

# IDENTIFYING AND RECORDING EVERY CASUALTY OF ARMED CONFLICT: A DISCUSSION DOCUMENT

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## 1. Overview

- 1.1 This document outlines the case (both moral and legal) for obtaining and acting on the most comprehensive and detailed account possible of armed conflict's human casualties, right down to the identification and recording of individuals. It reviews existing monitoring methods which could be used (or further developed). It examines which official and semi-official actors might have (or could develop) the capacity to undertake this monitoring, and examines possible routes for building the political will and regulatory instruments required to institutionalise such monitoring across as many categories of conflict as possible.
- 1.2 The purpose of this document is to stimulate the broadest possible discussion on the desirability and feasibility of the proposal, informed by inputs from individuals and organisations with relevant expertise and / or influence – be that in technical, legal, political, military, humanitarian, academic, philosophical, or diplomatic fields.

## 2. Definitions

- 2.1 Armed conflict is here taken to incorporate inter-state conflict and intra-state conflict – whether or not defined as a war – including genocide, insurgencies, sustained 'post-conflict' violence, and criminality caused by armed conflict-related breakdowns of law and order.
- 2.2 By casualty we here refer to those violent deaths and injuries directly attributable to armed conflict as defined above. <sup>1,2</sup>

## 3. Why do we need comprehensive casualty monitoring?

- 3.1 Human life has ultimate value. The instinct to preserve it is codified in core moral and legal norms that exist in all societies. These norms place various binding requirements on individuals and institutions to strive to preserve life and to refrain from actions that endanger it.
- 3.2 All deaths should be honoured and publicly recorded. The formal and public recognition of each human death is important to all known human societies. This recognises the intrinsic worth of each human being, honours the particular, individual life lost, and acknowledges the loss to family, friends and wider society. Next of kin have an inalienable right to access and dispose of the remains of their loved ones according to local laws and customs and can expect to have the death entered into the official record.
- 3.3 Next of kin, particularly widows and orphans, may also have support requirements that arise from the death of those they previously relied on for financial or other subsistence provision. Only through the systematic recording of casualties can these requirements be fully recognised and met.

- 3.4 Serious injuries also deserve recording as they may often have a profound impact on the individual or those whom they support. A severe injury may mean that an individual can no longer provide for their family or may require significant (and expensive) medical care and ongoing assistance.
- 3.5 All human life being equal, there can be no section of humanity for whom the recording of deaths and injuries is not a requirement. The requirement to record individual deaths and injuries is irrelevant of ethnicity, gender, ideology or economic status. Our existing legal and normative frameworks, such as the Universal Declaration on Human Rights, already support this notion of universality in other areas.
- 3.6 Civil society expects to be fully informed about the death toll and number of injured in natural and other large-scale disasters. When disasters occur, whether through conflict, accident, or natural catastrophe, a primary and often over-riding public concern is to acquire whatever knowledge is available about the dead and injured. The concern is immediate, and abiding, and is reflected in the free press and media practice of reporting all that is known about the extent of casualties, day by day. This demand to know transcends nationality, ethnicity and geography. Whether or not the legal requirement exists, many public institutions and actors behave as if there is a public 'right to know'.
- 3.7 Casualty recording in any kind of large-scale disaster may well be deficient unless supported by international institutions. Disasters, including violent conflicts, often result in loss of life on a large scale and create contexts where the operations of social institutions are disrupted or overwhelmed so that the normal processes of recording and accounting for deaths and injuries cannot take place. Where normal, locally-controlled processes are disrupted or absent, international actors may need to assume responsibility for maintaining the record of the dead and injured to guarantee that no victim will be forgotten and that the full truth about the circumstances of their death or injury will be established.
- 3.8 Disregard for the recognition of victims feeds cycles of violence. Deaths and injuries brought about through violence or negligence inevitably stimulate anger and bitterness. The official public recording of deaths and injuries within a clear legal and judicial framework will support the social processes that prevent grief from turning into a quest for revenge. Neglect, and especially selective neglect, of victims is likely only to perpetuate the cycle of violence and thereby create new victims.
- 3.9 Without a comprehensive approach, casualty recording is often likely to be motivated by public relations rather than by evidence. In armed conflicts, more than in any other type of man-made disaster, casualty figures become highly politicised. Different parties to conflict may have multiple interests in suppressing, exaggerating, minimising or emphasising different aspects of the civilian death toll and number injured. Whatever motivations lie behind such deliberate distortions, honouring the dead and injured in their own right is not one of them.
- 3.10 A comprehensive approach entails absolute transparency. Any knowledge about violent death or injury held by any party whatsoever is ultimately public knowledge – this is true whether that death or injury occurs in peacetime or in a situation of armed conflict. Everything that is known by any party, however acquired, needs to be revealed and surrendered. Although there may be legitimate reasons for briefly delaying the publication of militarily sensitive information, there can be little moral justification for permanently withholding civilian casualty data.
- 3.11 A comprehensive approach to casualty recording has the most chance of impacting positively on future outcomes. It is not enough simply to record the dead and injured – these facts must also be used to assist the living. Paying full respect to the dead and injured means (a) looking to the needs of the living most directly affected by that death or injury and (b) striving to ensure that every lesson is learned from the death or injury, such that future deaths or injuries from the same or similar cause might be prevented.

