**

2nd and 3rd Floor  
415 High Street, Stratford  
London E15 4QZ  
UK

T +44 (0)20 7256 9500  
E [info@aoav.org.uk](mailto:info@aoav.org.uk)  
[www.aoav.org.uk](http://www.aoav.org.uk)

**Harvard Law School Human Rights Program**

3rd Floor  
6 Everett Street  
Cambridge, MA 02138  
USA

T +1 (617) 495-9362  
E [hrp@law.harvard.edu](mailto:hrp@law.harvard.edu)  
<http://hrp.law.harvard.edu>