

# Protection Of Civilians

PROTECTION SERIES: 4/2022

## Civilian harm reporting mechanisms

A useful means to support monitoring and accountability?



# Table of contents

<b>List of acronyms</b>	<b>4</b>
<b>1. Introduction</b>	<b>5</b>
1.1 Case selection	5
1.2 The potential utility of reporting mechanisms	6
<b>2. Key findings and recommendations</b>	<b>8</b>
2.1 Key findings	8
2.2 Recommendations	9
<b>3. Reporting channels in practice: 3 case studies</b>	<b>11</b>
3.1 The African Union Mission in Somalia (AMISOM)	11
3.2 US Africa Command (AFRICOM)	18
3.3 US Department of Defense (DoD)	25
<b>4. Methodology</b>	<b>31</b>

## Colophon

© PAX, May 2022

Author: Erin Bijl, with assistance from Iris Muste

Editor: Dorothy van Schooneveld

Cover photo: AMISOM soldiers fan out along the convoy after gunfire was exchanged with Al-Shabaab,

October 19, 2020 (AU-UN IST Photo / Stuart Price).

Lay-out: Ondergrond.Agency

## ACKNOWLEDGEMENTS

I first and foremost want to thank all interviewees – whether they contributed by name or anonymously – for their willingness to provide me with their time and valuable insights. Further thanks go to Iris Muste, Archibald Henry, and Wilbert van der Zeijden.

## PAX AND THE PROTECTION OF CIVILIANS PROGRAM

PAX means peace. Together with people in conflict areas and concerned citizens worldwide, PAX works to build just and peaceful societies across the globe. PAX brings together people who have the courage to stand for peace. The PAX Protection of Civilians (PoC) program seeks to increase the effectiveness of PoC interventions by enabling civilians to hold local and international security actors to account, and by enabling and motivating security actors to design and implement protection strategies that are civilian-centered.

PoC@paxforpeace.nl

www.protectionofcivilians.org

## DONOR SUPPORT

This report was made possible with financial support from the Dutch Ministry of Foreign Affairs, Department for Stabilization and Humanitarian Aid (DSH).

# List of acronyms

AFRICOM	(United States) Africa Command
AMISOM	African Union Mission in Somalia
AQAP	Al-Qaeda in the Arabian Peninsula
AU	African Union
CCTARC	Civilian Casualty Tracking, Analysis and Response Cell
CENTCOM	(United States) Central Command
CHM	Civilian Harm Mitigation
CIA	Central Intelligence Agency
CJTF-OIR	Combined Joint Task Force - Operation Inherent Resolve
DoD	(United States) Department of Defense
EU	European Union
IED	Improvised Explosive Device
INGO	International non-governmental organization
ISIS	Islamic State of Iraq and Syria
MP	Member of Parliament
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organization
PoC	Protection of Civilians
SOP	Standard Operating Procedure
T/PCC	Troop/Police Contributing Country
UN	United Nations
UNSC	United Nations Security Council

# 1. Introduction

This report is about the nascent practice of security actor-implemented reporting mechanisms: means and channels allowing civil society organizations and (affected) civilians to directly report an allegation of civilian harm to the security actor they deem responsible. A reporting mechanism can be a simple form on a website, a dedicated phone line, or even a physical office where allegations can be reported in person. What can and cannot be reported by civilians varies as well, ranging from solely military-caused civilian deaths, to including matters such as physical injuries and property damage caused by security forces.

Currently, only a handful of security actors have implemented reporting mechanisms, but calls for wider implementation are increasing.<sup>1</sup> A growing number of military missions and institutions experiment with or already implement civilian harm tracking activities and tools, responding to a broadening external demand for accountability for military actors.<sup>2</sup> The reporting mechanisms studied in this paper contribute to these efforts by building an interface that allows missions to incorporate information that is not generated by military actors but by the civilians affected by conflict or by the non-governmental organizations (NGOs) representing those civilians. At PAX we believe it is important to identify existing reporting mechanisms and assess their functionality, so as to learn from current experiences, identify recommendations for future applications, and promote good practice.

To that end, this report looks at three case studies of currently existing reporting mechanisms as set up by the African Union Mission in Somalia (AMISOM), by the United States Africa Command (AFRICOM) and by the United States Department of Defense (DoD). For each case we discuss the scope and type of the implemented reporting mechanisms, their merits, and their limitations as identified by subject matter experts drawn from relevant civil society and/or (former) mission staff. For each case, the report moreover provides targeted recommendations for improved practice (included in the case study sections), distinct from the general recommendations that can be found in the 'Key findings and recommendations' section.

## 1.1 Case selection

There are only a few practical examples of security actors implementing formalized reporting channels. That said, the list of existing reporting mechanisms in this report is not exhaustive. The three case studies in the present report were selected because there is public record of their

<sup>1</sup> InterAction et al., "Civil Society Guidance for a Model Policy on Civilian Harm," Brief (InterAction et al.: 2020); Dan Mahanty et al., "In Search of Answers: U.S. Military Investigations and Civilian Harm," Report (Center for Civilians in Conflict & Columbia Law School Human Rights Institute: 2020).

<sup>2</sup> Besides the included case studies, some recent examples include the incorporation of civilian harm tracking activities in several UN peacekeeping mission mandates; the G5 Sahel Joint Force's Civilian Casualties Identification, Tracking and Analysis Cell (CITAC); and the Armed Forces of Ukraine's Civilian Casualties Provisional Tracking Group (CCPTG).

application and because for these cases military and civilians with direct experience were willing to share their thoughts and findings. We invite others to direct us to additional examples and share their experiences, as we seek to broaden our understanding of reporting mechanisms by expanding the pool of examples to draw lessons from. The cases further illustrate civilian harm *tracking* efforts, as opposed to the distinct practice of civilian casualty *recording*.<sup>3</sup> Our interest lies with steps taken by security actors to enhance their visibility with and accountability towards the civilians affected by their own operations. Finally, this report focuses specifically on reporting channels for civilians and civil society organizations, and does not include analysis of reporting channels used internally in military missions by mission staff exclusively.

## 1.2 The potential utility of reporting mechanisms

As a practice, the setting up of reporting mechanisms can be regarded as part of larger civilian harm mitigation (CHM) efforts: actions “taken to anticipate, avoid, minimize, and respond to civilian harm as a consequence of kinetic military operations”.<sup>4</sup> PAX has elsewhere written extensively on this topic and the moral, as well as military-strategic reasons we see for security actors to comprehensively track, analyze and address the negative effects of their operations on civilians.<sup>5</sup> Morally, security actors have a duty to civilians to provide information and acknowledge the harm they cause them, even if accidentally, enabling civilians to understand what happened to them or to their loved ones, and to offer assistance when needed. Reporting mechanisms can, from this perspective, be an important step towards enabling civilians to directly seek information or recourse for harm that has befallen them. This report considers civilian harm caused by military operations regardless of whether it occurred within legal parameters or not. However, it is important to note that when civilians report harm as a consequence of international human rights law or international humanitarian law violations, they enjoy additional legal rights to reparation and to access regarding information about what occurred and what reparation mechanisms exist.<sup>6</sup>

From a military-strategic perspective too, it is important that security actors recognize and address the civilian harm they cause. Lack of transparency, lack of acknowledgement and the absence of a system of fair compensation or amends may feed hostile sentiments, create space for misinformation and propaganda by other actors, and can lead to a loss of legitimacy of a security actor in the eyes of the population.<sup>7</sup> With a trend towards ever more remote forms of warfare – where security actors diminish their ground presence in favor of using weapons like long-distance rockets, missiles, and drones – it becomes particularly important to continue to establish means through which (affected) civilians can meaningfully engage with the military actors that have caused harm, not least because it becomes more difficult for them to identify

the actor responsible for the harm they have been caused, and to seek redress.<sup>8</sup> It is worthwhile to explore the extent to which implementing reporting mechanisms can aid tracking, investigation and amends-making processes.

<sup>3</sup> For an explanation of the distinction see “Casualty recording and civilian harm tracking,” Every Casualty Counts, accessed January 20, 2022, <https://everycasualty.org/knowledge-base/casualty-recording-and-civilian-harm-tracking/>.

