

COUNTRY REPORT



THE NETHERLANDS

2024



Civilian Protection
Monitor

Civilian Protection Monitor

Civilian Protection Monitor is a project by **Airwars & PAX**

Based on a framework developed by
Center for Civilians in Conflict

Analysis in this report is based on publicly accessible sources only and covers developments until 1 February 2025.

PAX

is a Netherlands-based NGO with additional offices and peacebuilding programmes in over a dozen (post-)conflict countries. Together with people in conflict areas and concerned citizens worldwide, PAX works to build just and peaceful societies across the globe.

Airwars

is a transparency watchdog which tracks, assesses, archives and investigates civilian harm claims in conflict-affected nations. Airwars works to reliably and independently document the human cost of war in order to promote a more peaceful world where human lives are acknowledged and taken in to account by militairies, policy-makers, and global citizens with dignity and empathy.

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The logo for PAX, consisting of the letters 'PAX' in a bold, orange, sans-serif font.The logo for Airwars, consisting of the word 'Airwars' in a white, sans-serif font, centered within a solid blue square.

ACKNOWLEDGEMENTS

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INTRODUCTION TO CPM

The Civilian Protection Monitor (CPM) introduces an evaluation system adapted from a framework created by NGO Center for Civilians in Conflict which allows for the consistent measurement of state practices in protecting civilians and providing redress in cases where military actions result in harm to civilians.¹ CPM aims to provide civil society organisations, policymakers, military actors as well as academics and media with insights into the protection-related policies and performance of individual states and the data they need to press for improvements. A collaborative partnership between Airwars and PAX, CPM aims to bridge the gap between civil society and policymakers in advancing transparency for state military actions.

Why does civilian harm mitigation and response matter?

Civilian harm mitigation and response (CHMR) is essential for minimising the impact of military operations on civilians in conflict zones. Protecting civilians is a core tenet of International Humanitarian Law (IHL), aiming to reduce unnecessary suffering and foster humane conduct during conflicts. Effective CHMR strategies not only save lives but also prevent displacement, psychological trauma, and the disruption of vital services and infrastructure. Civilian harm mitigation and response contributes to the stability and resilience of conflict-affected communities, reducing the long-term social and economic costs of conflict. Moreover, prioritising civilian protection can help to maintain public support for military operations, foster legitimacy and prevent moral injury among service personnel.

Independent monitoring of state practices in relation to CHMR is equally crucial, as it promotes accountability and transparency. Independent monitoring can lead to improved CHMR practices, as it provides unbiased assessments and evidence-based recommendations through which states can learn from each other and drive policy and procedural reforms. Additionally, it builds trust within the international community and affected populations, as they see states committing to addressing and learning from incidents of civilian harm. Overall, CHMR and independent monitoring work together to protect civilians, uphold humanitarian values, and strengthen accountability in conflict situations.

METHODOLOGY

CPM measures five indicators: the national policy frameworks addressing civilian harm mitigation and response, civilian harm tracking, civilian harm investigations, transparency on policies and practices, and response mechanisms to harm to civilians. Each indicator has its own leadership tier, with qualitative scoring categories to describe the steps a state must take to receive a certain score.

The current indicators were chosen because they are key aspects of civilian harm mitigation and response, and allow for a cross-comparison between different states on the basis of open sources. For several reasons, other important sub-aspects of CHMR, such as mitigation itself, have not been included yet. This is primarily because there is not yet enough transparency in the states monitored - or any other states - to be able to analyse and score operational mitigation approaches.

The analysis is based on publicly available sources only, to ensure the analysis is verifiable and reproducible. CPM is also intended as a tool to push for greater transparency and accountability on civilian harm. By relying on open sources, states are encouraged to release further details on their civilian harm mitigation and response practices to increase their score.

This report examines the Dutch approach to mitigating and responding to civilian harm, assessing the systems and practices in place to prevent, track, investigate, and address harm in conflict environments. Our analysis considers both civilian harm that occurred as a result of military action in compliance with IHL and harm that occurred as a result of unlawful action; both have lasting impacts on the civilians affected and provide insights into the strengths (and weaknesses) of the systems put in place to mitigate and respond to harm – however it occurs. By monitoring the Netherlands' mechanisms for harm mitigation and response, we assess whether they align with best practices, ensuring accountability, adaptability, and context-sensitive engagement in operational settings.

Each country report has been reviewed by external independent experts.

EXECUTIVE SUMMARY

Note: the subsequent analysis covers developments that occurred up to 1 February 2025, exclusively making use of open-source materials that were available until that time.

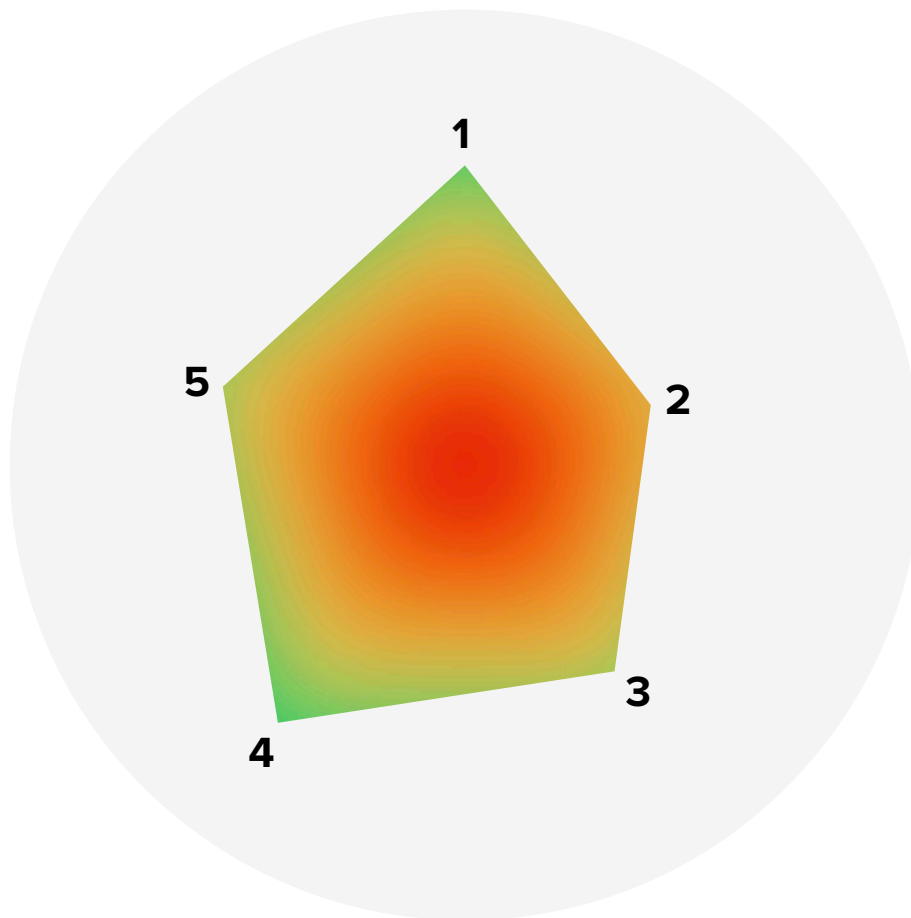
Over the past five years, the Dutch Ministry of Defence (MoD) has made significant efforts to review and strengthen its approach to preventing harm to civilians from its military operations. Through the establishment of a dedicated team focused on civilian protection, who regularly engage with civil society and experts on protection concerns and best practices, the MoD has created policies that emphasise greater transparency and a consideration of risks to civilians before commencing military operations, and the development of a civilian harm reporting mechanism that enhances accessibility by providing one central place to report information on possible civilian harm caused by Dutch military operations.

At the same time, areas for improvement remain. Notably, uncertainty remains around several vital aspects of the Dutch approach to civilian harm mitigation and response (CHMR), particularly regarding the tracking of harm, methods of conducting investigations, and providing amends to civilians harmed by Dutch operations. It is further unclear how current CHMR policies are communicated across military branches to ensure consistent application. On a broader scale, due to the case-by-case approach of the MoD's responses to confirmed cases of harm, an institutionalised framework for responding to civilian harm in a manner that aligns with best practice and the wishes of those affected is lacking.

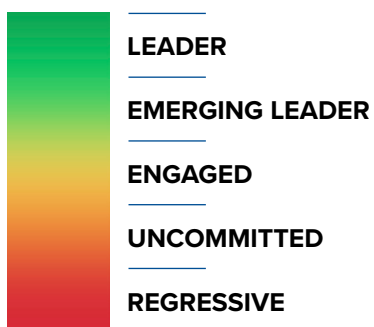
Preparing for large-scale combat operations (LSCO) requires the Netherlands to ensure that CHMR policies remain actionable and prioritised in different combat contexts. To support continuous improvement, the Netherlands must adopt proactive tracking systems for operational learning, moving beyond data management to gather and analyse lessons systematically. Additionally, transparent investigative methodologies and a comprehensive response framework are essential, including clear communication with affected civilians and expanding harm reporting options through embassies, bases, or intermediaries to maintain accountability and preparedness in high-intensity conflict scenarios.

THE NETHERLANDS

OVERALL SCORE **ENGAGED**



LEGEND



CATEGORIES

1

NATIONAL POLICY **EMERGING LEADER**

The policy that is in place is a strong approach to providing transparency on possible or confirmed civilian casualties resulting from Dutch arms deployment and outlines a commitment to civilian protection. When it comes to its operational approach to civilian harm tracking, investigation and response, the Netherlands relies on an ad hoc approach, leaving its valuable progress vulnerable to changes in personnel, political climate, and operational context..

2

TRACKING **ENGAGED**

In previous operations, the Netherlands relied on coalition tracking systems (the Civilian Casualty Tracking Cell in ISAF) and/or systems by its military partners (like the US in OIR). It is largely unclear what the process and quality of Dutch self-conducted assessments and investigations is, as well as how information on (possible) civilian harm cases are centrally archived. It also remains unclear how the Netherlands ensures previous harm incidents feed into institutional learning to prevent future harm. The creation of a civilian harm reporting portal is a meaningful step in the right direction,

3

INVESTIGATIONS **ENGAGED**

The Dutch approach to civilian harm investigations reveals a strong commitment to investigating credible reports but also highlights gaps, most notably the lack of a robust, standardised framework to ensure consistent, thorough, and transparent practices. Formal inquiries, whether administrative or criminal, will be started if an allegation is assessed as credible and can be executed independently by the Public Prosecution Service (PPS) and the MoD, but coordination between the PPS and MoD has not always been effective in the past. The MoD reports both the start of an investigation and its outcomes to Parliament, but more detailed transparency is necessary. The absence of publicly available comprehensive reports that include evidence, a description of the investigation process and methods used and recommendations to prevent recurrence, is a missed opportunity for operational learning and independent monitoring.

4

PUBLIC REPORTING & TRANSPARANCY **EMERGING LEADER**

During operations, the MoD publishes weekly overviews of its engagements. The MoD has created policies with concrete steps for improved transparency, including periodic checks if transparency could be improved. In this area, the Netherlands is progressive compared to partners and allies. However, reports tend to focus only on direct casualties, omitting non-physical and reverberating effects on civilians, and lack details about investigative methodologies.