This is acknowledged for accidents and disasters, but the connection between careful incident investigation and future safety is less vigorously applied to conflict situations.

Therefore it matters what facts are collected, how they are organised, what is done with them by which actors, and how the outcomes of changes in policy and practice are monitored against future trends. Outcomes for which casualty recording is relevant include:

- The provision of assistance to relatives and associates of victims (financial, legal, medical, psychosocial, and the tracing of missing people, etc).
- Meeting WHO ambition of death certificates for every individual.
- Identifying responsible institutions, states or individuals as a matter of accountability and due process.
- Consideration of military need in relation to human cost.
- Consideration of proportionality of attacks.
- Assessment of the full cost of conflict (i.e. human as well as financial).

#### 4. What methods are available for casualty monitoring?

4.1 There are primarily two types of method for casualty monitoring, estimation and recording. Estimation uses sampling and other techniques to project likely or possible totals, whilst recording provides the means of identifying affected individuals and families. *This recognition of individual casualties is the ultimate goal of comprehensive casualty recording.*

4.2 Estimation is a valuable intermediary stage in achieving this ultimate goal but not a final end in its own right. Estimation techniques can be used to calculate the likely range of dead and injured thus complementing and informing the process of fully recording and recognising these casualties.

4.3 The feasible methods depend on:

- The level of development of the state or region in which the conflict is occurring.
- The technology available to the information collecting and disseminating agencies.
- The nature of the parties to the conflict (i.e. national military forces vs. paramilitary or insurgent forces, forces acting under some sort of international mandate versus those acting without).
- The duration and intensity of the conflict. Some methods are more appropriate for early day-to-day monitoring, others are more appropriate for the post-conflict period.
- The means of managing the risks to data collectors.

4.4 There are a range of methods available and some key categories are listed below. Examples of recent situations in which they have been used, and relevant sources, are included in the Appendix to this document.

- **Official records** from hospitals, morgues, police, and other local data collection agencies.
- **Military records** including possibly classified 'battle assessment data', and other forms of military intelligence, but particularly records of civil compensation claims.
- **Press and media reports** (which have the potential to pick up most other publicly available sources).
- **Focused investigations** (including surveys, studies of religious institutions / graveyards, and forensic activities – e.g. unearthing of mass graves, sometimes undertaken as a project of investigative journalism).
- **Eye-witness accounts** Most of these that come to public knowledge will do so through the media, but specific 'intentional witness' projects also exist.
- **Census comparisons**

The most comprehensive account will almost always require a combination of methods and an assessment of their capacity to complement each other.