<sup>4</sup> Center for Excellence in Disaster Management and Humanitarian Assistance, “Best Practices for Civilian Harm Mitigation and Response in U.S. Military Operations,” Handbook (CFE-MHA: 2021), 2.

<sup>5</sup> See, for instance, Erin Bijl and Wilbert van der Zeijden, “Civilian harm tracking, analysis and response: What it is and why it matters,” Position paper (PAX: 2020).

<sup>6</sup> United Nations General Assembly, “Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,” (United Nations: 2006).

<sup>7</sup> Christopher D. Kolenda et al., “The Strategic Costs of Civilian Harm: Applying Lessons From Afghanistan to Current and Future Conflicts,” Report (Open Society Foundations: 2016).

<sup>8</sup> Liam Walpole and Megan Karlshøj-Pedersen, “Forging a New Path: Prioritising the Protection of Civilians in the UK’s Response to Conflict,” Report (Oxford Research Group: 2020).



# 2. Key findings and recommendations

The reporting mechanisms as implemented by AMISOM, US AFRICOM and the US DoD were used as case studies for this report. These range from a website with email addresses to which to send an allegation of civilian harm (US DoD), to a web portal with an online form (US AFRICOM and AMISOM), to a dedicated phonenumber and facilitating the receipt of in-person complaints (AMISOM). While AMISOM is furthest ahead in this practice, all analyzed mechanisms have strengths and limitations that restrict the usefulness for civilians and civil society organizations, and thus reduce their potential effectiveness. More resources, in terms of staff, investment and activities, are needed to fully utilize the potential these mechanisms have when successfully implemented.

## 2.1 Key findings

Please note that actor-specific findings and recommendations are included in the case studies.

- The reporting mechanisms as currently implemented are not accessible enough to civilians to guarantee their use.** The mechanisms under analysis do not appear to connect to the reality of their intended users in their context. The African Union (AU) and US-led operations in Somalia and Yemen, for example, rely on the use of online portals, while civilians there have limited or no access to the Internet, or are not sufficiently 'digitally literate' to make effective use of these portals. Nor does there appear to be an effort to adapt the mechanisms to different contexts. For example, the US DoD has set up a single website listing addresses to which people can report information on civilian harm for all of its commands, even though this covers military operations in widely different contexts.
- The utility of reporting mechanisms is severely hampered by a lack of awareness of their existence.** While the implementation of these mechanisms is a potential good first step towards improving accountability, reporting mechanisms can only work if the intended users know they exist. It seems that this is not the case and PAX found few examples of meaningful efforts towards promoting the reporting channels among the intended users in conflict-affected areas. NGOs monitoring and reporting on civilian harm indicated they were either largely unaware of these mechanisms or – if they were familiar with them – questioned the awareness among affected civilian populations.
- Use of the reporting channels rarely leads to follow-up or amends.** Affected civilians and organizations in contact with them, indicate that follow-up is rare after they report a civilian harm incident: no outreach, no follow-up questions or

investigations, no apology. And even when civilian harm is acknowledged, it almost never leads to amends, with the occasional exception of AMISOM. As a result, the potential of reporting channels to contribute to accountability towards affected civilians is currently not being realized.

- A reporting mechanism that does not lead to follow-up or amends by the security actor leads to discontent and may even have adverse strategic effects.** Many interviewees indicate that the (perceived) lack of follow-up leads to frustration, anger, and sometimes a hostile attitude towards the security actor responsible. Particularly in counter-terrorism contexts, a perceived lack of accountability can work against long-term objectives, a risk that reporting mechanisms could potentially mitigate if implemented functionally.

## 2.2 Recommendations

- Security actors should proactively consult credible civil society organizations in the contexts where they operate to determine the most useful and safe-to-use form of reporting mechanisms.** A one-size-fits-all approach should be avoided; rather, actors should take steps to provide civilians with as many channels as possible to report information on civilian harm. Depending on context, reporting mechanisms can, for instance, take the form of a dedicated phonenumber, an app, or in-person reporting at a physical office.
- Reporting mechanisms need to be promoted among their target audiences.** Depending on the context, this can include promotion on traditional and social media, publishing and disseminating brochures or flyers, involving traditional leaders or the host government in spreading awareness, releasing press statements in local languages, and the promotion of the channels in major cities.
- Reporting mechanisms need to be part of a larger effort to track, investigate and respond to civilian harm.** It must be clear to civilians reporting harm what will happen with the information they provide, and what they can realistically expect – and when – after having made a report in order to manage expectations and avoid creating discontent.
- Reporting mechanisms and any follow-up communications** (e.g. civilian casualty assessment reports, press releases acknowledging harm) **need to be available in local languages**, with all texts having been checked by a native speaker to avoid language errors that may occur as a consequence of using online translation tools.
- Reporting mechanisms should facilitate the reporting of civilian harm incidents beyond the occurrence of civilian deaths alone.** Users should be able to also report matters related to property destruction and physical injuries caused by military action.
- To advance transparency and accountability, **security actors should regularly publish aggregate data on the use of their implemented reporting mechanisms**, specifically the number of reports received, their spatial and temporal distribution, and the number and outcome of investigations that have been conducted following from reports received.
- Security actors should consider creating 'legacy systems':** reporting channels that can continue beyond the duration of particular military operations and missions so that civilians can continue to come forward and report harm. Practically, this can entail the transfer of managing a reporting mechanism to a host government agency.
- Security actors and institutions should continuously and proactively explore new creative and safe reporting mechanism options**, taking into account technological advances, and regularly submit existing mechanisms to internal review.

9. **Security actors need to ensure that the use of reporting mechanisms by civilians does not lead to any 'signing away of rights'**, or can negatively impact later efforts at seeking redress, for instance by committing people to waive their right to any future claims or by leading to people being branded a potential security threat.<sup>9</sup>

## 3. Reporting channels in practice: 3 case studies

The three case studies considered for this research are the reporting mechanisms implemented by AMISOM, US AFRICOM, and the US DoD. All three have different types of reporting mechanisms with different advantages and limitations. AMISOM appears to be the most ambitious and furthest along in implementing this practice. Below, each case is discussed according to the same structure: first, an introduction is provided to the security actor and/or the mission with specific attention for (allegations of) civilian harm and its mitigation. This is followed by a description of the existing reporting mechanisms and their limitations, a discussion of promotion efforts and post-reporting follow-up activities, and finally, a set of actor or mission-specific recommendations.

### 3.1 The African Union Mission in Somalia (AMISOM)

In February 2007, the United Nations Security Council (UNSC) authorized the African Union to operate its new peace enforcement mission: the African Union Mission in Somalia (AMISOM).<sup>10</sup> The initial aim of the mission was to support national reconciliation in Somalia. The mandate further included support and protection for the Transitional Federal Government; training of Somali security forces; humanitarian assistance; and the protection of its own personnel and facilities.<sup>11</sup> Since its authorization, the mission has increased in terms of its size and geographical presence during the struggle against Al-Shabaab – the largest security threat to AMISOM.<sup>12</sup>

After the withdrawal of Al-Shabaab from Somalia's capital city Mogadishu in 2011, the conflict transitioned into a counter-insurgency campaign.<sup>13</sup> According to Amnesty International, countering Al-Shabaab has had devastating effects on civilians, causing a surge in displaced civilians

<sup>10</sup> United Nations Security Council, "Resolution 1744 (2007)," Reference S/Res/1744, February 21, 2007; "AMISOM Background," AMISOM, accessed November 18, 2021, <https://amisom-au.org/amisom-background/>.

<sup>11</sup> "Mandate: 2006 – 2007," AMISOM, accessed November 18, 2021, <https://amisom-au.org/mandate-2006-2007/>; United Nations Security Council, "Resolution 1772 (2007)," Reference S/Res/1772, August 20, 2007.

<sup>12</sup> "AMISOM Mandate," AMISOM, accessed November 18, 2021, <https://amisom-au.org/amisom-mandate/>; Human Rights Watch, "The Power These Men Have Over Us: Sexual Exploitation and Abuse by African Union Forces in Somalia," Report (Human Rights Watch: 2014).