5

POST-HARM RESPONSE **ENGAGED**

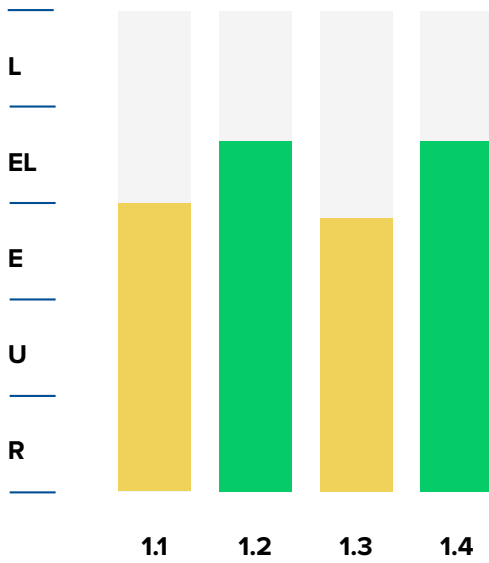
The MoD's approach to offering amends for harm caused by operations is, as of yet, not standardised, although it has a history of providing various types of amends. While there is evidence of ad hoc ex-gratia payments and community compensation efforts, these have, at times, been delayed, insufficiently aligned with victims' needs, and have not been part of a transparent framework. The lack of a formalised response procedure has resulted in an approach where compensation efforts are reactive rather than proactive.

DETAILED RESULTS PER CATEGORY

The next page contains an overview of the country's scores across all categories and indicators. The narrative analysis of each country's performance follows further on in the report.

1

NATIONAL POLICY



DESCRIPTION

The national policy or system of policies, strategies, and guidance adopted by the executive branch of government and its organs (including security institutions) that establishes clear authorities, responsibilities, and guidance for the prevention, mitigation, and response to civilian harm. A national policy framework, when provisions and formalised engagement with civil society actors can be helpful for communicating a government's commitment to mitigate harm to civilians.

1.1 National policy framework E

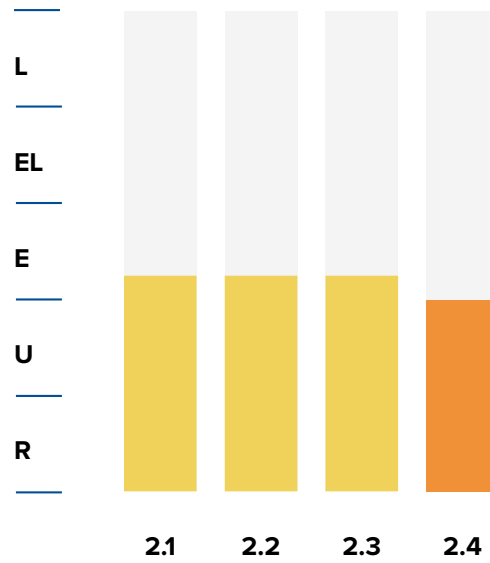
1.2 Clear policy language EL

1.3 Clear implementation guidance E

1.4 Budget and resources EL

2

CIVILIAN HARM TRACKING



DESCRIPTION

An internal (military or security force) process by which an armed actor gathers and analyses data about civilian harm incidents in order to better prevent, mitigate, and address harm in the future.

2.1 Tracking mechanism E

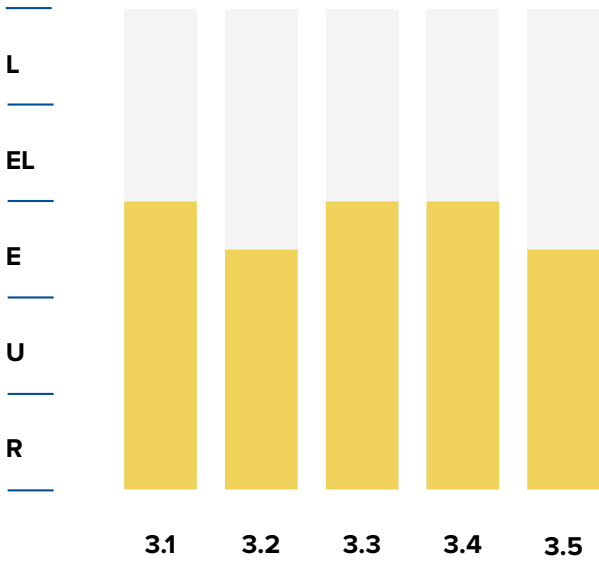
2.2 Tracking to reduce harm through analysis E

2.3 Coordination with investigation mechanisms E

2.4 Data management U

3

INVESTIGATIONS



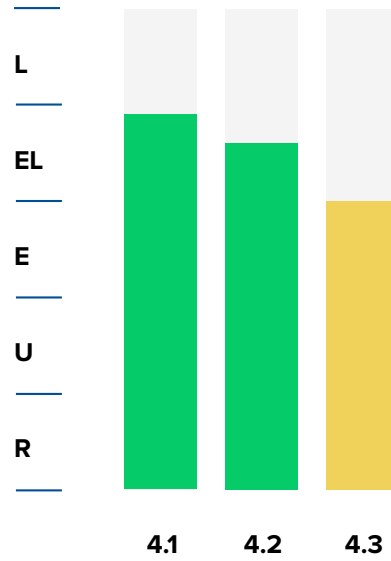
DESCRIPTION

Formal inquiries (often in the form of administrative or criminal investigations) that can be used to elucidate facts, to understand the cause of harm, to identify relevant state and/or individual responsibilities, to facilitate the appropriate response and/or remedy, and even to exonerate.

- 3.1 Investigates all credible reports **E**
- 3.2 Conducts witness interviews and site visits **E**
- 3.3 Reports of investigation **E**
- 3.4 Interaction with response mechanisms **E**
- 3.5 Criminal investigations **E**

4

PUBLIC REPORTING & TRANSPARENCY



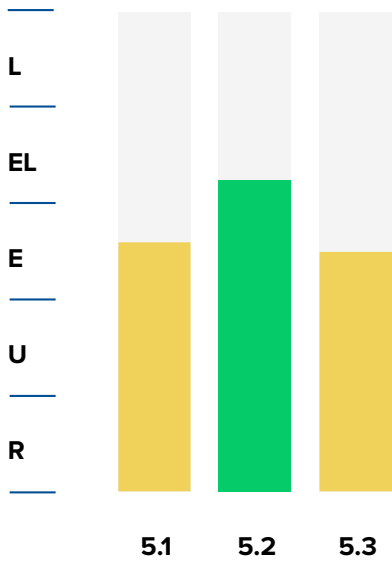
DESCRIPTION

Systems and procedures to ensure that the public and institutions of public oversight are made sufficiently aware of civilian harm, and to protect the right of victims to pursue remedy. Information may be limited or redacted due to privacy concerns for affected civilians, to safeguard other ongoing investigations or for national security reasons, but these reasons should not be abused and should be subject to review.

- 4.1 Discloses time and location of operations **EL**
- 4.2 Civilian harm reporting **EL**
- 4.3 Public disclosure of process and records **E**

5

POST-HARM RESPONSE



DESCRIPTION

Efforts to acknowledge and express condolence for harm, to include offers of monetary and non-monetary forms of post-harm assistance.

5.1 Process for amends E

5.2 Acknowledgement EL

5.3 Comprehensive, victim-centred condolence E

1 NATIONAL POLICY

National policy framework, Clear policy language, Clear implementation guidance; and Budget and resources

CATEGORY DESCRIPTION

The national policy or system of policies, strategies, and guidance adopted by the executive branch of government and its organs (including security institutions) that establishes clear authorities, and responsibilities, and guidance for the prevention, mitigation, and response to civilian harm. A national policy framework, when combined with effective implementation of its provisions and formalised engagement with civil society actors, can be helpful for communicating a government's commitment to mitigate harm to civilians.

OVERALL SCORE **EMERGING LEADER**

Current Dutch policy is spread across various documents that were previously difficult to find, especially if not acquainted with the topic or the Dutch governmental system. The MoD's recently created webpage on civilian casualties and CHMR now serves as a repository for these documents, greatly enhancing accessibility and transparency. The policy that is in place emphasises providing transparency on possible or confirmed civilian casualties resulting from Dutch arms deployment. When it comes to its operational approach to civilian harm tracking, investigation and response, the Netherlands relies on an ad hoc approach, leaving its valuable progress vulnerable to changes in personnel, political climate, and operational context. This further makes it difficult for external parties to assess the strength of the Dutch approach to these efforts, as they are likely to differ from one operational context to another. Finally, it remains unclear how policies are shared with – and informed by – the various military branches (i.e., the Navy, Army, and Air Force) to ensure buy-in from the military on CHMR intentions.

1.1 NATIONAL POLICY FRAMEWORK

INDICATOR DESCRIPTION

The government has adopted a comprehensive national policy framework on mitigating and responding to civilian harm resulting from its own military operations, including clear definitions of key terminology such as ‘civilian harm’.

SCORE **ENGAGED**

The Netherlands has various CHMR-related policies including a 2020 reporting policy and a 2022 ‘step-by-step approach’ to improve transparency on civilian casualties, but other important elements of CHMR have not been incorporated in policy yet. The MoD informs Parliament about civilian harm risks in Article 100 letters, engages with Civil Society Organisations (CSOs), and launched a reporting portal for civilian harm claims. The Netherlands also endorsed the EWIPA Political Declaration, reinforcing its commitment to civilian protection.

What evidence exists to support this?

The Dutch MoD has clarified its position on key CHMR aspects through an array of letters to Parliament, accepted motions, and answers to Parliamentary questions. These make the MoD’s intention to take the issue seriously explicit. The existing Dutch policy on CHMR currently consists of two main elements: a policy outlining how and when the MoD informs Parliament of civilian harm that has possibly resulted from Dutch use of force (2020), and the in 2022 adopted ‘step-by-step approach’ that outlines broader CHMR policy steps (see below).

- The MoD has a policy (2020) for swiftly reporting possible civilian casualties resulting from Dutch use of force to Parliament.²
 - Within a month of an incident being reported, the MoD assesses the credibility of the allegations to determine whether an investigation is needed.
 - If the MoD decides to initiate an investigation, Parliament is to be informed within a week of this decision.
 - Parliament is to be informed of the results of an investigation within a month of its conclusion, including a probability estimation regarding the number of casualties.
- The MoD has launched a ‘step-by-step approach’ (2022) to review and improve important aspects of its approach to CHMR.³ The policy is, in part, the result of consultations with CSOs. It contains ten short, medium and long-term steps including (but not limited to):
 - Structurally informing Parliament about the risks of civilian harm in Article 100 letters (letters in which the government provides information in advance about the deployment or provision of the armed forces to maintain or promote the international legal order, see textbox on the next page).
 - Adding information about the expected level of transparency during the mission to Article 100 letters, which is to be tested periodically for the purpose of attaining the highest level of transparency possible at a given time;
 - Incorporating a review of civilian casualty mitigation efforts in the official evaluation of missions;
 - The step-by-step approach also notes the intention to continue developing and implementing knowledge on civilian protection in the operational domain.
- The MoD has launched a reporting portal in 2024 where CSOs and civilians can directly report information about possible civilian harm caused by Dutch military operations to the MoD.⁴
- The MoD regularly engages with relevant CSOs and academics to inform its policy steps.

Article 100

Military engagements to maintain or promote the international legal order, and for the purpose of providing assistance in the event of armed conflict, have been regulated under Article 100 of the Dutch Constitution since 2000.⁵ This Article stipulates that the government must *inform* the legislative branch prior to this type of deployment via a so-called Article 100 letter. The *permission* of the legislative branch is not required. If compelling reasons prevent providing the legislative branch with information prior to deployment, the government must provide the information as soon as possible.