#### 5. How would data be combined, analysed, and disseminated?

- 5.1 Truth and accuracy, and the highest available standards of evidence, always and in every circumstance, can be the only possible basis on which to monitor and report casualty figures. There are well-established frameworks (investigatory and judicial) for the sifting and weighing of different sorts of evidence. An internationally credible system for casualty monitoring will need to situate itself in direct relationship to such frameworks.
- 5.2 There are a number of existing organisations which try to, or have the capacity to, combine data across different sources:
- Parts of government inside conflict zones (e.g. Ministries of Health).
  - External research organisations (like IISS, UBC, Brookings, etc).
  - Media based organisations like Iraq Body Count.
  - International Committee of the Red Cross (ICRC).
  - World Health Organisation (WHO).
  - United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Department of Peacekeeping Operations (DPKO) or Department of Political Affairs (DPA).
  - There is strong circumstantial evidence that major combatants such as the US and UK governments already do this but do not place the results of their work in the public domain.
- 5.3 There needs to be an internationally agreed understanding that there is no such thing as confidential casualty data (at least in the long term). After relatives have been informed, and where necessary protected (according to existing protocols for the release of information about military casualties, for instance), then data should be placed in the public domain.
- 5.4 There is a need for public and transparent verification of the authenticity of data put in the public domain. This is an investigatory and judicial process against accepted standards of evidence.
- 5.5 There is a need to integrate different data sources to identify victims, avoiding double counting, and move to a result where each victim is included once and only once.

## **6. What means are available of persuading sufficient influential and conflict-engaged states to do this?**

There are several different models here.

- 6.1 Pursue implications of existing commitments under international law and treaty<sup>3</sup>, and try to prove that there is already an implicit requirement<sup>4</sup>. This might involve obtaining a judgement from some international court. In this respect it is necessary to lay out what are the existing legal and regulatory frameworks that already apply to conflict.
- 6.2 The 'Good Citizen Model': lay out a procedure, and hope that some key 'combatant' states would sign up to it on a voluntary basis.
- 6.3 Create an international campaign to get a new 'protocol' agreed as an addendum to some aspect of international law.

## **7. Who are the key players with the influence and the will to advocate this campaign?**

- Key governments who may be willing and able to promote this kind of initiative.
- Significant individuals of international stature and influence.
- Representative groups (e.g. churches, political parties, membership organisations).
- Victim-related groups: families or organisations speaking on behalf of victims of war.
- Media and film-makers.
- Human rights organisations
- Medical/health organisations

- UN bodies
- Institutions who develop international humanitarian law.
- Others?

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<sup>1</sup> We are acutely aware that death and debilitation in these circumstances may result from a number of causal factors with appreciably different levels of immediacy (for instance, those attributable to malnutrition and illness caused by the breakdown of vital infrastructure) and that violent deaths and injury only make up a proportion of overall excess mortality / morbidity levels stemming from armed conflict. However, at this stage we are primarily concerned with recording the violent deaths and serious injuries of non-combatants that are most directly attributable to armed conflict. These types of deaths and injuries have the most immediate impact on populations living through armed conflict and are usually the most readily identifiable. The more diffuse effects of disease, malnutrition, etc are often more difficult to track and record. It is, however, appreciated that these effects are a frequent consequence of armed conflict and hoped that, one day, all deaths, injuries, illness and other deleterious consequences of armed conflict on non-combatants may be systematically identified and recorded.

<sup>2</sup> We also include those who suffer sexual violence in our conception of casualty as this type of violence is frequently an immediate consequence of, or strategy in, armed conflict.

<sup>3</sup> Examples of existing law that might be utilised in this way might include certain parts of the Geneva Convention – for instance, Additional Protocol 1, Article 32 ‘the right of families to know the fate of their relatives’ and Convention IV, Article 16 ‘each Party to the conflict shall facilitate the steps taken to search for the killed and wounded’.

<sup>4</sup> The model of the implementation of the Responsibility to Protect framework may provide valuable lessons here.