<sup>13</sup> Colin D. Robinson, "Rebuilding Armies in Southern Somalia: What Currently Should Donors Realistically Aim For?," *Conflict, Security & Development* 21, no. 3 (May 2021).

<sup>9</sup> While there were no reports of such 'signing away of rights' occurring for any of the three reporting mechanisms selected as case studies for this report, there were concerns among civil society that this could happen in the future or among other security actors, hence the recommendation.

and civilian casualties.<sup>14</sup> In December 2021, the UNSC extended the mandate for AMISOM's deployment until 31 March 2022.<sup>15</sup>

The mission is split in three components: civil, military and police, all headquartered in Mogadishu.<sup>16</sup> The mission's Troop and Police Contributing Countries (T/PCCs) include Uganda, Burundi, Ethiopia, Kenya, Djibouti, Sierra Leone, Nigeria and Ghana.<sup>17</sup>

AMISOM is funded by the AU, supported by donor funds from the European Union (EU), UN, and bilateral donations. The largest financial contributors are the US, EU and UK.<sup>18</sup> While the AU and TCCs are responsible for military planning, they receive support in this area from mainly Western advisors.<sup>19</sup> The US, for example, has also provided support through training and equipment in order to develop elite counterterrorism units to counter the threat posed by Al-Shabaab.<sup>20</sup>

### 3.1.1 CIVILIAN HARM AND THE CCTARC

All parties to the conflict in Somalia, including AMISOM, have made use of artillery fire and other indirect fire weapons, causing civilian casualties, injuries and property damage.<sup>21</sup> A further cause of civilian harm is the often moving frontlines in Mogadishu, which can put civilians in the crossfire of fighting, and unpredictable crossfire situations between clan militias, AMISOM and Al-Shabaab in rural areas.<sup>22</sup> Specifically concerning AMISOM, a considerable source of civilian casualties is road traffic accidents and force-protection incidents.<sup>23</sup> Further, after military successes by AMISOM and Somali forces, Al-Shabaab often responded with asymmetric combat techniques, such as the use of IEDs and terrorist attacks in populated areas.<sup>24</sup> Growing concerns regarding AMISOM's use of artillery and indirect fire munitions in populated areas were eventually met with the implementation of corrective actions, such as a new indirect fire policy and a revision of the rules of engagement.<sup>25</sup>

Moreover, in response to civilian harm allegations against AMISOM troops, a Civilian Casualty Tracking, Analysis and Response Cell (CCTARC) was incorporated in the mission's mandate in 2012 through UN Security Council Resolution 2036; the cell became operational in June 2015.<sup>26</sup> The cell was implemented with the purpose to collect data on AMISOM-caused civilian harm incidents,

14 Amnesty International, "The Hidden US War in Somalia," Report (Amnesty International: 2019).

15 United Nations Security Council, "Resolution 2614 (2021)," Reference S/RES/2614, December 21, 2021.

16 Human Rights Watch, "The Power These Men Have Over Us".

17 Amnesty International, "The Hidden US War"; Human Rights Watch, "The Power These Men Have Over Us"; Donatien Nduwimana, "AMISOM in Somalia: A Ray of Hope?" Occasional Paper (The International Peace Support Training Centre Nairobi: 2013).

18 Nduwimana, "A Ray of Hope?"; Human Rights Watch, "The Power These Men Have Over Us".

19 Colin Robinson, "The African Union Intervention Force Will Stay in Somalia, but with Whose Troops?," *RUSI*, August 10, 2021.

20 Musoma A. Lusola, "Military Diplomacy Strategies Applied by AMISOM in Restoration of Peace and Security in the Horn of Africa," *African Journal of Empirical Research* 2, no. 1 (2021).

21 Sahr Muhammedally, "Minimizing Civilian Harm in Populated Areas: Lessons from Examining ISAF and AMISOM Policies," *International Review of the Red Cross*, 225–248, 98, no. 1 (2016): 239; Nikolaus Grubeck, "Civilian Harm in Somalia: Creating an Appropriate Response," Report (Campaign for Innocent Victims in Conflict: 2011).

22 Grubeck, "Civilian Harm in Somalia"; Amnesty International, "The Hidden US War".

23 Muhammedally, "Minimizing Civilian Harm"; Grubeck, "Civilian Harm in Somalia".

24 United Nations Human Rights Council, "Report of the Independent Expert on the Situation of Human Rights in Somalia," Reference A/HRC/39/72 (UNHRC: 2018); Muhammedally, "Minimizing Civilian Harm".

25 Muhammedally, "Minimizing Civilian Harm"; Grubeck, "Civilian Harm in Somalia".

26 Natasja Rupesinghe, "The Civilian Casualty Tracking, Analysis and Response Cell in the African Union Mission in Somalia: An emerging best practice for AU peace support organisations?" Policy brief (NUPi: 2019).

identify patterns and adapt military practices where needed to reduce civilian harm, and to facilitate making amends to affected civilians, most notably through *ex gratia* payments. According to an interviewee, there was a strong awareness among segments of the mission that reports of civilian harm incidents and a perceived lack of response were spoiling the mission's relationship with Somali civilians, nourishing hostility towards the mission.<sup>27</sup>

The cell tracks a variety of types of harm: civilian deaths, injuries, and certain material damages like damaged homes or the loss of livestock.<sup>28</sup> The nature of a reported incident that will be investigated by the CCTARC can thus vary considerably (see Figures 1 and 2).

CCTARC staff draw from a variety of sources to keep track of civilian harm, including but not limited to internal Situation Reports from Sector Commanders; AMISOM police patrol reports; information from Civilian-Military staff; reports provided by the Somali police, hospitals, or UN agencies; claims brought directly to the Head of Mission (mostly by clan elders); media coverage; in-person reporting at the mission's Mogadishu office; and allegations filed through the reporting mechanisms for civilians, detailed in the next sub-section.<sup>29</sup> After receiving a civilian harm report, the CCTARC proceeds to open a file with a unique case number, adding the details of the incident and any available documentary evidence. In case of a civilian death, a Board of Inquiry is set up to investigate the incident. Upon having completed an investigation, the CCTARC can recommend a particular response by the mission, for instance an apology, financial payment, or more rarely, livelihood assistance. Such recommendations are submitted to an Amends Committee, which makes the final decision.<sup>30</sup>

<b>236</b>	On 08 June 2020, AMISOM engaged AS militants who had moved from CADIMALE approx. 6km South West direction towards KAYTOY (3km South of JANAALE) within Sector 1 AOR. 03 Somali women were killed and 2 others injured during the engagement. (FHQ J3 SITREP as at 09 June 2020)	<b>US\$10, 000 X 3 for each death and US\$ 5,000 X 2 for the injured women US\$40, 000</b>
------------	---	--

FIGURE 1 Screenshot from the CCTARC's 2020 annual report, showing a civilian harm incident (loss of life and physical injuries) and the recommended amends (Source: AMISOM CCTARC, "CCTARC Annual Report for the Year 2020")

<b>237</b>	It was alleged that on 03 September 2020 during an IED incident, one camel belonging to Mohammed Afi was shot at and subsequently killed by KDF at 0800hrs within Sector 2 AOR. Information was received through a phone call by the owner of the camel.	<b>US\$700</b>
------------	--	----------------

FIGURE 2 Screenshot from the CCTARC's 2020 annual report, showing a civilian harm incident (loss of livestock) and the recommended amends (Source: AMISOM CCTARC, "CCTARC Annual Report for the Year 2020")

27 Interview with a former CCTARC officer, 28 September 2021.

28 Rupesinghe, "The Civilian Casualty Tracking, Analysis and Response Cell"; AMISOM CCTARC, "CCTARC Annual Report for the Year 2020"; Report (African Union: 2021).

29 Rupesinghe, "The Civilian Casualty Tracking, Analysis and Response Cell"; AMISOM CCTARC, "CCTARC Annual Report for the Year 2020"; interview with a former CCTARC officer, 28 September 2021.