The MoD’s step-by-step approach (2022) for increased transparency on civilian casualties introduced notable additions to the Article 100 letter, relevant to civilian protection issues. It stipulates that Article 100 letters should include, by default, a paragraph on the risk of civilian casualties and the (im)possibilities to minimise these risks.

Most current Dutch CHMR policies are focused on Article 100 deployments. The reporting portal is also only meant to receive reports of casualties resulting from these types of deployments. Recent Article 100 missions include Operation Inherent Resolve in Iraq and Syria, airdrops with relief goods over Gaza, and Operation Prosperity Guardian in the Red Sea.

- By endorsing the Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas (EWIPA), the Netherlands has furthermore committed itself to strengthen the protection of civilians against the impact of explosive weapons.⁶

What gaps/caveats are important to consider?

The MoD has elements of a CHMR policy framework in place (see above), but there is no comprehensive, government-wide document clearly detailing all aspects of CHMR and how these interact with the Protection of Civilians (PoC) and human security agendas of the Dutch Ministry of Foreign Affairs (MFA), as well as the policies of some allies.

- Dutch CHMR policy is limited to military operations conducted under Article 100 of the Dutch Constitution.
 - As a result of this focus, some military operations remain uncovered by CHMR policy. This includes operations such as those occurring as the result of a NATO Article 5 scenario ('collective self-defence'). It remains unclear how the Dutch MoD will track, investigate, and respond to harm in non-Article 100 operations.
- Much of the Netherlands' approach to CHMR remains ad hoc.
 - Current Dutch policy frequently describes how the Netherlands may (or may not) introduce national CHMR processes and procedures *depending on* which coalition processes and procedures will have been put in place. Therefore, improvements that have been made over the last five years risk being lost or diminished when the Netherlands participates in a coalition with a poor CHMR approach, key staff rotate in the MoD's PoC team or the MoD more broadly, or when there is a change in priorities with a new government.
 - Existing policy is largely focused on transparency while approaches to assessments, investigations, ex-gratia payments and other forms of response have been determined on a case-by-case basis and have therefore differed over the years.
- The MoD has not published its definition of what constitutes civilian harm. By frequently relying on the term 'civilian casualties' ('burgerslachtoffers') instead of the broader 'civilian harm' ('burgerleed') some indirect and reverberating harms to civilians such as loss of livelihood or environmental destruction may not be included in Dutch reviews of harm from their own actions.
- The Dutch Law of War Manual, an important resource in determining how the Dutch military approaches civilian protection, is not widely available. A physical copy can only be viewed in person in Geneva, Switzerland, which results in a very limited accessibility of this document to the wider public.

1.2 CLEAR POLICY LANGUAGE

INDICATOR DESCRIPTION

The policy contains clear and actionable language and commitment to civilian harm mitigation and response.

SCORE **EMERGING LEADER**

The Dutch MoD communicates its civilian harm policies clearly, with a user-friendly webpage, a well-defined 2020 reporting policy, and a structured 2022 step-by-step approach. Policies emphasise both legal and moral responsibilities, with accessible language and visual aids. However, gaps remain in translating intent into concrete practice, particularly in standardising coalition investigation processes and specifying timelines for future CHMR policy steps, which would have increased the Netherlands' score.

What evidence exists to support this?

The Dutch MoD has a good record when it comes to clear communication of policies on civilian harm. Existing policies are generally clearly formulated, and the MoD has further launched a user-friendly web page, where current policies can be found.

- The MoD’s webpage on civilian casualties is written in clear and easily understandable language, in accordance with government-wide guidance on public communication.⁷
- In various documents, the MoD clearly describes CHMR and PoC more broadly as not only a legal responsibility, but also a *moral* responsibility.⁸
- The MoD created a clear policy (2020) on its reporting procedure and timeline on informing Parliament about civilian harm allegations, including an infographic to further clarify the approach.⁹
- The step-by-step approach (2022), especially in its description of short-term policy changes and implementation, is clear on processes.¹⁰

What gaps/caveats are important to consider?

- Existing Dutch policy on CHMR mostly communicates *intent* rather than existing practice. Some policies further lack concrete timelines for identified future steps in CHMR policymaking, such as the step-by-step approach (2022).
- Furthermore, the step-by-step approach lacks clarity on two important aspects:
 - It mentions a commitment to providing clarity on investigation and response processes within a coalition prior to every military mission under Article 100 if relevant, but it does not introduce standardisation on what this should look like. In recent Article 100 letters, this policy appears not to have been applied in full.¹¹ For example, Operation Poseidon Archer in the Red Sea has reportedly caused harm to civilians, but the MoD did not explain in a corresponding Article 100 letter how this particular coalition investigates and responds to such incidents. Rather, the MoD announced Dutch participation in a related non-offensive mission (Operation Prosperity Guardian) in an Article 100 letter, which supports the coalition’s efforts in Operation Poseidon Archer.¹²
 - The document mentions “broadening Defence’s investigation framework in case of (alleged) civilian casualties” but does not provide concrete details.

1.3 CLEAR IMPLEMENTATION GUIDANCE

INDICATOR DESCRIPTION

Policy and implementation guidance is clear and includes defined roles and responsibilities.

SCORE ENGAGED

The Dutch MoD’s 2020 policy defines clear Ministry-level responsibilities, with the Chief of Defence involved in CHMR policy. A baseline study was conducted, but sub-institutional roles, operational implementation, and policy buy-in remain unclear. Implementation of existing procedures has proven fickle in the past.

What evidence exists to support this?

The MoD’s policy for reporting possible civilian harm caused by Dutch military operations to Parliament (2020) outlines clear responsibilities for the MoD at the level of the Ministry.¹³

- The Chief of Defence (CHoD) is mentioned specifically as being (partially) responsible for at least one out of ten announced policy changes in the step-by-step approach.
- The MoD has conducted a large-scale baseline study that should inform future steps for CHMR policy implementation across the armed forces, as mandated by the step-by-step approach (2022).¹⁴ This study has not yet been published.

What gaps/caveats are important to consider?

There are few mentions of roles and responsibilities on a sub-institutional level in recent policy documents, i.e., at the level of separate directorates or even lower at a team level.

- Nor do recent policies outline what the continuous knowledge development outlined in the step-by-step approach looks like in the operational domain or how CHMR policy decisions will be implemented within the defence organisation.
- As a result of the above, the level of buy-in regarding the existing policies is unclear. The MoD does not communicate if policies are translated into CHoD directives.
- In early 2025, an independent commission led by Minister of State Winnie Sorgdrager into a Dutch strike on Hawija, Iraq in 2015 which led to a large number of civilian casualties, found that several procedures that were in place during Operation Inherent Resolve were largely unknown among servicemembers or insufficiently adhered to.¹⁵ In the Hawija case, both the squad commander and the legal advisor were unaware of the existence of a specific procedure

designed to minimise and report civilian casualties in OIR.¹⁶ This document includes a passage on compensation for civilian harm, of which there was also little to no awareness. Thus, while procedures were in place, these were not always known or properly implemented.

1.4 BUDGET AND RESOURCES

INDICATOR DESCRIPTION

Funding, personnel and time are given toward implementation of CHMR policies.

SCORE **EMERGING LEADER**

The MoD established a Protection of Civilians team to implement CHMR policy changes and represent the Dutch commitment to CHMR in international fora, but no dedicated funding or long-term goals have been outlined.

What evidence exists to support this?

Following publication of the step-by-step approach (2022), the MoD set up a Protection of Civilians team within the Directorate of International Affairs specifically to develop and implement the announced policy changes and intentions. This team also spearheads efforts in an International Contact Group on CHMR. The team consists of people with relevant CHMR-specific expertise.

What gaps/caveats are important to consider?

There is no mention in any recent policy document of specific funds available directed towards CHMR efforts or knowledge development. This is likely due to the MoD not having formulated specific long-term CHMR-focused goals, which would require accompanying budgets.

RECOMMENDATIONS

Develop a comprehensive CHMR policy framework

The Dutch MoD should consolidate all aspects of civilian harm mitigation and response into policy. These policies should clearly define key terms like 'civilian harm' and should clarify how the MoD's approach to CHMR is part of and/or aligns with broader Protection of Civilians (PoC) and human security agendas. Making these policies easily accessible would help standardise operational practices across military and coalition settings. Publishing, to the greatest extent possible, the CHMR baseline study and potential subsequent study findings would also ensure transparency on next steps.

Expand CHMR-related policy to apply to all military operations

Current CHMR-related policy only applies to military missions carried out under Article 100 of the Dutch Constitution. Notably, this means the policy does not apply to other types of military operations like, for instance, those conducted under a NATO Article 5 scenario ('collective self-defence'). The MoD should ensure that CHMR standards are adapted, applied, and approached as key factors across the full spectrum of operations.

Develop and standardise investigation and response protocols

Current policies on investigating and responding to civilian harm appear to be limited in scope, as policies are limited to direct deaths and injuries and exclude indirect effects. The MoD should further establish standardised protocols for investigations and response, ensuring at least a baseline of consistent procedures across military operations. This would improve accountability and ensure that civilian harm is addressed in a systematic and transparent way.

Clarify roles and responsibilities at all levels

To ensure effective implementation of CHMR-related policy, the MoD should clearly define roles and responsibilities not only at the Ministry level but also across the defence organisation itself. This will ensure greater accountability and ensure policies are properly communicated and enacted throughout the armed forces.

2 CIVILIAN HARM TRACKING

Indicators: Tracking mechanism; Tracking to reduce harm through analysis; Coordination with investigation mechanisms; and Data management

CATEGORY DESCRIPTION

An internal (military or security force) process by which an armed actor gathers and analyses data about civilian harm incidents in order to better prevent, mitigate, and address harm in the future.

OVERALL SCORE **ENGAGED**

In previous missions like Operation Inherent Resolve (OIR) in Iraq and Syria and the International Security Assistance Force (ISAF) in Afghanistan, the Netherlands relied on coalition tracking systems (the Civilian Casualty Tracking Cell in ISAF) and/or systems by its military partners (like the US in OIR). It is largely unclear what the process and quality of Dutch self-conducted assessments and investigations is, as well as how information on (possible) civilian harm cases are centrally archived. It also remains unclear how the Netherlands ensures previous harm incidents feed into institutional learning to prevent future harm. The creation of a civilian harm reporting portal is a meaningful step in the right direction, as possible new data on civilian harm will be registered there. However, this continues to be a passive rather than proactive means of data collection.

2.1 TRACKING MECHANISM

INDICATOR DESCRIPTION

The government has or plans for the capabilities, resources, personnel, and systems needed to track civilian harm, i.e., to systematically collect and analyse information on harm.

SCORE **ENGAGED**

The MoD has committed to tracking civilian harm in Article 100 missions, introduced a reporting mechanism, and conducts Battle Damage Assessments, but lacks a standardised proactive tracking system, long-term analysis, and clarity on archiving and sharing data.

What evidence exists to support this?

The MoD has committed to ensuring there is sufficient capacity available to monitor allegations of civilian casualties from Dutch operations conducted under Article 100 of the Constitution, which encompasses operations to maintain or promote the international legal order.¹⁷

- In previous mission contexts like OIR in Iraq and Syria and ISAF in Afghanistan, where the Netherlands was part of a larger military coalition, there typically were coalition-wide tracking systems in place.
- The MoD has created a reporting mechanism in 2024 for external parties to report harm directly to the MoD through their website. This will likely improve the MoD's ability to track harm, as reports will be archived centrally, with dedicated capacity available to coordinate analysis and investigations.
- The Dutch military conducts Battle Damage Assessments (BDA) for all strikes.
 - BDAs are assessments on the impact of the use of force, primarily focused on whether the munition used functioned as expected, whether the intended target was struck, and what the impact was on enemy combatants. If harm to civilians is observed in the immediate aftermath of the use of military force, this may also be included in a BDA, but they are not tools that are meant to give an insight into harm to civilians - especially as such harm often only becomes apparent in the hours, days and weeks following military action, when a BDA will already have been completed. BDAs also often rely solely on visual evidence from fighter jets or high-altitude drones, which cannot hope to capture evidence of civilians caught under structures or rubble.¹⁸

What gaps/caveats are important to consider?

