**Center for Civilians in Conflict (CIVIC)**

**Submission to the Comprehensive Report on**

**Importance of casualty recording for the promotion and protection of human rights**

27 February 2023

In response to the call for inputs [here](https://www.ohchr.org/en/calls-for-input/2023/call-input-comprehensive-report-importance-casualty-recording-promotion-and)

Point of Contact: Marc Linning, Senior Protection Advisor, CIVIC, mlinning@civiliansinconflict.org

Wendy MacClinchy, UN Director, CIVIC, wmacclinchy@civiliansinconflict.org

**Conceptualizations of casualty recording**

For the *Center of Civilians in Conflict (CIVIC)* casualty recording is a key ingredient on the path towards better protection outcomes and the implementation of applicable law, such as International Humanitarian Law (IHL) or International Human Rights law (IHRL).

On the one hand CIVIC considers OHCHR’s concept of casualty recording - *“a system that seeks to methodically and comprehensively record and verify information on individuals killed (and possibly also on those injured) in a specific set of circumstances.”* - through the lens of what armed actors can and should do to address civilian harm they cause and/or to do more to protect civilians against harm by others. Within that paradigm casualty recording is the crucial first step of how we conceive of civilian harm tracking (CHT).[[1]](#footnote-1) We define CHT as an internal process by which an armed actor gathers and analyzes data on civilian harm in its area of responsibility to reduce it. When properly structured, supported, and resourced, CHT includes the use of casualty recording data as means for armed actors to prevent, minimize, and respond to harm while operations are ongoing or being planned.

While this brief focuses on the above rather narrow interpretation of casualty recording as part of civilian harm tracking, we also recognize the reciprocal relationship that CHT can have for casualty recording processes that go far beyond its use by and for armed actors. In the latter sense, data, and findings from CHT should, for example inform casualty recording systems that aim at improving humanitarian assistance efforts or finding conflict-related missing persons.

**Scope**

Staying with an interpretation of casualty recording as a key component of a civilian harm tracking by armed actors, it is important to note from the outset that irrespective of the terrain and type of warfare, deliberate and systematic civilian harm tracking is one example of a practical measure armed actors (state or non-state), individually or collectively can take before, during, and after operations to protect civilians more meaningfully from harm. By doing so is not/no longer necessary to start from scratch every time something goes wrong or when new units enter an area of operation, reversing the cycle of past lessons learned being easily forgotten.

**Practical application of casualty recording within civilian harm tracking by armed actors**

We recommend that armed actors on the ground systematically record and report on civilian casualties (and other forms of civilian harm, such loss of property or loss of access to basic services) up the chain of command as a first crucial step to subsequently be able to analyze wider trends or patterns of civilian harm and identify where and how such harm could be addressed at different levels of the armed actors’ forces’ hierarchies. Dedicated civilian harm tracking cells or teams then analyze the recorded data and provide reports about patterns of harm as well as specific recommendations on how to address their respective root causes and effects.

In addition to the internal recording and reporting of civilian harm incidents observed by armed actors themselves, we consider it essential to also allow for external sources to provide relevant data in a safe and easy way, so that armed actors tracking civilian harm can attain as complete a picture as possible. Importantly, this should also include information coming from the conflict-affected communities themselves (in addition to sources from civil society, the media, other local and international organizations as well as other government relevant entities.[[2]](#footnote-2)

**Legal compliance**

Prior to working with armed actors to strengthen their resolve and capacity to prevent and respond to civilian harm we often hear that everything is being done already to comply with applicable legal norms, such as that commanders on the ground conduct collateral damage assessments prior to an operation. We might also hear that the pattern of life of the civilian population is already being integrated in their military planning. However, what we do not often hear is that armed actors have systematic processes designed to detect, record, and analyze civilian harm incidents and patterns of harm to learn from them, and ultimately to change the way they operate with the goal of more effectively protecting civilians in line with applicable legal norms.

Casualty recording within civilian harm tracking can be the missing link to inform changes to tactics, training, and procedures and thereby become and stay compliant with applicable legal norms, for example when it comes to adapting the rules of engagement, adjusting the choice of weapons/armaments, or increasing oversight of certain units that might have displayed problematic behavior. Even if IHL (in cases of armed conflict) does not mention or require casualty recording and a civilian harm tracking mechanism *per se*, the latter can help bring the law and its principles more to life, including to facilitate the compliance with explicit requirements, such as the duty to investigate possible war crimes and the payment of reparations.[[3]](#footnote-3) The systematic recording and analysis of civilian harm can play a crucial part to alert commanders to unlawful behavior by their soldiers e.g., when they are committing sexual exploitation and/or abuse. It can support commanders to know where they need to step in to address violations, (or, in the case of false accusations and enemy propaganda, to be able to credibly refute them).