30 Interview with a former CCTARC officer, 28 September 2021.



In its first years in particular, the cell's effectiveness was hampered by a lack of (trained) staff and resources, no guidance on the processing of *ex gratia* payments, a lack of a dedicated fund to finance such payments to civilians, limited internal and leadership support, and sparse internal and external awareness of the cell and its objectives.<sup>31</sup> Various of these limitations appear to be at least partially remedied at the time of the present research. In 2020, the cell was made up of seven staff members, with a variety of backgrounds (military, police, civilian), from different T/PCCs. However, at the start of the year, none of them were trained specifically for the civilian harm tracking and analysis work.<sup>32</sup> One notable success of the cell has been a decrease in vehicle-related harm, after AMISOM investigated the causes of this relatively frequent source of civilian harm and made changes to its policy for AMISOM drivers, indicating that the cell's work can be used effectively to reduce civilian harm.<sup>33</sup>

### 3.1.2 REPORTING MECHANISMS

In addition to the information sources mentioned in the previous section, the CCTARC has facilitated direct reporting of harm by civilians themselves through three different reporting mechanisms: a mobile phonenumber, an online form on the AMISOM website, and in-person reporting at the AMISOM Mogadishu office.<sup>34</sup>

Interviewees described the phonenumber as the most successful.<sup>35</sup> The cell set up a dedicated phonenumber that civilians can call if they wish to report an incident of civilian harm that affected them or that they were witness to. An interviewee indicated that the phonenumber leads to the most reports as compared to the other mechanisms, and at one point became well-known enough to be used by civilians to report incidents "as they were occurring".<sup>36</sup> In fact, the phonenumber has almost been too successful: In the early days of its implementation, more people would call than the CCTARC could manage, contributing to a considerable backlog as the CCTARC's capacity was too limited to deal with all the reports it received.<sup>37</sup> It also appears that, in the earlier days of implementation of the phonenumber, it was unclear what would happen once a report was made, there not being a robust process in place for managing complaints.<sup>38</sup>

The phonenumber's effectiveness stands in stark contrast to the online form, hosted on AMISOM's website. The form can be accessed by going to the website, clicking the 'Civilian Casualty Tracking, Analysis and Response Cell' button on the homepage, or by entering the term 'civilian casualty' in the search bar. This leads to a webpage with a form that asks for your name, email address, and your message describing the civilian harm event you wish to report. Nowhere on the webpage is it made clear what type of information and level of detail someone would need to provide when reporting an allegation in order for it to be taken up and investigated by the CCTARC. Nor is it made clear what type of follow-up people who make a report can expect or what happens to their data (see Figure 3 for a screenshot of the online form).

31 Rupesinghe, "The Civilian Casualty Tracking, Analysis and Response Cell"; interview with a former CCTARC officer, 28 September 2021; interview with a researcher, 7 September 2021.

32 Interview with a former CCTARC officer, 28 September 2021.

33 Rupesinghe, "The Civilian Casualty Tracking, Analysis and Response Cell"; interview with a former CCTARC officer, 28 September 2021.

34 Interview with a former CCTARC officer, 28 September 2021; interview with a researcher, 7 September 2021.

35 Interview with a former CCTARC officer, 28 September 2021; interview with a researcher, 7 September 2021.

36 Interview with a former CCTARC officer, 28 September 2021.

37 Interview with a former CCTARC officer, 28 September 2021; interview with a researcher, 7 September 2021.

38 Interview with a researcher, 7 September 2021.

## Civilian Casualty Tracking, Analysis, and Response Cell (CCTARC)

HOME - CIVILIAN CASUALTY TRACKING, ANALYSIS, AND RESPONSE CELL (CCTARC)

CCTARC was established under the authority of the African Union Peace and Security Council, pursuant to the express mandate set out in [UNSCR 2036 \(2012\)](#), [UNSCR 2093 \(2013\)](#), [UNSCR 2124 \(2013\)](#), [UNSCR 2182 \(2014\)](#) and [UNSCR 2232 \(2015\)](#).

The CCTARC is owned and controlled exclusively by AMISOM.

Incidents involving AMISOM and resulting in civilian casualties would have a strategic impact on AMISOM mission in Somalia. CCTARC captures and record reported events and incidents of civilian casualties within AMISOM area of operation through a comprehensive electronic database. In a joint efforts with its partners CCTARC aim to protect the Somali population by applying preventative measures to reduce the incidents of civilian casualties and to help Federal Government of Somalia to restore peace, security and stability in the country.

**For any concerns and questions please reach us below**

Your Name

Email Address(required)

Your Message

FIGURE 3 The online form on AMISOM's website where people can report an allegation of civilian harm. (Source: "Civilian Casualty Tracking, Analysis and Response Cell (CCTARC)", AMISOM website, last consulted on 15 November 2021)

While the form is lacking in detail itself, it also is not particularly easy to find as it requires multiple steps of going through the AMISOM website. It is difficult to imagine that many people will find this form unless having been made aware of it before. Indeed, PAX was told that over the course of 2020, the website was not used a single time by someone to report a civilian harm incident.<sup>39</sup> When asked why, the interviewee stated that there is a general lack of awareness of the online form's existence and that, in the Somali context, an online form is not the most useful type of reporting mechanism because of a lack of Internet connectivity or smartphone use in large parts of Somalia. At the same time, the former CCTARC officer was positive about the website's existence as "we believed we should open as many channels as we possibly could."<sup>40</sup>

39 Interview with a former CCTARC officer, 28 September 2021.

40 Interview with a former CCTARC officer, 28 September 2021.



The final reporting mechanism is not so much an institutionalized practice as that it simply is something that occurs, with people approaching the CCTARC at AMISOM's Mogadishu office.<sup>41</sup> An obvious disadvantage of this practice is that it limits reporting to civilians either residing in, or able to travel to, Mogadishu. At the same time, as with the phonenumber, in-person reporting represents a relatively accessible method through which to file a report and one that does not require particular skills or resources like (digital) literacy or access to the Internet. Additionally, it appears that some reports about civilian harm incidents can be made in-person in other parts of the country when AMISOM civilian-military staff travels around the country, though this could not be verified.<sup>42</sup>

### 3.1.3 CREATING AWARENESS

When gauging why the phonenumber is the most successful out of the various reporting mechanisms, the answer partly lies in its accessibility, particularly as compared to an online form, but certainly also in awareness of its existence. According to a former CCTARC officer, the existence of the phonenumber was actively advertised through word-of-mouth through police, local chiefs, and by AMISOM staff personally when interacting with Somalis.<sup>43</sup> Apart from this, no activities appear to have been undertaken to promote general awareness of the existence of the reporting mechanisms or of the CCTARC more generally<sup>44</sup>, which one interviewee described as an “inadequate” situation that “requires being addressed”.<sup>45</sup> Suggestions by CCTARC staff to use brochures or radio and TV stations to spread the word about their work, and to let people know they could report incidents of harm, were rejected because of budget constraints.<sup>46</sup> It is therefore unclear how many of the people harmed because of AMISOM operations should know of the opportunity to file a report with the mission's tracking cell.

### 3.1.4 FOLLOW-UP

Once civilians make a report, the CCTARC strives to provide a first update on progress after two to four weeks. In practice, however, the cell being understaffed means that it can take up to several months before an investigation into an incident is concluded and a decision on possible amends has been made.<sup>47</sup> Even then, the chance that affected civilians will receive amends is limited: In the first years of its existence, no dedicated fund was made available out of which financial assistance could be paid.<sup>48</sup> While a fund has since come into existence, many amends approved by the Amends Committee are not being processed or paid out, reportedly because of internal bureaucracy.<sup>49</sup> This has been described as “the biggest challenge”<sup>50</sup> of the CCTARC and has caused considerable discontent, both with affected Somalis who have received no amends for harm inflicted upon them, as well as with AMISOM sector commanders who deal with the aftermath of a tense relationship with civilians harmed by their operations.<sup>51</sup> Nonetheless, according to an officer who worked for the CCTARC in 2020, “there were more amends [in that year] than in the five years before taken together”<sup>52</sup>, signifying

that there has been some improvement in that area.