There does not appear to be a standardised *proactive* tracking mechanism at either the governmental or operational level that meaningfully feeds into analysis and operational learning.

- An important limitation in the Dutch context is that privacy laws restrict the government's ability to monitor social media, therefore limiting the options for proactive civilian harm monitoring and tracking.
- Much of the Dutch guidance to tracking harm relates to its process for transparency. This is an important element, but it is one of many. A lack of clarity remains on how the MoD will track and analyse civilian harm cases over an extended period and during operations.
- It is generally unclear how possible and confirmed civilian casualty incidents are archived within the MoD and how this archive is used to understand trends of harm that can inform improvements to the CHMR approach of future Dutch engagements.
- The reporting mechanism remains a form of passive tracking, rather than a proactive approach to tracking harm. Furthermore, the reporting mechanism only accepts reports on Dutch use of force during Article 100 missions, but unclarity remains on how reports that do not match these prerequisites – either because the harm in question was not caused by Dutch forces or because the harm occurred in a non-Article 100 context – will be archived and shared with partners and allies.
- The Netherlands largely relied on US Central Command (CENTCOM) and other partners for tracking civilian harm during recent campaigns like OIR and had only limited national processes in place.

2.2 TRACKING TO REDUCE HARM THROUGH ANALYSIS

INDICATOR DESCRIPTION

The tracking mechanism is effectively designed to produce meaningful analysis and insights that are used by military leaders to change tactics or procedures. The express and stated purpose of the tracking mechanism in policy and practice is to prevent, mitigate, and address harm and promote institutional and operational learning.

SCORE **ENGAGED**

The MoD stresses continuous improvement in civilian harm prevention but primarily frames tracking as a transparency measure rather than a tool for harm mitigation and response.

What evidence exists to support this?

The MoD has emphasised the importance of continuous improvement in civilian casualty prevention. For instance, the introduction to the step-by-step approach (2022) mentions the importance of always looking for further ways to reduce civilian casualties.¹⁹

What gaps/caveats are important to consider?

On record, the MoD has not explicitly framed Dutch tracking efforts as part of an effort to prevent, address and mitigate harm. The MoD often refers to tracking in relation to matters of domestic transparency: as a means to enable reporting to Parliament. Ideally, tracking should facilitate *both* domestic transparency as well as harm mitigation and response.

- There is no publicly available documentation on how the MoD facilitates institutional and operational learning from civilian casualty cases.

Recording, tracking, assessment, investigation

The process of tracking and assessing civilian harm begins with comprehensive recording of incidents, where reports from various sources are gathered to document potential civilian harm. Key components of this step include establishing a reliable data-gathering mechanism, ensuring reports are collected in real-time or shortly after incidents, and cross-referencing sources to verify details about casualties and damage. Accurate recording forms the foundation for later assessments and helps in identifying patterns of harm over time.

In the civilian harm tracking phase, collected data is systematically organised and analysed to identify trends and specific incidents that may require deeper investigation. Tracking involves cataloging each event's location, date, weapons used, and reported civilian impacts, and aggregating data to monitor the broader impact of military actions. This stage's key elements include maintaining a clear database, ensuring the integrity and consistency of data, and analysing frequency and severity of incidents to prioritise cases for assessment or investigation.

The final steps, assessments and investigations, focus on evaluating the incidents' credibility and conducting in-depth examinations of selected cases. During assessments, incidents are reviewed to determine if they meet criteria for further scrutiny, often involving corroborative evidence from multiple sources. Investigations delve deeper, with forensic analysis, interviews, and site visits (where possible) to establish accountability and identify operational mistakes or violations of law.

2.3 COORDINATION WITH INVESTIGATION MECHANISMS

INDICATOR DESCRIPTION

Tracking mechanisms interact effectively with other civilian harm investigations.

SCORE **ENGAGED**

The MoD has clarified its process for informing Parliament about civilian harm allegations but lacks transparency on how incidents are tracked, assessed, and investigated, with legal constraints and reliance on coalition partners limiting verification efforts.

What evidence exists to support this?

The MoD has released details of its process for informing Parliament in the case of a civilian harm allegation.²⁰ This clarifies several aspects of the process from allegation to assessment to investigation, and the timeframe between each step for public reporting.

What gaps/caveats are important to consider?

There is no public record on how the MoD tracks civilian casualties. It is also unclear how incidents are assessed and what the decision to investigate is based on. Legal constraints relating to Dutch privacy laws on social media monitoring, reliance on coalition partners, and the absence of publicly available criteria for tracking and investigating incidents create gaps and limitations in verifying civilian harm claims.

- The MoD is unable to systematically consult external sources to validate civilian harm claims due to legal constraints in monitoring certain open-source information like social media posts.
- The MoD relied on CENTCOM for tracking during OIR, which typically did not report allegations deemed 'non-credible' to the MoD. Such information was thus not tracked by the Netherlands, which may have obstructed delayed verification, both internally and by external sources.
- There is no publicly available set of threshold criteria to measure which cases the MoD will label 'credible' and why. Therefore, the process from tracking to investigation is unclear and it becomes difficult to assess whether these processes are sufficiently standardised.

2.4 DATA MANAGEMENT

INDICATOR DESCRIPTION

Tracking mechanisms have reliable access to accurate information and sufficiently detailed records about military operations (troop movements, airstrikes, incident reports). Incidents and analyses are properly archived and retrievable years later.

SCORE **UNCOMMITTED**

The MoD has operational archiving systems, including Institute for Military History (NIMH) records, strike reports, and a new reporting portal, but lacks transparency on data quality, assessment criteria, and decision-making on investigations. In some past cases, data that was crucial for assessing and investigating civilian harm was unretrievable.

What evidence exists to support this?

The MoD seems to have operational archiving systems in place, both internally and externally through the Institute for Military History (NIMH).

- In early 2024, a FOI request confirmed that the NIMH keeps relevant records related to civilian harm incidents.²¹
- As commanders are required to write reports on their use of force and these reports are forwarded to the Public Prosecution Service (PPS), records on individual strikes are available internally.

- A 2019 letter to Parliament mentions intended improvements in data management and the use of the video footage of aerial vehicles in conducting Battle Damage Assessments (BDAs), including for information on possible civilian harm, and later also in investigating possible collateral damage concerns, with the caveat that the US-led Coalition rarely conducted ground investigations during OIR.²²
- The release of a data set in 2023 containing OIR strike data points to a systemic archiving of strike data.²³
- The MoD's new civilian harm reporting portal will likely facilitate internal data management, as it offers a central hub to collect the data on incidents reported by external sources and will ensure the data is forwarded to the appropriate departments.

What gaps/caveats are important to consider?

It remains unclear what data and records the MoD uses to make assessments, the quality and consistency of content across such records, as well as how the MoD decides whether to start an investigation. Furthermore, past incidents were not always reported to the relevant actors at the Ministerial level in time, revealing a possible disconnect.²⁴

- In the report released in 2025 by the Sorgdrager commission on the 2015 strike on Hawija, Iraq, the commission describes how, despite pilots reporting damage, the squad commander responsible for the strike consistently recorded 'NO' instead of 'UNK' (unknown) when answering questions about collateral damage or civilian casualties in formal records such as the After Action Report (AAR).²⁵ The squad commander stated that unless there was hard evidence, 'NO' was always selected, and he could not specify under what circumstances 'unknown' would be used. The squad commander told the commission he did not include suspicions of civilian casualties in AARs because he believed only confirmed deaths should be reported. He asserted that the section on 'civilians killed in action' was never filled out since personal observations could not determine whether individuals were civilians or combatants. Such a high standard of proof, if still applied in this way, results in significant risks that incidents of harm are precluded from being reported up the chain of command.
- The commission also found that past experiences with similar targets as the one struck in Hawija, other VBIED factories for instance, were not systematically analysed or archived. Lessons learned were passed to subsequent squads informally, and MoD reports on arms deployment did not consistently indicate target types, with key terms like 'VBIED' or 'munitions factory' missing.²⁶
- The commission further states in the report that the MoD displayed a lack of caution in data storage, exemplified by the overwriting of crucial Battle Damage Assessment (BDA) footage of the Hawija strike.²⁷
- The commission concluded that the Netherlands' digital archiving remains inadequate, with unclear policies regarding the classification and retention of state secrets and how to handle a lack of access to Five Eyes intelligence.²⁸ The report, for instance, mentions that the MoD conducted a fact-finding effort regarding the Hawija airstrike, basing itself on various mission materials like the TARPAC. However, such materials were largely unavailable to the commission because these had not been properly archived.²⁹

RECOMMENDATIONS

Establish a standardised civilian harm tracking mechanism

The MoD should implement a standardised tracking mechanism for civilian harm that extends beyond data management and coordination. While the MoD has committed to monitoring cases of civilian casualties, there does not seem to be a system for proactively tracking and analysing harm across operations at the *government* level. A robust *operational* tracking mechanism has been in place in past operations (mostly coalition-wide) but standardising this as a national practice would also ensure continuous monitoring and analysis of harm during specific missions, which would help enable meaningful transparency and response processes.

Proactively track and archive civilian harm incidents

The MoD should implement proactive tracking and archiving of civilian harm incidents using various sources such as social media, local reports, and open-source intelligence, to the extent legally possible. This would reduce the reliance on coalition partners and provide a more comprehensive view of potential harm.

Use tracking mechanisms for operational learning

Ensure that the primary purpose of tracking mechanisms is to reduce harm and improve tactics, as well as reporting on casualties. This will align tracking efforts with the overarching goal of preventing civilian harm through operational and institutional changes.

Coordinate tracking and investigation systems

The MoD should establish formalised coordination between civilian harm tracking systems and investigative mechanisms to ensure a consistent and reliable process. Standardising evidence collection and creating clear criteria for what constitutes 'credible' harm allegations would enhance the reliability of investigations and foster transparency.

3 INVESTIGATIONS

Indicators: Investigates all credible reports, Conducts witness interviews and site visits, Reports of investigation, Interaction with response mechanisms; and Criminal investigations

CATEGORY DESCRIPTION

Formal inquiries (often in the form of administrative or criminal investigations) that can be used to elucidate facts, to understand the cause of harm, to identify relevant state and/or individual responsibilities, to facilitate the appropriate response and/or remedy, and even to exonerate.

OVERALL SCORE **ENGAGED**

The Dutch approach to civilian harm investigations reveals a strong commitment to investigating credible reports but also highlights gaps, most notably the lack of a robust, standardised framework to ensure consistent, thorough, and transparent practices. Formal inquiries, whether administrative or criminal, will be started if an allegation is assessed as credible and can be executed independently by the Public Prosecution Service (PPS) and the MoD. The MoD reports both the start of an investigation and its outcomes to Parliament, but more detailed transparency is necessary. The absence of publicly available comprehensive reports that include evidence, a description of the investigation process and methods used and recommendations to prevent recurrence, is a missed opportunity for operational learning and independent monitoring.

