



Call for Input to inform the High Commissioner's report to the Human Rights Council on the impact of casualty recording

Submission by PAX

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ABOUT PAX AND ITS PROTECTION OF CIVILIANS PROGRAMME

[PAX](#) is a non-governmental organisation that identifies itself as a peace organisation. PAX has its Headquarters in The Netherlands, but is active in over a dozen conflict and post-conflict contexts across the world – from Colombia to South Sudan, from Ukraine to Syria – often working with local partner organisations and activists. We work on a range of issues related to advancing peace and people's right to live a dignified life. This includes work on, *inter alia*, human rights violations, the international arms trade, post-conflict communal reconciliation and the protection of civilians.

The latter is also the focus of a dedicated team within PAX, working under the [Protection of Civilians](#) (PoC) Programme umbrella. This team conducts research on community perceptions regarding their security, the (long-term) impact of conflict on civilian populations, and on tools through which security actors can monitor, minimise and meaningfully respond to possible civilian harm effects arising from their operations. We use this research to [advocate changes](#) with a range of international institutions – most notably the UN, NATO and EU – and security actors that – once implemented – will contribute to increased security of, and accountability towards civilians in conflict-affected contexts.

Our submission focuses on one particular activity conducted by the PoC programme: our [research](#) into the 2015 Coalition bombing of Hawija, Iraq, in the context of Operation Inherent Resolve, and the positive impact this work has had on advancing PoC at the policy level and on guaranteeing civilians' access to information and post-harm assistance.

THE IMPACT OF CASUALTY RECORDING: THE CASE OF HAWIJA

During the night of 2-3 June 2015, the International Coalition against ISIS [carried out](#) airstrikes against a target in the city of Hawija, Iraq, identified as a factory for the production of Vehicle-Borne Improvised Explosive Devices (VBIEDs). The Coalition failed to take the potential for a large secondary explosion and the implications of this for civilians into account when establishing and approving the target. Consequently, the airstrike triggered an immense secondary explosion as there were about 18,000 kilos of explosive materials stored in the factory, and could [allegedly](#) be felt by people 50 kilometres away in Kirkuk. Already the next day, national and [international media](#) were reporting an estimated 70 casualties.

While it was immediately clear that this was a Coalition operation, it was only in 2019 that media [uncovered](#) that the Dutch military had carried out this particular operation, which caused considerable societal consternation and public debate. Significantly, the people in Hawija had not received any recognition, answers to why this had happened, or any notable form of assistance, throughout the 2015-19 period.

An important element in the ensuing discussion in The Netherlands was the Ministry of Defence's (MoD) insistence that there could be no truth-finding or investigation of the 2015 events and its aftermath so many years after the facts. It first [dismissed](#) the number of 70 casualties as 'rumours', while later acceding this number but [stating](#) that 'the ratio between IS fighters and civilians could not be established after the event'.



Doubts existed at PAX about a number of these claims and so – together with [Utrecht University](#) and the [Al-Ghad League for Woman and Child Care](#) – we set up a research project in early 2020 to look into the direct and indirect effects of the 2015 operation on civilians, with specific attention to identifying and recording the details of civilian casualties that could still be verified, as well as the broader impact of this operation (e.g., psychological trauma, economic harm, displacement). The research consisted of fieldwork, satellite imagery analysis, interviews with 119 affected civilians, and 40 key informant interviews (for more on our methodology, see Chapter 3 of PAX’s [research report](#). After the strike: Exposing the civilian harm effects of the 2015 Dutch airstrike on Hawija).

Based on our research, the full findings of which were published in April 2021, we concluded that the operation had resulted in at least 85 civilian casualties. These were individual cases where we had been able to identify individual victims by name and confirm them through official documentation and/or based on reports by one or more relatives. However, we also posited that for a number of reasons – including the presence of many displaced persons and the existence of mass graves not yet investigated (see Chapter 6.2) – there is considerable evidence that this number is higher in reality. In terms of immediate impact, the research offered a means and platform for affected civilians to relate their experiences of the 2015 event, and contributed to further [media attention](#) and debate in The Netherlands. Our research and analysis proved that, despite MoD claims to the contrary, it was possible to investigate, verify and record casualties effectively several years after the event. Our casualty records also demonstrated that the impact of the airstrike was much greater than previously thought. These findings added to pressure on the MoD to change their policy regarding civilian harm resulting from Dutch military operations (see also the next sections).