### 3.1.5 RECOMMENDATIONS FOR AMISOM

1. Invest in setting up more, diverse and context-appropriate reporting mechanisms through which civilians and civil society can directly report civilian harm allegations. Ensure that (local) civil society is consulted on what the most context-appropriate, and therefore more effective, mechanisms can be.
2. Increase awareness of the current – and potentially new – reporting mechanism(s) among Somali civil society and local communities by actively disseminating information about them. Forms that should be considered are: active outreach to clan elders; advertisements on traditional and social media like radio, TV and the Internet; and flyers and brochures in the local language(s).
3. Improve the online reporting form by:
  - a. Making it easier to find on the AMISOM website
  - b. Including information requirements for a civilian harm report on the form itself
  - c. Including information on what *types* of civilian harm can be reported
  - d. Including information on what civilians who make a report can expect in terms of follow-up, including whether or not a report may lead to amends, how long an investigation realistically takes, whether or not the outcome of the investigation will be communicated to them personally, and what will happen to their personal information.
4. Ensure that the CCTARC's work leads to amends when these are recommended by setting up a dedicated and sufficient fund for payments, and by giving the CCTARC more autonomy in processing the amends instead of having to go through an Amends Committee, which makes the processing of amends an unnecessarily long and bureaucratic process.
5. Invest in dedicated, specialized and long-term staff for the CCTARC so that it can maintain institutional memory, build more sustainable relationships with stakeholders and the Somali population, and to enable more capacity for (timely) investigations into civilian harm incidents.
6. Assist the Somali government in setting up its own tracking cell with amends capacity in order to guarantee the continuation of this work once AMISOM would end.

41 Interview with a former CCTARC officer, 28 September 2021.

42 Interview with a researcher, 7 September 2021.

43 Interview with a former CCTARC officer, 28 September 2021.

44 Interview with a former CCTARC officer, 28 September 2021; interview with a researcher, 7 September 2021.

45 Interview with a former CCTARC officer, 28 September 2021.

46 Interview with a former CCTARC officer, 28 September 2021.

47 Interview with a former CCTARC officer, 28 September 2021.

48 Rupesinghe, “The Civilian Casualty Tracking, Analysis and Response Cell”.

49 Interview with a former CCTARC officer, 28 September 2021.

50 Interview with a former CCTARC officer, 28 September 2021.

51 Rupesinghe, “The Civilian Casualty Tracking, Analysis and Response Cell”.

52 Interview with a former CCTARC officer, 28 September 2021.

## 3.2 US Africa Command (AFRICOM)

The geographic combatant command AFRICOM – responsible for all US military operations and activities on the African continent – was established in 2007. Its aims include supporting the promotion of a secure and stable political environment throughout Africa, the establishment of capable and professional national and regional militaries, crisis response, deterring transnational threats against US interests, and training of African partners.<sup>53</sup> For this report, we focus specifically on AFRICOM operations in Somalia.

Following the events of 9/11, the US sent their forces to Somalia to conduct covert operations against Al-Qaeda. The US launched its first airstrike against Al-Qaeda fighters in Somalia in January 2007, and its first acknowledged drone attack against Al-Shabaab in 2011. In October 2013, US forces were officially deployed in the country to support the Somali National Army in its fight against Al-Shabaab. This was followed by new operational and legal guidance, which authorized the targeting of individuals posing a continuing and imminent threat to Americans.<sup>54</sup>

Under the Trump administration, the restrictions for airstrikes were loosened and southern Somalia was considered as an “area of active hostilities”.<sup>55</sup> Since then, the number of airstrikes and potential targets has increased, creating risks for Somali civilians on the ground.<sup>56</sup>

### 3.2.1 US AFRICOM AND CIVILIAN HARM IN SOMALIA

Both journalists and a number of monitoring organizations have raised concerns over possible civilian deaths caused by US AFRICOM operations in Somalia.<sup>57</sup> For years, US AFRICOM was heavily criticized for neither acknowledging that their operations caused any civilian harm, nor offering any detailed and transparent response to specific allegations raised by civil society. An interviewee summarized the pre-2019 situation as “there were no channels for civilians or even formal channels for civil society organizations to get in contact with AFRICOM about civilian casualty allegations”.<sup>58</sup>

Yet, in recent years, US AFRICOM has made a considerable turn regarding civilian harm and transparency: Since General Stephen J. Townsend became commander in 2019, AFRICOM has established a permanent civilian casualty assessment team, has begun issuing Quarterly Civilian Casualty Assessment Reports, appears to have opened the door towards (more structural) engagement with international and Somali civil society, and has been the first US command to establish an online civilian casualty reporting channel, which is discussed in greater detail in the next section.<sup>59</sup> Mostly through its Civilian Casualty Assessment Reports, AFRICOM has now

acknowledged responsibility for causing five civilian deaths and injuring eleven civilians in Somalia in five different airstrikes between April 2018 and January 2021.<sup>60</sup> In each report, AFRICOM publishes the civilian casualty reports it has received, indicates which allegations it has either found ‘substantiated’ or ‘unsubstantiated’, as well as mentioning those allegations that are still ‘open’, i.e. under review. AFRICOM’s casualty numbers are, however, significantly lower than estimates put forward by organizations like Amnesty International and Airwars.<sup>61</sup>

This apparent shift has led to mixed reactions from civil society. One monitoring organization representative stated that the Africa Command has gone from being one of the most opaque to “one of the most progressive”<sup>62</sup> security actors when it comes to monitoring and reporting on civilian harm, with someone else stating that where it concerns the US commands, “AFRICOM is clearly trying to be more open, more transparent”.<sup>63</sup> Others welcome the changes above but expressed some doubt regarding wider efforts and underlying intentions, questioning progress in practice as AFRICOM officers “still have not paid a single dime to Somali families, they have never even talked to the families”;<sup>64</sup> or criticizing that currently “there is no pro-active engagement or outreach with civilians at all”<sup>65</sup> when it comes to monitoring and researching possible civilian harm incidents. As will be discussed in the next section, some of the remaining questions and doubts relate to the reporting mechanism AFRICOM has set up.

### 3.2.2 REPORTING MECHANISMS: THE AFRICOM WEB PORTAL

Since a change in leadership in 2019, AFRICOM has shown willingness to better address possible civilian harm resulting from US military actions by setting up an online civilian casualty reporting portal on its website. This reporting mechanism (see Figure 4) can be accessed by surfing to the AFRICOM website, and clicking the ‘Civilian Casualty Reporting’ link. This leads to a form where you are asked to provide some personal information, the date and location of the incident, and other details related to the incident. The scope of incidents eligible for reporting appears to concern civilian casualties, i.e. deaths and physical injuries, excluding other important forms of potential harm such as property damage. A Somali-language version of the portal is available by clicking the ‘translate’ button in the toolbar at the top right of the website (see Figure 5).

While civil society interviewees were generally pleased that AFRICOM has taken a first step towards enabling direct reporting of civilian harm allegations, criticism of the form abounds. A main point of critique concerns the mechanism’s form as an *online* portal, which many argue is not context-appropriate, as many Somalis live in remote areas with limited to no Internet coverage; smartphone use is prohibited in Al-Shabaab controlled areas – where the US military is generally active on account of combating Al-Shabaab;<sup>66</sup> and large segments of the population will have difficulties

53 “About the Command,” AFRICOM, accessed December 21, 2021, <https://www.africom.mil/about-the-command>; Alex Ugwuja, “The United States’ Africa Command (AFRICOM) and Africa’s Security in the Twenty-First Century,” *Journal of Management and Social Sciences* 4, no. 1 (June 1, 2018).

54 Amnesty International, “The Hidden US War”.

55 Amnesty International, “The Hidden US War”; Rahma Hussein, Abdifatah Hassan Ali, and Alex Moorehead, “Transparency on Civilian Harm in Somalia Matters – Not Just to Americans,” *Just Security*, April 9, 2019.