3.1 INVESTIGATES ALL CREDIBLE REPORTS

INDICATOR DESCRIPTION

Promptly investigates all credible reports of civilian harm, whether or not it is immediately clear that a violation of international law has occurred. Obtains relevant information from all internal, and, to extent feasible, all external sources.

SCORE **ENGAGED**

The MoD commits to investigating ‘credible’ civilian harm allegations and distinguishes between legal and fact-finding investigations, but lacks publicly defined investigation standards, faces legal and operational constraints in verifying reports, and relies heavily on coalition partners.

What evidence exists to support this?

The MoD has always communicated in letters to Parliament and policies that it immediately starts an investigation when ‘credible’ civilian harm allegations are reported, both in cases of internal and external reports.

- The Netherlands distinguishes between two types of investigations: legal investigations to discover whether a violation of International Humanitarian Law (IHL) has occurred, and fact-finding investigations. The MoD and the Public Prosecution Service (PPS) can conduct both kinds of investigations independently, but the PPS takes priority. If the PPS has already started an investigation, the MoD’s investigation must be conducted in coordination with it.³⁰ In practice, this means that if, for instance, the MoD wants to interview certain witnesses in relation to the investigation, the PPS must give prior permission.
- The creation of a civilian harm reporting portal likely lowers the threshold for external parties to report civilian harm, which may positively impact the quality and frequency of investigations.
- The report by the Sorgdrager commission confirms the existence of guidance on how to conduct formal investigations into civilian harm incidents (the document ‘Aanwijzing SG A/989 Protocol Interne Onderzoeken Defensie’), but its content is undisclosed.³¹ However, in the case of Hawija, the Netherlands failed to follow its own guidelines, opting for a fact-finding approach rather than a formal investigation.

What gaps/caveats are important to consider?

There is no publicly accessible policy document that details the MoD’s own investigation standards, including means of investigation and responsibilities. It is therefore unclear what standards the MoD has for assessing the ‘credibility’ of a report before deciding whether an allegation first of all merits an assessment and, subsequently, an investigation.

- Questions that are left unaddressed thus include:
 - What is credible enough to assess?
 - What is credible enough to move from assessment to investigation?
 - When does an investigation result in an acknowledgement of civilian harm being ‘credible’?
- The MoD currently appears to be unable to proactively and comprehensively consult open-source information to validate civilian harm allegations, due to legal privacy constrictions.
- In general, it is known that BDAs and AARs – the primary internal means to trigger an investigation – can at times contain very limited information, especially in air campaigns. Air campaigns have inherent problems detecting civilian harm, given the challenges in obtaining ground truth about strikes on buildings in particular, as it is impossible to see who is inside, and possible civilian casualties may subsequently be covered by rubble.³² Sometimes, this prevents an internal investigation from starting because the forwarded information about possible civilian casualties in internal reports such as BDAs and AARs is insufficient. It is unclear how the MoD mitigates these difficulties.
- The Sorgdrager report includes a statement from the air force squad commander responsible for the Hawija strike, in which he explains he asserted that the section on ‘civilians killed in action’ was never filled out since personal observations could not determine whether individuals were civilians or combatants. Such a high standard of proof, if still applied in this way, results in significant risks that incidents of harm are precluded from being reported up the chain of command and would thus remain uninvestigated.³³
- It is unclear how the MoD and PPS determine whether a legal inquiry is necessary, in what cases it only conducts a fact-finding investigation, and what the difference between both institutions’ different forms of inquiry are.
- The Sorgdrager report describes that the Royal Marechaussee (KMar) officers embedded with OIR air force squads, who report to the PPS on every weapon deployment, lacked training in video analysis, which left event interpretation solely to the commander. This undermined KMar’s supposed role as an independent assessor of incidents. The present LEGAD also had not received training on reviewing video footage.³⁴ It is unclear if this has since been addressed.

- In several debates and letters to Parliament, the Minister of Defence has – in relation to Dutch participation in the anti-ISIS Coalition – listed “factors that hinder the verification of reports, including the lack of research possibilities on the ground, the fact that the dead are buried very quickly in Muslim communities, incompletely maintained population registers and in some cases difficulties in distinguishing afterwards between civilian victims and ISIS fighters. In some cases it can be verified that there were civilian victims, but not how many.” Yet, how such difficulties were overcome or how they could inform future policymaking on investigations has not been addressed.³⁵
- The Sorgdrager report states that in the Hawija case, Iraqi as well as renowned international media such as Reuters quickly reported on the possible occurrence of civilian harm as a result of the strike, but these reports were labelled untrustworthy and were dismissed as ISIS-propaganda by the MoD, MFA and Prime Minister’s office. The reports were therefore not followed up by the Dutch government.³⁶
- During OIR, the Netherlands largely relied on US CENTCOM for reporting, tracking and assessing civilian harm allegations. In the past, CENTCOM only forwarded external reports of possible civilian casualties if it had assessed them as credible first, thus potentially hindering delayed verification by other actors.
- Requesting information from coalition members has proven to be fickle in the past when there are no pre-determined agreements regarding information-sharing practices. As such, it could happen (in the Hawija case) that the Dutch Minister of Defence sent a letter to the US Secretary of Defense to request further information, which was subsequently denied.³⁷

3.2 CONDUCTS WITNESS INTERVIEWS AND SITE VISITS

INDICATOR DESCRIPTION

Investigating officers conduct site visits and/or conduct witness interviews or provide reasons why doing so is infeasible. If this is infeasible, there is clarity on how evidentiary gaps will be addressed.

SCORE **ENGAGED**

The MoD has used site visits and witness interviews in past investigations, particularly during ISAF in Afghanistan, but it is unclear whether these methods are institutionalised, and there is limited evidence of their use in more recent air-based missions like OIR.

What evidence exists to support this?

While there is public record of past investigations involving site visits and witness interviews, particularly during Dutch involvement in ISAF in Afghanistan, it is unclear whether these methods have been institutionalised or if a comprehensive investigations policy exists altogether. In later air-based missions like OIR, the practice of site visits and witness interviews appears to have almost entirely disappeared.

- For instance, a 2024 Freedom of Information (FOI, or ‘WOO’ in Dutch) request by Dutch media outlets NOS and NRC brought to light an incident during which six civilians were killed and two children hospitalised in Afghanistan in September 2007.³⁸ The MoD learned about these casualties three days after the incident, from the hospital nearby. The deceased had been buried by then and had not been medically examined. Military personnel visited the hospital the next day and interviewed family members and one of the injured children. Due to a heightened security risk, it was not possible to visit the site of the attack. Two months later a visit became possible, during which it became apparent that it could not be determined with certainty how the victims had sustained their (fatal) injuries. One of the families received an ex-gratia payment. This case elucidates that witness interviews and site visits, depending on the context, *can* be a part of the MoD’s investigation methods.
- During ISAF, the Netherlands deployed a Provincial Reconstruction Team of 130 service members, who were also responsible for reaching out to possible civilian harm victims.³⁹

What gaps/caveats are important to consider?

As the MoD has not published a comprehensive investigations policy, it is unclear whether thorough investigation techniques such as witness interviews and site visits are institutionalised, trained, standardised, and adapted to different types of operations. There is little evidence to suggest that practices established by ISAF in Afghanistan have been carried over to remote air campaigns like OIR where field visits and witness interviews appear to have been largely non-existent.

- Without an investigations policy or framework, civilian harm allegations during air campaigns or potential large-scale combat operations in the future are less likely to move from an initial assessment to a full-fledged investigation. Moreover, being reliant on internal military sources rather than proactively consulting external sources can lead investigators to overlook essential information that could verify allegations.
- The Minister of Defence has detailed factors that hindered (on-the-ground) investigations in OIR in letters to Parliament: “Factors that hinder the verification of reports include the lack of research possibilities on the ground, the fact that the dead are buried very quickly in Muslim communities, incompletely maintained population registers and in some cases difficulties in distinguishing afterwards between civilian victims and ISIS fighters. In some cases, it can be verified that there were civilian victims, but not how many.” Yet, no information was provided on the possibility of consulting local trusted actors to facilitate verification and address some of these evidentiary gaps.⁴⁰
- In the case of known and acknowledged civilian casualty incidents caused by Dutch military operations like in Hawija (2015) and Mosul (2015), the MoD or PPS have not sent investigators to the sites of these incidents, due to security concerns.
- There is capacity for civilian harm investigations within the Royal Marechaussee (military police), but in the Hawija case the limited number of personnel in this team was already preoccupied with another investigation in Mali, leading to delays.⁴¹ It is unclear whether this staff shortage has subsequently been addressed.
- While investigations on the ground were more common during the ISAF period, internal record keeping was an issue. This became apparent for instance during a court case on a civilian harm incident in Chora, Afghanistan, during which the Dutch state could not provide the evidence to prove the use of force had been legitimate.⁴² Thus, while on paper good procedures were in place, it is difficult to determine to what extent they were consistently adhered to in practice.

3.3 REPORTS OF INVESTIGATION

INDICATOR DESCRIPTION

Reports of investigations include a description of the process followed, the evidence consulted and included (including witness statements), information about its factual and legal findings, and recommendations for preventing a recurrence of civilian harm.

SCORE **ENGAGED**

The MoD reports the initiation and outcomes of investigations to Parliament but does not standardise reporting on investigation details, methods, or lessons learned, which limits transparency and operational learning.

What evidence exists to support this?

The MoD has shown its commitment to report on investigations and has created a clear policy on reporting the start of a civilian harm investigation to Parliament in a timely fashion.

- The MoD communicates openly on their webpage on civilian casualties about ongoing and completed investigations. These include internal investigations as well as investigations by external parties such as the Sorgdrager inquiry into Hawija and the NIOD research on Afghanistan.⁴³

What gaps/caveats are important to consider?

While the MoD reports the initiation of an investigation and, later, the outcomes of an investigation to Parliament, it is not a standardised practice to report any details like information about the evidence or a description of the investigative methods that were used. Nor is it known publicly whether and, if so, how the MoD uses investigations to inform recommendations to prevent future harm. This makes it difficult to independently assess the quality of the investigations or the information that was used to reach a conclusion. Furthermore, without a conclusion that includes recommendations, operational and institutional learning is possibly hindered.

- In the Hawija case, the MoD was found by an independent commission to have misrepresented its investigations to Parliament as more formal and timely than they actually were.⁴⁴ A structured policy or framework on what details must be included in reports on investigations could fill this gap.

3.4 INTERACTION WITH RESPONSE MECHANISMS

INDICATOR DESCRIPTION

Investigations connect meaningfully to response mechanisms. Civilians who report incidents are informed of the possible response they can expect from the state. Acknowledgements of harm following the conclusion of an investigation address the next steps in terms of amends.

SCORE **ENGAGED**

During the ISAF mission, in-theatre investigations allowed for prompt responses. In later air campaigns like OIR, delays in investigations and a lack of standardised response mechanisms hindered timely action, though amends were provided.

What evidence exists to support this?

- During the Dutch mission in Afghanistan (ISAF), investigations were sometimes conducted in-theatre, for instance by Provincial Reconstruction Teams, which could lead to prompt responses, including in-person acknowledgements, expressions of condolence, and ex-gratia payments.⁴⁵
- The new reporting mechanism (see 2.1) ensures a case manager is assigned to each report, thus facilitating direct communication with reporters of harm.
- During OIR, two out of three investigated cases of civilian harm were followed up with a response, and the third case is currently under investigation.

What gaps/caveats are important to consider?