**What we would like your feedback on.**

1. We think this proposal needs further strengthening. We welcome further comment and analysis on all aspects of this document but particularly on any or all of the issues below:
  - a. Are there further practical, moral, legal, or normative justifications for comprehensive casualty recording? Can the existing justifications be strengthened? (section 3)
  - b. Is the description of available methods complete? Are there other examples of good practice from a wider range of recent conflicts? (section 4)
  - c. Which organisations and mechanisms are the best placed to deliver the desired outcome (a comprehensive and transparent record)? (section 5)
  - d. Which are the best persuasion and advocacy routes? (section 6)
  - e. Who are the key advocates? (section 7)
  - f. Which other organisations and individuals need to be consulted on this proposal?
  - g. What regulatory model is the most promising one for ensuring that countries take this on?
  - h. What obstacles-institutional, practical, logistical or otherwise – do you envisage the project encountering, and at what stages do you think they might arise? Do you have any suggestions on how these might be overcome?
2. Specifying feasible models for implementation. A primary aim of this consultation is to fix on one (or a few) plausible and workable ‘blueprints’ for how casualty recording would be undertaken, overseen, and regulated, which could then be promoted in detail to governments. *Advice is sought on the most promising routes for exploration and development.*
3. Developing advocacy strategy. A further aim of the consultation is to determine the advocacy method most likely to deliver results. Should there be a private lobbying phase, a public high-profile media launch, both, in which order? Should we identify the key champions before a launch, or use the launch to recruit them? *Advice is sought on the best advocacy strategy.*

## APPENDIX

### Official records

- UNAMI Human Rights reports during 2006 which combined morgue and hospital data received from the Iraqi government:  
<http://www.uniraq.org/documents/HR%20Report%20May%20Jun%202006%20EN.pdf> (page 3, paragraph 9)
- Such records are often also available via press reports, a recent outstanding example of which is <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/07/AR2007010701359.html>
- Much integrative work continues to be done, albeit in fairly generalised 'overview' terms, by the Brookings Institute: <http://www.brookings.edu/iraqindex>

### Military records

- These exist for Iraq. See: (2007) a Freedom of Information request by the American Civil Liberties Union (ACLU): <http://www.aclu.org/natsec/foia/log.html>
- And in an earlier (2004) ground-breaking achievement by a relatively small US newspaper, the Dayton Daily News:  
<http://daytondaily.printthis.clickability.com/pt/cpt?action=cpt&title=The+Toll+of+War+%7C+DaytonDailyNews.com&expire=&urlID=12269371&fb=Y&url=http%3A%2F%2Fwww.daytondailynews.com%2Fproject%2Fcontent%2Fproject%2Firaq%2Fdaily%2F1024iraqmain.html&partnerID=531>

### Press and media reports

- Chief aggregator of media-reported deaths in Iraq is Iraq Body Count, whose work includes 'A Dossier of Civilian Casualties 2003-5':  
[http://reports.iraqbodycount.org/a\\_dossier\\_of\\_civilian\\_casualties\\_2003-2005.pdf](http://reports.iraqbodycount.org/a_dossier_of_civilian_casualties_2003-2005.pdf)  
and its 'Week in Iraq' series:  
<http://www.iraqbodycount.org/editorial/weekiniraq/>
- For Afghanistan, a ground-breaking albeit smaller-scale effort is Prof. Marc Herold's media-based project: <http://pubpages.unh.edu/%7Emwherold/>

### Focused investigations

- Recent examples include the on-the-ground survey by CIVIC (Campaign for Innocent Victims in Conflicts - <http://www.iraqmemory.org/EN/index.asp>), the results of whose (unfortunately short-lived) Iraq documentation project can be found at: <http://civilians.info/iraq>
- In Afghanistan, one academic project which attempted to expand upon media-reported information was the media-based project of Professor Marc Herold <http://pubpages.unh.edu/%7Emwherold/>
- For Saddam-era Iraq, see: <http://www.iraqmemory.org/EN/index.asp>

### **Eye-witness accounts**

- *Spanish Brigade Against the War's Arab Cause Solidarity Campaign*, whose report provided eye-witness accounts of the invasion phase of the war:  
[http://www.nodo50.org/csca/agenda2003/con\\_iraq/informe-brigadas\\_eng.pdf](http://www.nodo50.org/csca/agenda2003/con_iraq/informe-brigadas_eng.pdf)
- Similar sources are those of individuals, often working with NGOs or aid organisations, such as Jo Wilding's accounts: <http://www.jowilding.net/>
- Blog – an example of an English-language blog from Iraq is:  
<http://healingiraq.blogspot.com/>

### **Census comparison**

- Research conducted for the ICTY used the technique of census comparison combined with analysis of birth / death rates and other information to estimate how many people were killed during the 1992-95 war in Bosnia:  
<http://www.barnsdle.demon.co.uk/bosnia/dem.html>