56 Amnesty International, “The Hidden US War”; “US Forces in Somalia,” Airwars.

57 Amnesty International, “The Hidden US War”; Nick Turse, “New Data Shows the U.S. Military is Severely Undercounting Civilian Casualties in Somalia,” *The Intercept*, February 25, 2020; Human Rights Watch, “Inadequate US Airstrike Investigations: Apparently Unlawful Attacks, No Redress for Civilian Deaths,” *Human Rights Watch*, June 16, 2020; Amanda Sperber, “Does America Know Who Its Airstrike Victims Are?,” *Foreign Policy*, May 7, 2019.

58 Interview with an INGO representative, 15 September 2021.

59 U.S. Africa Command Public Affairs, “AFRICOM raises visibility, launches updated, mobile-friendly website,” Press Release, June 5, 2020; U.S. Africa Command, “Civilian Casualty Assessment Quarterly Report: 2<sup>nd</sup> Quarter, 2021,” Report, June 4, 2021.

60 See the U.S. Africa Command, “Civilian Casualty Assessment Quarterly Report”, issues published between April 2020 and September 2021.

61 For example, monitoring organization Airwars puts the estimate at between 70-143 civilian deaths (see “U.S. Forces in Somalia”, *Airwars*, last consulted 16 December 2021); Amnesty International, having investigated five strikes between April 2017 and December 2018, maintains that in only these incidents 14 civilians were killed, and 8 injured (see Amnesty International, “The Hidden US War”).

62 Interview with Emily Tripp and Chris Woods, Airwars, 8 September 2021.

63 Interview with a human rights advocate, 8 October 2021.

64 Interview with Brian Castner, Amnesty International, 22 September 2021.

65 Interview with an INGO representative, 15 September 2021.

66 Abdalle Ahmed Mumin, “Life at the bottom of the global league of internet access,” *The Guardian*, October 18, 2018.

navigating the website.<sup>67</sup> In effect, by resorting to a web portal and not offering alternative reporting channels, AFRICOM “is cutting out access for large parts of Somali communities” from the start.<sup>68</sup>

There are additional limitations: As can be seen in Figure 5, it is not altogether easy to find the web portal on the AFRICOM website, let alone when you first have to find the small translate button to see Somali-language results.<sup>69</sup> Nor is there any information included on what happens with people’s personal information or with the allegation and its investigation once people file a report through this form.<sup>70</sup> At the time of researching this report, US Defense officials indicated they are exploring options to possibly modify the online form, so as to include more information on the reporting and investigation process.<sup>71</sup>

Positively, some previous critical feedback has since already been addressed by AFRICOM. When first launching the web portal, there was considerable criticism regarding the Somali translation, which seemed to be the product of running the English text through an online translation tool rather than having been produced or reviewed by a Somali native speaker. As a result, the Somali-language version made little sense and was not suitable for use by Somali-speaking people.<sup>72</sup> This was clearly pointed out in a blog on *Just Security* where a Somali civil society activist demonstrated that the translation of ‘Civilian Casualty Reporting’ in Somali read as ‘Civilian Civilian Reporting’, with similar flaws present throughout the translation, making it difficult to see how this portal could be understood and used by non-English speakers.<sup>73</sup> While the translation has since been improved, one interviewee expressed concern that the original translation may point to a lack of meaningful effort on AFRICOM’s part, which raises the question as to whether setting up the portal was “a PR mechanism or was [...] supposed to actually work?”<sup>74</sup> Someone else similarly questioned whether the portal was meant as an instrument to pro-actively track civilian harm or as a means to appease civil society and/or US Congress in light of criticism over US-caused civilian harm incidents in Somalia.<sup>75</sup>

The experts consulted for this research offered multiple suggestions for additional, often more context-appropriate, reporting mechanisms, which they argued would aid significantly in enabling civilians to report allegations of harm. Interviewees advocated implementing a toll free phonenumber; a physical office, possibly hosted by the Somali government or within the US embassy in Mogadishu; setting up a similar online form but as a standalone, Somali-language website; or encouraging civilians to report allegations through clan elders, chiefs, or Somali members of parliament (MPs), with US AFRICOM or US government representatives proactively seeking out and consulting such figures.<sup>76</sup>

67 Interview with Brian Castner, Amnesty International, 22 September 2021; interview with Emily Tripp and Chris Woods, Airwars, 8 September 2021; interview with an INGO representative, 15 September 2021; Abdifatah Hassan Ali, “AFRICOM’s Improved Civilian Casualty Reporting System Still Leaves Gaps for Somalia”, *Just Security*, August 6, 2020.

68 Interview with an INGO representative, 15 September 2021.

69 Interview with Abdullahi Hassan, Amnesty International, 2 October 2021; Hassan Ali, “AFRICOM’s Improved Civilian Casualty Reporting System.”

70 Interview with a human rights advocate, 8 October 2021.

71 Interview with US Defense officials, 1 March 2022.

72 Interview with Emily Tripp and Chris Woods, Airwars, 8 September 2021; interview with an INGO representative, 15 September 2021; interview with Brian Castner, Amnesty International, 22 September 2021.

73 Hassan Ali, “AFRICOM’s Improved Civilian Casualty Reporting System.”

74 Interview with a human rights advocate, 8 October 2021.

75 Interview with Brian Castner, Amnesty International, 22 September 2021.

76 Interview with an INGO representative, 15 September 2021; interview with Brian Castner, Amnesty International, 22 September 2021; interview with Abdullahi Hassan, Amnesty International, 2 October 2021.

FIGURE 4 Screenshot from the AFRICOM website, showing the civilian casualty reporting form. (Source: “Civilian Casualty Reporting,” United States Africa Command, last consulted on 24 November 2021)

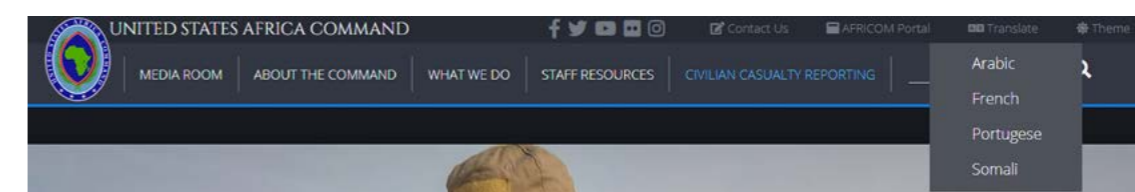


FIGURE 5 Screenshot of the AFRICOM website, showing the translate button in the toolbar. (Source: “Homepage,” United States Africa Command, last consulted on 24 November 2021)



### 3.2.3 CREATING AWARENESS

As of April 2020, AFRICOM has been publishing quarterly Civilian Casualty Assessment Reports, which it releases on its website, also offering Somali and Arabic translations.<sup>77</sup> After every publication, AFRICOM shares the report with selected international, US, and Somali media, as well as posting it on Twitter.<sup>78</sup> While this is positive, most interviewed civil society representatives still questioned general awareness of the online portal beyond larger civil society organizations.<sup>79</sup> One interviewee stated that Somalis “have no idea about this portal: it is people like us, engaged in this work, who know.”<sup>80</sup>

Several interviewees moreover stressed that they think it would not be too difficult for AFRICOM to enhance awareness, for instance through more pro-actively using press, flyers, social media and radio to disseminate information about the possibility to report civilian harm, or by organizing promotion in major cities, as well as approaching clan elders and community leaders.<sup>81</sup> It was thought that such efforts would lead to “tons of pick up”,<sup>82</sup> and that “word will travel once it is out there”,<sup>83</sup> ensuring that relatively small and low-investment steps can greatly enhance the reach of AFRICOM’s reporting mechanism.