In missions since ISAF, investigations were often delayed due to limited possibilities for verification on the ground as later missions were mostly air campaigns like OIR, which at times led to a delay in the receipt and processing of reports. More generally, a consistent interaction with response mechanisms is lacking, due to the absence of a standardised response framework, leaving the prioritisation of response vulnerable to changes in political leadership.

3.5 CRIMINAL INVESTIGATIONS

INDICATOR DESCRIPTION

Incidents of a suspected criminal nature are referred to an independent, impartial investigative authority for investigating criminal violations.

SCORE **ENGAGED**

As a policy, the Public Prosecution Service (PPS) is immediately informed of possible civilian harm, with the Royal Netherlands Marechaussee (KMar) independently reporting weapon deployments and After Action Reports (AARs) to the PPS for independent reviews of military force legality. While this is a commendable system on paper, past practice has revealed considerable gaps in implementation and effective independent oversight.

What evidence exists to support this?

As a matter of policy, the Public Prosecution service (PPS) is informed immediately should there be a case of possible civilian harm.⁴⁶ It can then decide to start a criminal investigation, a factual investigation, or both.

- The Royal Netherlands Marechaussee (KMar) has liaisons embedded with units to independently report to the PPS on every weapon deployment. The KMar provides the PPS with every After Action Report (AAR) for an independent review of the legality of the military's use of force. This is standard practice within Dutch operations.
- The Public Prosecution Service has publicised parts of its approach to investigations into military use of force.⁴⁷

What gaps/caveats are important to consider?

The Sorgdrager commission report on Hawija reveals significant gaps in the interaction between the MoD and the PPS and the approach of independent oversight by embedded KMar officers.

- The Sorgdrager report describes that the Royal Marechaussee (KMar) officers embedded with OIR air force squads,

who report to the PPS on every weapon deployment, lacked training in video analysis, which left event interpretation solely to the commander. This undermined KMar's supposed role as an independent assessor of incidents. The present LEGAD also had not received training on reviewing video footage.⁴⁸

- During OIR, the MoD repeatedly informed Parliament that the Public Prosecution Service (PPS) would be notified of potential civilian casualty incidents. However, the first such notification did not occur until 1 March 2016, just under a year after the Mosul and Hawija strikes.⁴⁹
- The AAR is the primary trigger for PPS investigations. The MoD failed to follow its own guidelines by not including suspected civilian casualties in the AAR, thereby preventing timely PPS investigation.⁵⁰ However, the PPS also expects the MoD to communicate any additional signs of suspected civilian casualties beyond the AAR, even in the absence of formal agreements, which did not happen in the Hawija case.⁵¹
- A little under a year after the Hawija strike, the PPS initiated a fact-finding investigation conducted by a special investigative team from the KMar, Team 5. Due to a lack of capacity, partly because of a simultaneous Mali-related investigation, progress stalled by several months. The KMar conducted interviews but was ultimately unable to undertake a field investigation due to security concerns and lacked access to Five Eyes intelligence, limiting the scope to operational execution.⁵² It is unclear if these limitations, including regarding staff capacity, have been addressed since.
- When the KMar finally concluded its investigation into the Hawija strike, it took several months before the results were shared with the MoD.⁵³

RECOMMENDATIONS

Establish clear standards for assessments

The MoD should develop and publish clear guidelines for assessing the credibility of civilian harm reports. This will ensure consistent criteria for initiating investigations and enhance public understanding. This framework should be standardised across operations and include criteria for evaluating external reports from NGOs, media and other open sources.

Standardise and institutionalise investigation methodology

The MoD should formalise and institutionalise its investigative methodology, including site visits, witness interviews, the use of open-source information, and engagement with third party actors. It is also recommended that the MoD uses a sliding scale to determine the credibility of reports rather than binary categorisation (credible versus non-credible). These procedures should be outlined in public policies to the extent feasible, to ensure consistency.

Further increase transparency in public reporting

The MoD should improve transparency by publishing detailed reports of investigations. These public reports should include descriptions of the investigation process, evidence consulted, legal and factual findings and recommendations for preventing future harm as well as a detailed consideration of the possible provision of amends. This will ensure that lessons are learned and incorporated into future operations and that victims have access to facts.

Improve interaction between investigations and response mechanisms

The MoD should develop a formal, transparent process to ensure that investigation findings are directly linked to response mechanisms, including ex-gratia payments and operational changes.

4 PUBLIC REPORTING AND TRANSPARENCY

Indicators: Discloses time and location of operations; Civilian harm reporting; and Public disclosure of process and records

CATEGORY DESCRIPTION

Systems and procedures to ensure that the public and institutions of public oversight are made sufficiently aware of civilian harm, and to protect the right of victims to pursue remedy. Information may be limited or redacted due to privacy concerns for affected civilians, to safeguard other ongoing investigations or for national security reasons, but these reasons should be subject to review.

OVERALL SCORE **EMERGING LEADER**

The MoD has committed to reporting on civilian casualties resulting from Dutch operations. During operations, the MoD publishes weekly overviews of its engagements. The MoD has created policies with concrete steps for improved transparency, including periodic checks if transparency could be improved. In this area, the Netherlands is progressive compared to partners and allies. It has shown clear commitment to learn from past shortcomings. However, some gaps do remain in the MoD's approach. The new transparency policies have not yet been tested in high-intensity conflict scenarios, raising concerns about their practical application. The reports tend to focus only on direct casualties, omitting non-physical and reverberating effects on civilians. While some procedures and results are shared with Parliament, more details about investigative methodologies could be included.

4.1 DISCLOSES TIME AND LOCATION OF OPERATIONS

INDICATOR DESCRIPTION

Makes public information, to include time and location, of operations including airstrikes, except in circumstances when doing so would place civilians or security personnel at risk.

SCORE **EMERGING LEADER**

The MoD has released strike data from Operation Inherent Resolve (OIR) and committed to future transparency in various policies, though gaps remain over the vagueness of security risks, delayed publication of data, and limited details on the strikes' munitions and connections to civilian harm incidents.

What evidence exists to support this?

The MoD has released strike data from Operation Inherent Resolve (OIR) in March 2023, has committed to future transparency, and involves Parliament in determining the permissible level of disclosure, thus emerging as a leader compared to allies when it comes to transparency on operations.

- The MoD published a weekly overview of strikes conducted during OIR and retroactively released a dataset on all strikes conducted in both deployment periods of OIR.⁵⁴ The dataset did not include details on civilian harm, but this was because no instances of possible harm were known to the MoD at that time.
- The MoD has committed to striving for this level of transparency in future missions, as well as communicating the expected level of transparency before the start of a new mission and periodically testing whether the level of transparency can be increased. This is unique compared to partners and allies.⁵⁵
- As a matter of policy, Parliament is included in the considerations of the Ministry regarding the degree of public transparency that is considered permissible at that time in the context of security.⁵⁶

What gaps/caveats are important to consider?

- The MoD often presents 'risks to personnel and operational and national security' as an argument against further transparency yet remains vague on what this actually looks like and when those risks are expected to have been mitigated.⁵⁷
- It is commendable that the MoD published detailed strike data from OIR retroactively, but it took several years for the MoD to reach this level of transparency, which impeded external monitoring of Dutch military operations while the mission was ongoing. Moreover, strike data did not include details on the type of munition that was used.
- The weekly overview of strikes, similarly, did not facilitate external monitoring: By disclosing information on military operations on a weekly basis only, civil society monitoring organisations often cannot connect information about specific civilian harm incidents to specific strikes, thereby frequently obscuring information on which coalition country was or could have been responsible for executing the particular airstrike that is believed to have resulted in civilian harm. This can impede external accountability processes.

4.2 CIVILIAN HARM REPORTING

INDICATOR DESCRIPTION

Regularly issues and disseminates reports on civilian harm resulting from military operations that includes an estimate of casualties, the source of harm, the type of harm experienced, and the location of the incident(s) and any reasons for discrepancies with estimates or accounts from other sources such as NGOs or the media.

SCORE **EMERGING LEADER**

The MoD has distinct policies on transparency, sharing civilian casualty allegations and investigation outcomes with Parliament, while also committing to pre-mission risk communication and periodic reviews, though concerns remain about the lack of attention to non-physical effects, the non-reporting of harm caused by other coalition partners, and the potential impact of these policies during high-intensity conflicts.

What evidence exists to support this?

The MoD has distinct policies on transparency and therein commits to promptly sharing civilian casualty allegations and investigation outcomes with Parliament. It has further improved transparency through pre-mission risk communication and periodic reviews.⁵⁸

- The step-by-step approach (2022), for instance, ensures that the risk of civilian casualties is communicated with Parliament before the start of a mission in Article 100 letters. It also ensures the level of transparency is periodically checked and improved if possible. Before the start of the mission, Parliament is also informed on the expected level of transparency in the MoD's communication on civilian casualties. This policy is thus specifically geared towards enhancing transparency on civilian casualties and is progressive compared to allies.⁵⁹
- The MoD has committed to annually sharing with Parliament the total number of reports received through the reporting portal.
- While past reports of civilian casualty incidents were delayed, they ultimately did include descriptions of what occurred and approximately where.
- The Netherlands is a signatory of the EWIPA declaration, and has thus committed itself to collect, share, and make publicly available disaggregated data on the direct and indirect effects on civilians and civilian objects of military operations involving the use of explosive weapons in populated areas, where feasible and appropriate.⁶⁰

What gaps/caveats are important to consider?

- Reports and risk-assessments lack attention to non-physical and reverberating effects on civilians. Instead, they only note direct civilian casualties.
- It is not mandatory for the periodic transparency test to be carried out by an actor external to the MoD.
- As the Netherlands has not engaged in high-intensity conflict since new transparency policies were published, it remains to be seen how some policies will be implemented in practice and if they are adaptable to different conflict settings, such as large-scale combat operations (LSCOs).
- The reporting policy does not standardise what should be included in the reporting on civilian harm, which is necessary for a Leader score.
- Parliament is only informed of civilian casualties resulting from Dutch use of force; the MoD does not have a standard policy for reporting on harm caused by other coalition partners, while this too constitutes important information for public and parliamentary decision-making related to participation in military missions.
- Similarly, the reporting portal only assesses reports on Dutch use of force, but the webpage does not specify whether, once assessed that another actor was responsible for an incident, the report will be forwarded.
- During OIR, the MoD relied on and referred to CENTCOM for its monthly reports on civilian casualties resulting from coalition engagements.⁶¹ As the MoD only received reports from CENTCOM on 'credible' allegations of harm resulting from Dutch use of force, other allegations potentially remained unreported.
- Throughout the political debate about the Hawija case (see textbox on the next page), the MoD often asserted the number of casualties could not be established, nor that it could be known who among the casualties were civilians and who were ISIS fighters. The MoD has maintained this reasoning after PAX, Al-Ghad and Utrecht University released a detailed report on the incident, based on interviews with survivors.⁶² Additionally, the MoD has argued that releasing the number of harmed civilians during Dutch operations could be a risk to operational, personnel and national security.
- Overviews of civilian harm cases during the Dutch mission in Afghanistan (ISAF) are available but were not proactively shared, rather these can be found only in three different bundles of FOI documents, one of which is irretrievable but is referred to as if publicly accessible in recent answers to questions from Parliament.⁶³

Acknowledged civilian casualty events during Operation Inherent Resolve

The Dutch contribution to Operation Inherent Resolve (OIR), aimed at defeating ISIS, mostly consisted of air support. In 2015, Dutch forces targeted a building in Hawija, Iraq, but were unaware of the amount of improvised explosive devices stored there. Consequently, the airstrike resulted in a large secondary explosion. This led to the estimated loss of at least 85 civilian lives,⁶⁴ although there has been no official death count established by government institutions. The case was brought to public attention in 2019 through media reporting.⁶⁵ It received widespread attention because Parliament had not yet been informed about certain details of the incident, and the Minister of Defence had on one occasion misinformed Parliament about the number of casualties during the Dutch deployment.