IMPACT ON RESPONSES TO CIVILIAN HARM

Due to political pressure from PAX, alongside a number of other civil society organisations, the MoD made a [commitment](#) in December 2020 to fund two separate community-level rehabilitation efforts for the people in Hawija. [PAX research](#) is explicitly referenced in the MoD statement as having informed this decision: The MoD awarded IOM over 3.6 million USD for demining and rubble clearance work in the targeted area, and over 1.7 million USD to UNDP to restore electricity to the area (also destroyed by the 2015 airstrike). These are important steps in ensuring that the community in Hawija can finally begin to recover from the airstrike and rebuild their lives and livelihoods. To date, however, the MoD has refused PAX calls and political appeals based on PAX’s research work to also offer individual compensation to those affected by the airstrikes. Nonetheless, our advocacy with the MoD (see the next section) has led to [political commitments](#) to develop and implement amends schemes for civilian harm caused by the Dutch military in future missions and to do so *prior* to starting the mission itself, thereby likely increasing civilians’ access to information and reparation and/or post-harm assistance.

IMPACT ON CIVILIAN HARM POLICY

Perhaps of even greater significance has been the impact of our work in contributing to the prevention of civilian casualties in the future, as well as a more meaningful response in case civilian casualties do occur. Following ‘Hawija’, the Dutch MoD committed itself to a [series of consultations](#) with a consortium of civil society organisations, led by PAX, with the intent to see if improvements to its policies and practices regarding civilian casualties were warranted. Following a first series of discussions, the civil society consortium published its [recommendations](#), which ultimately led to the Minister of Defence [announcing](#) a step-by-step approach in April 2022 to Parliament on how the MoD plans to improve its civilian harm policies (for a description of a number of these steps, see also the next section).

As of February 2023, the PAX-led consortium is entering into a second round of discussions with the MoD that is explicitly focused on how to best implement some of the steps announced in the 2022 letter to Parliament. Once fully implemented, the civilian harm policy will contribute to greater protection of civilians in future missions in which The Netherlands takes part, for instance by ensuring greater transparency about civilian casualty incidents, more transparency about applicable compensation schemes,



as well as a greater military ability to both itself track possible civilian harm caused by its operations, as well as to incorporate the data gathered by external actors, such as casualty recording organizations, into its investigations (see also this [explainer](#) on the difference between civilian harm tracking and casualty recording).

RECOMMENDATIONS

Following our research, we have made a number of recommendations to the Dutch MoD, as well as to other Coalition members, and to states more generally. Recommendations that have since been taken on board by the Dutch MoD and/or government include:

- ◆ Prior to engaging in a military operation, investigate and politically debate potential civilian harm, and challenges to the mitigation thereof (see the MoD's [letter](#) about next steps for an improved civilian casualty policy)
- ◆ Add mitigation, monitoring, reporting, and accounting for civilian harm to the article 100 procedure (see the MoD's letter)
- ◆ Include civilian harm in evaluation reports to inform military-strategic choices for present and future operations (see the MoD's letter)
- ◆ Join the international declaration on explosive weapons in populated areas (EWIPA) (see the [list](#) of endorsing states)

There are, however, a number of recommendations that are informed by our casualty recording work that are yet to be taken on board. Some of these are part of ongoing discussions between PAX and the MoD. These include, *inter alia*:

- ◆ Set up a civilian harm mitigation cell to track and investigate all (allegations of) civilian harm caused by military operations immediately after they occur
- ◆ When investigating civilian harm, triangulate data as much as possible by combining military data with open-source intelligence (including casualty recording work by others), geolocation analysis, on-the-ground investigations, witness interviews, and document analysis
- ◆ Set up a budget, policy, and standard operating procedures to enable compensation in the event of civilian harm, regardless of legal responsibilities
- ◆ When civilian harm incidents occur, offer a detailed explanation of how this could have happened, as well as a meaningful apology to the victims

CONTACT

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