That AFRICOM has this kind of capacity was, moreover, made clear in an article in *The Intercept*. The journalist Nick Turse uncovered that AFRICOM had set up a toll free phonenumber where ordinary people could report information on, or take steps to defect from Al-Shabaab, using a relatively simple method like illustrated brochures to spread awareness about this phonenumber’s existence.<sup>84</sup> This shows both that there is capacity to set up a phonenumber as a reporting mechanism, as well as the ability to create awareness through relatively little effort. An AFRICOM spokesperson, quoted in the article, admitted that the flyers were “very effective”, to the extent that there was “overcrowding at the defection centers”.<sup>85</sup> An interviewee pointed out that this initiative “shows they [AFRICOM] can do this, but that they do not want to. When it comes to reporting civilian harm, they disappear.”<sup>86</sup>

### 3.2.4 FOLLOW-UP

Follow-up by AFRICOM after someone has made a report through the online form, or after AFRICOM has made an admission of civilian harm, appears lacking in various areas. First, AFRICOM has not specified on its website what will happen with people’s personal information or with their allegation once they have made a report. This may actually disincentivize people to use the portal, as it is not clear what good it will do them. Nor should the psychological barriers to making a report to an actor that has caused them harm be underestimated. Second, none of the interviewees

consulted were aware of any follow-up communication by AFRICOM of those cases of use of the portal they knew of, allegedly not even issuing a confirmation email, apart from two exceptions.<sup>87</sup> The organization of one interviewee assisted people in making a report through the portal, saying that the people were called within a day to confirm their identity, and then “they never heard from AFRICOM again”.<sup>88</sup> Another interviewee knew of a family who had used the portal, without any response, adding that AFRICOM overall “rarely reach[es] out to families to investigate civilian harm.”<sup>89</sup>

The third issue concerns a general lack of communication or amends even in cases where AFRICOM has substantiated a civilian harm claim. Multiple interviewees indicated none of them knew of any cases of compensation payments to victims of US military action in Somalia.<sup>90</sup> This despite of the fact that the US government has set up a fund specifically for the purpose of providing *ex gratia* payments to civilians harmed by US military action.<sup>91</sup> In at least one case where AFRICOM admitted to civilian harm after receiving an allegation, it did not communicate this outcome to the victims who had to learn of this acknowledgement through a Civilian Casualty Assessment Report. Nor did it lead to any other form of amends.<sup>92</sup>

In response to this critique, US Defense officials indicated that options for *ex gratia* payments are reviewed on a case-by-case basis, but that payments in Somalia so far have not occurred. One reason is an expressed concern that *ex gratia* payments could be extorted by Al-Shabaab and used to fund terrorist activities. Regarding private apologies to civilians who are harmed by AFRICOM operations, this was stated to be an important gesture to consider. However, it was thought that there may be considerable difficulties when it comes to practical implementation. For example, the identities of affected civilians is often unknown.<sup>93</sup> It would be worthwhile to explore whether trusted civil society organizations could play a facilitating role here in connecting the military to affected civilians.

The effects of limited follow-up are manifold. For Somalis themselves the lack of answers leads to a lot of confusion: “They do not know what will happen after a report or why nothing happens, why they or their family had been targeted, why the military is not changing its judgements.”<sup>94</sup> It is often unclear on what grounds civilian harm allegations are confirmed or denied.<sup>95</sup> Not offering acknowledgment or apology for civilian harm incidents moreover adds insult to injury in cases where people’s claims are denied on the basis of suspected affiliation to Al-Shabaab.<sup>96</sup> There is also a military-strategic angle to providing amends, as lack thereof is likelier to lead to discontent and grievances that can foster

77 “Civilian Casualty Report,” United States Africa Command, accessed December 16, 2021, <https://www.africom.mil/civilian-casualty-report>.

78 Interview with US Defense officials, 1 March 2022.

79 Interview with Emily Tripp and Chris Woods, Airwars, 8 September 2021; interview with Brian Castner, Amnesty International, 22 September 2021; interview with Abdullahi Hassan, Amnesty International, 2 October 2021; interview with a human rights advocate, 8 October 2021.

80 Interview with Abdullahi Hassan, Amnesty International, 2 October 2021.

81 Interview with an INGO representative, 15 September 2021; interview with Brian Castner, Amnesty International, 22 September 2021; interview with Abdullahi Hassan, Amnesty International, 2 October 2021.

82 Interview with an INGO representative, 15 September 2021.

83 Interview with Brian Castner, Amnesty International, 22 September 2021.

84 Nick Turse, “In the Least Wired Country on Earth, U.S. Military Asks Airstrike Victims to File Complaints Online,” *The Intercept*, June 10, 2021.

85 Turse, “Least Wired Country.”

86 Interview with Abdullahi Hassan, Amnesty International, 2 October 2021.

87 Interview with Brian Castner, Amnesty International, 22 September 2021; interview with Abdullahi Hassan, Amnesty International, 2 October 2021; interview with a human rights advocate, 8 October 2021; interview with an INGO representative, 15 September 2021.

88 Interview with an INGO representative, 15 September 2021.

89 Interview with Abdullahi Hassan, Amnesty International, 2 October 2021.

90 Interview with Abdullahi Hassan, Amnesty International, 2 October 2021; interview with Brian Castner, Amnesty International, 22 September 2021; interview with an INGO representative, 15 September 2021.

91 In 2020, US Congress approved a 3 million dollar fund for *ex gratia* payments. Despite the DoD acknowledging 23 civilian deaths that year, the Pentagon did not issue a single payment. See Pasha Magid, “No Apologies: The U.S. Military Often Kills Civilians and Rarely Offers Compensation,” *The Intercept*, September 21, 2021.

92 Interview with an INGO representative, 15 September 2021.

93 Interview with US Defense officials, 1 March 2022.

94 Interview with Brian Castner, Amnesty International, 22 September 2021.

95 Interview with Brian Castner, Amnesty International, 22 September 2021.

96 Interview with an INGO representative, 15 September 2021.



support for armed groups.<sup>97</sup> Overall, the various issues with the portal, limited awareness thereof, and the general lack of follow-up cast doubts about the effectiveness of AFRICOM's reporting mechanism.

### 3.2.5 RECOMMENDATIONS FOR US AFRICOM

1. Invest in setting up more, diverse and context-appropriate reporting mechanisms through which civilians and civil society can directly report civilian harm allegations. Ensure that (local) civil society is consulted on what the most context-appropriate, and therefore more effective, mechanisms can be. Forms that should be considered are:
  - a. A physical office in Mogadishu, for instance hosted by the US embassy in Mogadishu, and/or the use of Somali government offices to facilitate in-person reporting
  - b. A secure, toll free phone line
  - c. A stand-alone, Somali-language website for the civilian casualty reporting portal.
2. Ensure that new reporting mechanisms are available in Somali, checked by a native speaker, and preferably operated by Somali-speaking staff.
3. Improve the current online reporting portal by:
  - a. Making it easier to find on the AFRICOM website
  - b. Including information requirements for a civilian harm report to be investigated on the form itself
  - c. Broadening the scope of civilian harm incidents that can be reported to also include property damage
  - d. Including information on what civilians who make a report can expect in terms of follow-up, including whether or not a report may lead to amends, how long an investigation realistically takes, whether or not the outcome of the investigation will be communicated to them personally, and what will happen to their personal information.
4. Further increase awareness of the current – and potentially new – reporting mechanism(s) among Somali civil society and local communities by exploring additional dissemination strategies. Forms that should be considered are: flyers and brochures, advertisements on traditional and social media, active outreach to clan elders and community leaders.
5. Be more pro-active in reaching out to important elements of Somali society, including MPs, clan elders, and community leaders, to learn of possible civilian harm incidents.
6. Ensure that people whose report is confirmed are notified of this personally, and will receive appropriate amends (e.g. an apology, financial assistance). Additionally, ensure that a clear policy or Standard Operating Procedure (SOP) is put in place for the practice of amends, ensuring consistency across cases.
7. Be more transparent in how civilian harm incidents are assessed and on the basis of what information claims are denied or confirmed.

<sup>97</sup> Interview with Abdullahi Hassan, Amnesty International, 2 October 2021; see also Kolenda et al., "The Strategic Costs of Civilian Harm".

## 3.3 US Department of Defense (DoD)

Our third case study differs somewhat from the previous two in that it does not concern a single military mission or a military actor that operates in a specific geographic area. While the previous case analyzed a reporting mechanism as implemented by the US Africa Command specifically, this section goes one level up and considers a more general reporting mechanism as set up by the US Department of Defense (DoD) for all its commands: a website offering email addresses for each command to which information about civilian casualties from US military action can be sent.