**CIVIC real-life examples**

*Ukraine*

CIVIC worked with the Ukrainian military to develop a dedicated mechanism to itself record, analyze and learn from civilian casualty incidents. This effort led to the establishment of the Civilian Casualty Tracking Provisional Group ([CCTPG](https://www.stimson.org/2021/building-bridges-reinforcing-protection/)) in 2019. This was the first time (according to the senior officers involved) that the military obtained the ability to collect and analyze wider civilian harm trends and thus respond also at a systemic level. It is important to note though that the CCTPG was designed in 2019 to operate in the relatively low-intensity conflict ongoing at the time and that it started with a limited focus on the following areas where civilian harm can occur:

* Exchanges of fire
* Mines/unexploded ordonnances
* Special Operations/raids by certain law enforcement bodies
* Road accidents with security forces involvement
* Check points inside villages
* Military misconduct causing civilian casualties.

The main functions of the CCTPG were to instill a ‘protection of civilians’ mindset at all relevant military levels by regularly provide military commands with reports on related civilian harm incidents, including reliable data, analytical memos, and recommendations how to prevent these going forward. The CCTPG coordinated across different authorities, IOs/NGOs, civil society, and local civilians to verify information and provided recommendations on how to inform civilians about identified civilian harm risks as well as helping authorities counter false accusations.

There were different sources for the CCTPG to base its analysis and recommendations on. It recorded and tracked civilian casualty data from internal as well as external sources including from available OHCHR reports.

*Data Channels*



In 2020 and 2021 the CCTPG proved decisive in several instances to better protect civilians, such as regarding:

* *Use of mortars*

The CCTPG identified that certain types of mortars caused unexpectedly high amounts of civilian casualties. The CCTPG’s analysis helped identify that this might be linked to the lower level of firing authorities for the use of these mortars in comparison to other artillery.

* *Harm by unexploded ordonnances (UXOs)*

The CCTPG indicated different levels of effectiveness of explosives awareness campaigns. Its data became a serious subject for discussion at senior military command levels with commanders starting to regularly request the CCTPG reports and its recommendations on how to improve and the awareness campaigns.

*G5 Sahel Joint Force*

Starting in 2019 and in cooperation with OHCHR, CIVIC worked with the G5 Sahel Joint Force and its troop-contributing countries (TCCs) to establish a first-ever civilian harm tracking mechanism based on the processes outlined above. This effort (again grounded in the systematic recording of and reporting on civilian harm) was part of the Human Rights Compliance Framework required by UN SC resolution 2391 (December 2017). The Civilian Casualties Identification, Tracking and Analysis Cell (CITAC or MISAD in French)was inaugurated by the G5 Joint Force Commander on 27 January 2021 with the goals to:

* Identify and pre-empt civilian harm risks.
* Proactively include elements relating to the limitation of harm to civilians in the planning of specific operations.
* Provide the command with factual and credible data for decision-making, allowing it to argue in the event of allegations.
* Reduce damage, following the correction of identified trends, and improve operational efficiency.
* Support the establishment of a compensation procedure by providing precise data on specific incidents for a military decision.
* Create a “protection of civilians” oriented mindset among the troops and reflect the seriousness and importance that the command attaches to this issue.

An early example of success was the CITAC’s recording of two allegations of sexual violence by members of a troop contributing country. The CITAC recorded these allegations from local journalists and social media, and this triggered further investigations eventually leading to the identification of the perpetrators and the extraction and arrest of them by the TCC (with the promise of trial in their home country).

1. For the purpose of this brief ‘civilian’ here is to be understood in a non-legal sense, so that CHT could/should also be applied in relevant situations of violence falling below the legal threshold of armed conflict. [↑](#footnote-ref-1)
2. As a positive side-effect, such information might also help the armed actors to better understand the communities’ self-protection tactics and how they relate to the recorded and analyzed incidents of civilian harm. For example, civilian harm recording, and subsequent tracking can help security forces better understand why civilians get harmed during their own efforts to self-protect, e.g., when trying to displace. This understanding could then prompt commanders to issue more realistic warnings to civilians prior to a new operation, improve the safety of civilian evacuation routes and/or devise new and more effective ones (together with relevant communities). [↑](#footnote-ref-2)
3. Beyond explicit legal requirements, the collected information and analysis can provide data points to inform the provision of amends (without precluding further legal investigations and subsequent reparation payments). Amends can include public or private acknowledgments of harm, formal apologies, explanations, and/or monetary or material assistance provided to an individual, family, or community. [↑](#footnote-ref-3)