Fallout from the Hawija incident led to an acceleration of important policy developments in the Netherlands with regards to civilian harm mitigation and response. In 2020, the Minister of Defence proposed a new policy on improving transparency, claiming a 'culture shift' is underway.⁶⁶ In 2022, further policy steps to improve the Netherlands' ability to investigate and report on civilian harm were introduced.⁶⁷ In 2023, two community reconstruction projects initiated by the Dutch MoD to address some of the harm caused by the 2015 airstrikes were finalised (see also the textbox 'Hawija reconstruction' on p. 39). An independent inquiry by the Sorgdrager commission published a report early 2025 in which the Hawija incident is analysed in depth and provides thorough recommendations.⁶⁸

Another civilian harm incident associated with Dutch military operations took place in Mosul in September 2015, when the Netherlands launched an airstrike against an alleged ISIS headquarters. It later turned out that the Coalition had misidentified the target which, in reality, constituted civilian residences. The airstrike killed four civilians. One of the few survivors, Mr. Basim Razzo, was severely injured by the airstrike and initiated a search for the truth, public recognition that his killed family members were civilians, and for amends.⁶⁹ After several years, it was revealed that the Netherlands had been responsible for the airstrike. In 2020, Mr. Razzo received a voluntary payment from the Dutch Ministry of Defence. His case is a rare instance of compensation offered for civilian harm caused by Coalition airstrikes during OIR.⁷⁰

4.3 PUBLIC DISCLOSURE OF PROCESS AND RECORDS

INDICATOR DESCRIPTION

Releases information about mitigation tactics, investigative processes and records to the public whenever possible. Shares criteria used for the 'credibility' assessment and investigation of harm allegations.

SCORE **ENGAGED**

The Dutch MoD has established robust transparency policies, including informing Parliament about investigations, targeting procedures, and civilian harm mitigation; however, the details of investigations and assessment criteria are often not publicly disclosed, and a clear definition of civilian harm is absent.

What evidence exists to support this?

The Dutch MoD has a good record of creating robust policies aimed to facilitate transparency about its operations.

- There is a set policy since 2020 to inform Parliament of the start and the result of an investigation.⁷¹
- The Minister has informed Parliament (after receiving questions in the aftermath of Hawija) in detail about targeting procedures, the role of the Red Card Holder, how BDAs are conducted and AARs get disseminated, and how civilian harm is mitigated throughout these processes, e.g., by striking at night when less people are present in the target area.⁷²
- The step-by-step approach (2022) details that Article 100 letters can include an assessment of the transparency, investigation and compensation regime of both the Netherlands and the coalition (if applicable).

What gaps/caveats are important to consider?

Reports on the start and result of investigations rarely include further relevant details, such as the methodology of those investigations.

- Most records that do detail this, i.e., internal documents, are only available after FOI requests or trials instead of being proactively shared by the MoD.
- The MoD has not publicised what constitutes a ‘credible’ allegation or what its assessment criteria are more generally. Therefore, it is unclear what information is omitted in MoD communication that could otherwise have been verified by civil society.
- The MoD is not required to report on allegations it receives or reports that only make it to the ‘assessment’ phase.
- The MoD does not have a publicly available definition of civilian harm.
- It is not mandatory for Article 100 to include an assessment of the transparency, investigation and compensation regime of both the Netherlands and the coalition. How the MoD determines when this is applicable is not explained in the step-by-step approach.

RECOMMENDATIONS

Ensure comprehensive civilian harm reporting

Reports typically include descriptions of incidents and the general location but tend to focus on direct casualties, leaving out the broader effects on civilians. Additionally, reports of civilian harm caused by coalition partners are not regularly shared. To enhance transparency, the MoD should implement a policy for routinely reporting all civilian casualties, including those caused by coalition partners – without necessarily identifying the nation responsible – and should report more information on indirect and reverberating forms of harm.

Publicly disclose processes and records

The MoD has shared some information about targeting procedures and civilian harm mitigation with Parliament. However, it lacks a publicly available definition of civilian harm and detailed transparency regarding its investigative methodologies. Most documents that do include this information are only available through FOI requests, which limits public access. To improve transparency, the MoD should proactively publish its criteria for what constitutes a credible allegation and provide more detailed insights into the processes used to assess proportionality and conduct investigations.

Prepare to implement existing transparency policies in high-intensity conflict

Although the MoD has introduced policies aimed at improving transparency, these have not been tested in high-intensity conflict situations. Past missions like OIR revealed gaps in communication, particularly in reporting on civilian harm. Moving forward, the MoD should ensure that these transparency policies are actively applied in future operations, particularly as the military prepares for more complex and large-scale conflicts. This would demonstrate a commitment to institutional learning and help mitigate harm in future engagements.

5 POST-HARM RESPONSE

Indicators: Process for amends;
Acknowledgement and; Comprehensive,
victim-centred condolence

CATEGORY DESCRIPTION

Efforts to acknowledge and express condolence for harm, to include offers of monetary and non-monetary forms of post-harm assistance.

OVERALL SCORE **ENGAGED**

The MoD's approach to offering amends for harm caused by operations is, as of yet, not standardised, although it has a history of providing various types of amends. While there is evidence of ad hoc ex-gratia payments and community compensation efforts, these have, at times, been delayed, insufficiently aligned with victims' needs, and have not been part of a transparent framework. The lack of a formalised response procedure has resulted in an approach where compensation efforts are reactive rather than proactive.

Hawija reconstruction

Following the 2015 airstrike in Hawija, Iraq, which led to a high number of civilian casualties as well as infrastructure damage, the Netherlands initiated community reconstruction efforts in 2020, spending over four million euros. UN organisations IOM and UNDP implemented the projects, which were aimed at restoring essential services like the electrical grid, and rebuilding storefronts, as the 2015 airstrike had caused widespread damage to Hawija's industrial-economic area, leading to loss of livelihood for many residents. The projects are a rare example of a state seeking to amend for other forms of harm than direct civilian casualties.

However, the projects have not been well received by many of those who were negatively affected by the 2015 airstrike, for a number of reasons. There was, for instance, only limited overlap in the projects' beneficiaries and those impacted by the airstrike: many survivors had either moved out of Hawija by the time the reconstruction projects started or had experienced other, often more dire, forms of harm that were left unaddressed. This includes those who had lost loved ones in the aftermath of the airstrike, who had sustained permanent and life-altering injuries, or who had lost their houses and all of their belongings. Many direct victims of the attack have indicated that their preferred response from the government includes formal apologies and individual compensation, but they received neither.⁷³ Furthermore, while the Dutch MoD initiated the projects in response to the 2015 airstrike, this was not directly communicated to the airstrike's survivors in Iraq, many of whom remain unaware of the connection to this day.

Finally, the project implementers - Iraqi departments of IOM and UNDP - enjoy little legitimacy in this area of Iraq and some of their programmes have been accused of corruption.⁷⁴ Combined, all this has led to perceptions that the projects are top-down in nature, lacking the community-driven focus essential for genuine recovery and resilience.

5.1 PROCESS FOR AMENDS

INDICATOR DESCRIPTION

The government implements a functional, timely, and adequately resourced process to receive and process requests and proactively provides monetary and non-monetary amends for harm caused by operations.

SCORE **ENGAGED**

The MoD has provided compensation in various instances, including ex-gratia payments during ISAF and to individuals and communities affected by Dutch strikes, but lacks a formal, standardised compensation framework, with responses being ad hoc and dependent on the situation.

What evidence exists to support this?

There are several examples of compensation provided to victims by the MoD or forces in-theatre. Some notable examples are:

- During ISAF in Afghanistan, Dutch troops regularly made ex-gratia payments in-theatre and provided medical care to people harmed by their actions.⁷⁵ Some sort of standardised response procedure was likely in place within Task Force Uruzgan, but this information is not publicly available. According to a Ceasefire Centre for Civilian Rights report, the Netherlands authorised the use of on-the-spot payments of up to \$500, which troops could issue for property claims.⁷⁶ Aside from this, property claims up to \$1,500 could be approved by legal advisors, and property claims higher than \$1,500 required the approval of a Task Force Unit Commander. Claims for personal injury and death were considered on a case-by-case basis during ISAF. According to Ceasefire, "The Netherlands employed a high burden of proof and would only issue payments where it was established 'beyond doubt that Dutch forces caused the harm', and forces were proactive in gathering evidence".⁷⁷
- The US-led Coalition against ISIS initially offered an ex-gratia payment of \$15,000 to Mr Bassim Razzo in 2020, who lost family members in a Dutch strike on Mosul. Mr Razzo recounted to The New York Times that he refused this offer because he felt the amount was too low and therefore insulting. Several years later and five years after the strike on his home, the Dutch MoD paid a larger but unknown amount after consultations with Mr Razzo and his Dutch lawyer.⁷⁸
- The MoD has provided a community-level response in the form of restoration of infrastructure and basic services in Hawija in 2022-23 (see text box).⁷⁹ The Minister detailed in a letter to Parliament that consideration had been given to providing individual ex-gratia payments, but ultimately decided against this as the strike had been legitimate and the Ministry wished not to create a precedent of providing compensation for cases in which the Ministry was not legally obligated to do so.

What gaps/caveats are important to consider?

A general response framework is not in place. Therefore, the MoD's responses remain ad hoc.⁸⁰

- Though the MoD has created a civilian harm reporting portal, without a proper response framework there is a risk that when the question of amends arises this is still resolved with legal instruments, which may not align with victims' initial wishes or expectations. The webpage for the reporting portal (see 2.1), does not detail what reporters can expect if their allegation is indeed deemed credible and whether receiving amends is an option.
- Most detailed information on past ex-gratia payments (including amounts paid and for what) was made accessible after FOI requests.
- The MoD had foreseen that ex-gratia payments would have to be made in cases where Dutch use of force resulted in civilian casualties from the start of OIR in 2014 but did not share or implement this intended approach.⁸¹ In some letters to Parliament during OIR, the Minister referred to the Iraqi authorities as being the primary responsible actor for compensating harm or damage.⁸²
- During OIR, the Claims Section of Defence's Legal Service was tasked with handling damage claims arising during overseas operations. In general, almost every deployment or mission is based on a treaty or agreement in which the aspect of claims is regulated. Although OIR took place in a coalition context, it fell under the national flag. The Netherlands did not make any agreements with Iraq about claims. This meant that all possible claims submitted to the Netherlands would have to be investigated by the Netherlands itself. If claims were submitted from Iraq to the Dutch authorities as a result of civilian deaths, the aforementioned Claims Section would be the first point of contact. However, the Claims Section had no experience with such claims, according to internal information cited in the report by the independent Sorgdrager commission that investigated the Hawija strike.⁸³
- Following public criticism by various media and Parliamentarians regarding the Hawija compensation projects (see also the text box 'Hawija reconstruction' on page 39), the MoD has acknowledged that victims may not have been satisfied with the Netherlands' response due to a lack of individual compensation, but maintained that the community projects achieved their intended goals.⁸⁴
- While the step-by-step approach (2022) details that Article 100 letters must include an assessment of the compensation mechanism in place within the coalition as well as the Netherlands' own regime when relevant, the MoD has not done so in Article 100 letters that came after, such as for the various missions in the Red Sea the Netherlands contributes to.⁸⁵

5.2 ACKNOWLEDGEMENT

INDICATOR DESCRIPTION

The government publicly acknowledges responsibility for harm.

SCORE **EMERGING LEADER**

The Minister of Defence has acknowledged responsibility for causing civilian casualties in some cases through letters to Parliament, but without offering public apologies or direct communication with the affected individuals in their language.

What evidence exists to support this?

In letters to Parliament, the Minister of Defence acknowledged responsibility for the Netherlands having caused civilian casualties in several cases, without admitting legal liability. This distinction is always made clearly.⁸⁶ Through these letters, the government also indirectly expressed sympathy and condolences to the victims, although often years after the incidents' occurrence due to delays in investigations.⁸⁷

What gaps/caveats are important to consider?

- The government has not issued public apologies for civilian harm cases.
- The MoD's practice in offering acknowledgement is to do so through letters from the Minister to Parliament. These letters are always in Dutch. There do not appear to be additional efforts to provide acknowledgement directly to those affected and in the appropriate language, as far as publicly available.

5.3 COMPREHENSIVE, VICTIM-CENTRED CONDOLENCE

INDICATOR DESCRIPTION

Policies governing the offer and provision of condolences should be broadly defined, culturally appropriate and sensitive to local needs as defined by those affected.

SCORE **ENGAGED**

The MoD has shown willingness to consult with victims, as evidenced by compensation for livelihood loss during ISAF and the Hawija reconstruction projects, though responses remain ad hoc, lack a comprehensive policy, and fail to fully consider victims' preferences, particularly in Hawija.

What evidence exists to support this?

Throughout the years, the MoD has shown willingness to consult with victims on how to best address different types of harm caused by Dutch operations. For instance:

- FOI documents show that during ISAF, ex-gratia payments were made to compensate for loss of livelihood, for instance when wheat fields caught fire, or when a dog was accidentally killed.⁸⁸
- The Hawija reconstruction projects were intended to address reverberating effects of the 2015 Dutch airstrike on Hawija, such as loss of income by restoring destroyed storefronts, as well as restoring basic infrastructure like the electrical grid.⁸⁹
- In 2024, the Minister announced the MoD will look into the possible provision of medical care to children injured in the Hawija strike. Receiving medical care was a preferred form of condolence of some victims.⁹⁰

What gaps/caveats are important to consider?

Without a comprehensive response policy detailing various options, civilian harm response will remain ad hoc and runs the risk of falling to the background in larger scale operations when reaching out to victims is more difficult.

- The MoD does not have a publicly available definition of civilian harm. Moreover, official policy never mentions this term, but only speaks of civilian casualties. A comprehensive view of loss is thus not part of current policy, creating a potential blind spot for how to address harm other than physical injury or death.
- Victims and survivors of the Hawija strike did not feel included in the way the MoD decided to respond.⁹¹ By choosing to design the response on a community-level basis, the MoD did not consider that many of those affected by the Dutch airstrike in 2015 had since moved out of Hawija. As a result there was little meaningful overlap between the project beneficiaries and those who had been harmed by the airstrike.
 - Moreover, the community-based restoration projects that were executed were not sufficiently brought to the community's attention (e.g., signs in English instead of Arabic by the construction sites).⁹² Nor was it publicly communicated to those in Hawija that the projects were funded by the Netherlands as a means to make amends for the Dutch airstrike, thereby impeding an important potential reparative aspect of these projects from the perspective of those who were harmed.
 - When the independent Sorgdrager commission visited Hawija, survivors and beneficiaries of aid projects expressed deep dissatisfaction and anger. The relief efforts were perceived as insignificant in addressing the damage caused.⁹³ Compensation efforts, conducted through IOM and UNDP projects, were deemed "too little, too late" by Hawija residents.⁹⁴

RECOMMENDATIONS

Enable access to amends through standardised policy

A civilian harm amends policy should be established to enable the effective processing of claims and requests, across different types of operations. When there is no ground presence, allow requests to be processed through embassies, bases, local intermediaries as well as online platforms, in line with best practice.⁹⁵ These processes must be inclusive to various types of harm. Amends schemes should be actively brought to the attention of civilians who report.

Implement a comprehensive view of response

Future compensation efforts should be informed by the needs and preferences of victims as much as possible. The MoD should consult affected individuals and communities before implementing compensation projects, ensuring that both monetary and non-monetary forms of compensation are appropriate and culturally sensitive. The MoD's official policies should expand beyond physical casualties to recognise a broader range of harms, such as psychological, social, economic and environmental impacts. This more comprehensive definition of harm would allow for continuous meaningful and effective responses to civilian harm.

Emphasise moral responsibility in amends policy

While strategic arguments for response can help create buy-in for a progressive amends policy within the military, future policies on amends should include an emphasis on the inherent moral responsibility of recognising and addressing civilian harm across different types of operations, incorporating a full spectrum of responses, including public acknowledgments and formal apologies.

APPENDIX

Glossary & Acronyms

GLOSSARY

A

After Action Report (AAR)

A retrospective analysis of a unit's action and its effectiveness, often written upon return to base.

Assessment

A process in which reported civilian harm is analysed to determine responsibility and the necessity of further investigation.

B

Battle Damage Assessment (BDA)

An assessment of damage inflicted on a target from a stand-off weapon, most typically a bomb or air launched missile, directly following the engagement. Some militaries include an assessment of potential civilian casualties in their BDA process.

C

Civilian harm

A range of adverse effects to civilians caused by military operations. This can include direct, indirect and reverberating effects such as physical injury, death, destruction of infrastructure, destruction of cultural heritage, psychological trauma, loss of livelihood, environmental pollution.

Civilian harm mitigation and response (CHMR)

The attempt to decrease risks to civilians in conflicts to prevent civilian harm from own operations, and how governments or military forces respond when harm does occur.

Civilian harm tracking

A process to record, assess and analyse a range of negative effects on civilians caused directly or indirectly by armed actors who are parties to conflict. The primary purpose of civilian harm tracking is to identify the military tactics, strategies and operations which have negative consequences for civilians. The information gathered enables armed actors to respond appropriately to specific instances of civilian harm (for example, by offering compensation), and inform operational guidance and decision making in order to minimise future harm.

Collateral Damage Estimate (CDE)

A formalised mathematical process used by target support cells to gauge the potential number of civilian casualties before conducting a strike. Accordingly, targeteers may alter the munitions, timing and other factors to decrease the CDE. Militaries often maintain a maximum CDE. Any strike where the CDE is higher then needs additional authorisation or cannot proceed at all. The details of the CDE process are usually classified.

E

Ex-gratia payment

A voluntary compensation payment made by a government or military to victims or survivors to amend civilian harm, either in-theatre or after time has passed. This payment is not an acceptance of legal liability.

H

Human Security (HS)

An approach that focuses on protecting individuals' safety and well-being by addressing a wide range of threats to their survival, livelihood, and dignity, including armed conflict, gender-based and sexual violence, human trafficking, cultural property destruction and other human rights abuses. The Protection of Civilians also falls under HS efforts.

I

International Security Assistance Force (ISAF)

A multinational military mission in Afghanistan from 2001 to 2014, established by United Nations Security Council Resolution 1386. ISAF's primary goal was to train the Afghan National Security Forces (ANSF) and help rebuild key government institutions, but it gradually also took part in combating the Taliban insurgency. The US, UK and the Netherlands contributed troops. A notable period is the command of General Stanley McChrystal from 2009-2010, in which greater emphasis was placed on protecting civilians through tactical directives.

Investigation

A thorough administrative or criminal inquiry into civilian harm incidents following an initial assessment, in order to identify the cause of harm, potential mistakes during targeting processes and to determine responsibility and liability. In some cases, a review of response measures taken can be part of the investigation.

O

Operation Inherent Resolve (OIR)

A US-led coalition campaign in Iraq and Syria to combat Islamic State that started in 2014 and is still ongoing. Also sometimes referred to as Combined Joint Task Force Operation Inherent Resolve (CJTF-OIR). The UK and the Netherlands are both part of the coalition.

Operation Poseidon Archer (OPA)

An ongoing military operation by the United States and United Kingdom against the Houthi movement since January 2024. The UK and US have executed airstrikes in Yemen as part of this operation.

Operation Prosperity Guardian (OPG)

A United States-led defensive coalition operation formed in December 2023 in response to Houthi-led attacks on shipping in the Red Sea. The British and Dutch Navy have contributed to protecting the passage of commercial ships in the Red Sea.

P

Protection of Civilians (PoC)

Actions taken by states, international organisations and armed forces to shield non-combatants from a broad range of harm caused by own operations or other actors during conflicts or crises. It includes the safeguarding of civilians from physical harm, displacement, exploitation, violations of human rights, and facilitating the delivery of aid and support to vulnerable populations in conflict zones, especially in areas of armed conflict or instability.

Public Prosecution Service (PPS)

‘Openbaar Ministerie’ in Dutch. The Public Prosecution Service is the body of public prosecutors in the Dutch criminal justice system.

R

Response/amends

The remedial actions taken by militaries and governments after civilian harm has been caused. This can include actions such as the provision of (in-theatre) ex-gratia payments, formal or informal apologies, expressions of sympathy/condolence, providing medical care, reconstruction, etc. Response can take place both at the individual and community level.

Royal Netherlands Marechaussee (KMar)

The Royal Netherlands Marechaussee has three core tasks: border control, security and surveillance, and international and military police tasks. The KMar acts as a police force for all Defence elements. KMar brigades and posts are stationed at barracks, military air bases and naval ports, as well as with units of the Netherlands armed forces abroad. The KMar reports directly to the PPS, including on every instance of the use of force, after which the PPS examines the legality of the use of force.

LIST OF ACRONYMS

AAR	After Action Report
BDA	Battle Damage Assessment
CHMR	Civilian Harm Mitigation and Response
CHoD	Chief of Defence
CSOs	Civil society organisations
DoD	Department of Defense
EWIPA	Explosive Weapons in Populated Areas
FOI	Freedom of Information
IHL	International Humanitarian Law
ICC	International Criminal Court
ISIS	Islamic State in Iraq and Syria
ISAF	International Security Assistance Force
KMar	Koninklijke Marechaussee (Royal Netherlands Marechaussee)
LSCOs	Large-scale combat operations
MFA	Ministry of Foreign Affairs
MoD	Ministry of Defence
NATO	North Atlantic Trade Organisation
NDAA	National Defense Authorization Act
NGO	Non-governmental organisation
NIMH	Netherlands Institute for Military History
NIOD	Nederlands Instituut voor Oorlogsdocumentatie (Dutch Institute for War and Genocide studies)
OIR	Operation Inherent Resolve
OPA	Operation Poseidon Archer
OPG	Operation Prosperity Guardian
PoC	Protection of Civilians
PPS	Public Prosecution Service
PRT	Provincial Reconstruction Team
SOP	Standard Operating Procedures
SOF	Special Operation Forces
US CENTCOM	United States Central Command
UN	United Nations

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- 10 Ministerie van Defensie. "Kamerbrief Stappenplan inzake burgerslachtoffers bij inzet in het kader van artikel 100 van de Grondwet," April 7, 2022. <https://www.tweedekamer.nl/downloads/document?id=2022D14088>.
- 11 See, for instance the 2024 [Article-100 letter](#) on the Dutch maritime contribution to Operation Prosperity Guardian in the Red Sea. Describing a coalition's investigation and amends processes is not only a requirement outlined in the Step-by-step approach but is also part of an accepted motion (Diks, [35363-4](#)).
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