While this web-based reporting mechanism is currently under review and might be subject to changes in the near future, there is value in exploring this case for two reasons: First, any consideration of civilian harm from US military operations would be incomplete when not taking into account operations by its Central Command (CENTCOM), which is involved in most current and recent major military operations in contexts like Afghanistan, Iraq, Syria, and Yemen. Yet, CENTCOM has no uniform policy or practice in how it carries out civilian harm tracking and response activities across different missions, with different entities responsible for these efforts in Iraq and Syria, for instance, as compared to Yemen.<sup>98</sup> Nor has CENTCOM – to our knowledge – taken steps to implement specific civilian harm reporting mechanisms to enable direct reporting by civilians. It therefore makes sense to review the DoD's general reporting mechanism, which also covers CENTCOM. Second, careful consideration of the US DoD's reporting mechanism has general value in identifying what practices are considered to work or not. This section therefore focuses on the DoD's website, based to a large extent on input from interviews with INGO and civil society staff of organizations that are active in contexts where CENTCOM operates, specifically Iraq, Syria, and Yemen.

### 3.3.1 THE US DOD AND CIVILIAN HARM

While often considered a forerunner in the area of civilian harm mitigation, the US military has at the same time frequently received criticism about civilian harm caused by its operations, and the way it deals with such allegations. Critically, there are large discrepancies between the number of civilian deaths from US military action acknowledged by the military, and the numbers as put forward by civil society organizations. For instance, when we regard Operation Inherent Resolve, the US-led Coalition against ISIS has admitted to causing 1,417 civilian deaths (the majority admitted to by the US military), while monitoring organization Airwars puts forward an estimate of between 8,164-13,218 civilian fatalities (not all US-caused).<sup>99</sup> For US military operations in Yemen, the ratio between confirmed (US military) and estimated civilian deaths (Airwars) stands at 13 to between 76-154.<sup>100</sup> Civil society has, moreover, expressed criticism over the lack of transparency in how the US deals with allegations of civilian harm, it often being unclear on the basis of what information allegations are dismissed, as well as citing concern over the apparent lack of field investigations and witness interviews when investigating possible civilian harm incidents.<sup>101</sup> From here on, this report is focused on US military operations in Yemen, Iraq and Syria.

<sup>98</sup> In Iraq and Syria, where it concerns US military activity as part of Operation Inherent Resolve, the entity in charge is the Combined Joint Task Force-OIR. For US military activity in Yemen, it is CENTCOM itself.

<sup>99</sup> "US-led Coalition in Iraq and Syria," *Airwars*, accessed January 11, 2022, <https://airwars.org/conflict/coalition-in-iraq-and-syria/>.

<sup>100</sup> "US Forces in Yemen," *Airwars*, accessed January 11, 2022, <https://airwars.org/conflict/us-forces-in-yemen/>.

<sup>101</sup> Mahanty et al., "In Search of Answers"; InterAction et al., "Civil Society Guidance".

Larger US military involvement in Yemen began in 2009, spurred by the emergence of Al-Qaeda in the Arabian Peninsula (AQAP).<sup>102</sup> US counterterrorism operations by the military and the CIA are mainly in the form of aircraft strikes – both manned and unmanned – and are supported by ground raids by US Special Forces.<sup>103</sup> Since October 2017, US airstrikes have also been aimed at ISIS supporters in the country.<sup>104</sup> Human rights organizations, however, point out that these operations appear to have frequently harmed ordinary civilians.<sup>105</sup>

Following the emergence of the threat of ISIS in Iraq and Syria, the DoD established the Combined Joint Task Force – Operation Inherent Resolve (CJTF-OIR) in October 2014, led by CENTCOM.<sup>106</sup> The US-led military operation has consisted of over 30 participating countries and has primarily conducted airstrikes against ISIS, supplemented by ground forces.<sup>107</sup> In December 2021 the US-led combat mission in Iraq ended, and the remaining troops took on a training and advisory role.<sup>108</sup> In Syria, there are currently around 900 active US troops, providing support and advice to the Syrian Democratic Forces in the fight against ISIS.<sup>109</sup> In OIR, both military personnel and civilians, the media or civil society can report allegations of civilian harm. Reports are then assessed by the US-led CJTF-OIR Civilian Casualty Cell.<sup>110</sup> However, the investigations are predominantly based on internal information, such as interviews with personnel involved in the targeting process and post-strike aerial video analysis, and commonly do not include witness interviews or field investigations.<sup>111</sup>

### 3.3.2 REPORTING MECHANISMS: THE DOD WEBSITE

In October 2020, the US DoD announced the creation of a website, which people could use to report information about civilian casualties caused by US military action. This step was explained as an effort to “advance our ability to mitigate civilian harm, and to respond when it occurs.” This necessitates that “interested individuals are able to provide to the relevant U.S. Defense Department combatant commands information regarding incidents in which U.S. military operations may have [resulted in the injury or death of] civilians.”<sup>112</sup> The website offers email and regular addresses for the six US commands, to which people can send information about civilian casualty incidents.<sup>113</sup> The introductory text states, moreover, what information is needed: the date, time, and location of the incident; a description of the deaths or injuries, and why it is thought the US military is responsible (see Figure 6).

102 Enea Gjoza and Benjamin H. Friedman, “End U.S. Military Support For The Saudi-Led War In Yemen,” *Explainer* (Defense Priorities: 2019).

103 Helen Lackner, *Yemen in Crisis: Road to War* (New York: Verso, 2019); Oona A. Hathaway et al., “Yemen: Is the U.S. Breaking the Law,” *Harvard National Security Journal* 10, no. 1 (2019); “US Forces in Yemen,” *Airwars*.

104 Hathaway et al., “Yemen: Is the U.S. Breaking the Law”; “US Forces in Yemen,” *Airwars*.

105 Mwatana for Human Rights, “Death Falling from the Sky: Civilian Harm from the United States’ Use of Lethal Force in Yemen,” Report (Mwatana for Human Rights: 2021).

106 “United States Central Command” (Congressional Research Service, February 13, 2020).

107 “History,” CJTF-OIR, last consulted January 11, 2022, [https://www.inherentresolve.mil/Portals/14/Documents/Mission/HISTORY\\_17OCT2014-JUL2017.pdf?ver=2017-07-22-095806-793](https://www.inherentresolve.mil/Portals/14/Documents/Mission/HISTORY_17OCT2014-JUL2017.pdf?ver=2017-07-22-095806-793); Becca Wasser et al., “The Air War Against the Islamic State. The Role of Airpower in Operation Inherent Resolve,” Report (RAND Corporation: 2021).

108 “U.S.-Led Troops End Iraq Combat Mission, as Planned - Military Officials,” *Reuters*, December 9, 2021; CJTF-OIR Staff, “CJTF-OIR Reconsolidates Assets in Shift to Advise, Assist, Enable Posture,” *CJTF-OIR*, October 27, 2021.

109 Matthew Ayton, “US Military Exit from Syria Unlikely Anytime Soon, Officials Say,” *Al Jazeera*, October 26, 2021; Lara Seligman, “Troops to Stay Put in Syria Even as Biden Seeks to End America’s ‘Forever Wars,’” *Politico*, July 27, 2021.

110 Annie Shiel, “The Sum of All Parts: Reducing Civilian Harm in Multinational Coalition Operations,” Report (Center for Civilians in Conflict: 2019).

111 Shiel, “The Sum of All Parts”; CJTF-OIR, “Combined Joint Task Force – Operation Inherent Resolve Monthly Civilian Casualty Report,” April 30, 2017.

112 Jim Garamone, “DoD Posts Webpage to Aid in Reporting Civilian Casualties,” *U.S. Department of Defense*, October 23, 2020.

113 “Reporting Civilian Casualties,” U.S. Department of Defense, last consulted 12 January 2022, <https://policy.defense.gov/OUSDP-Offices/Reporting-Civilian-Casualties/>.

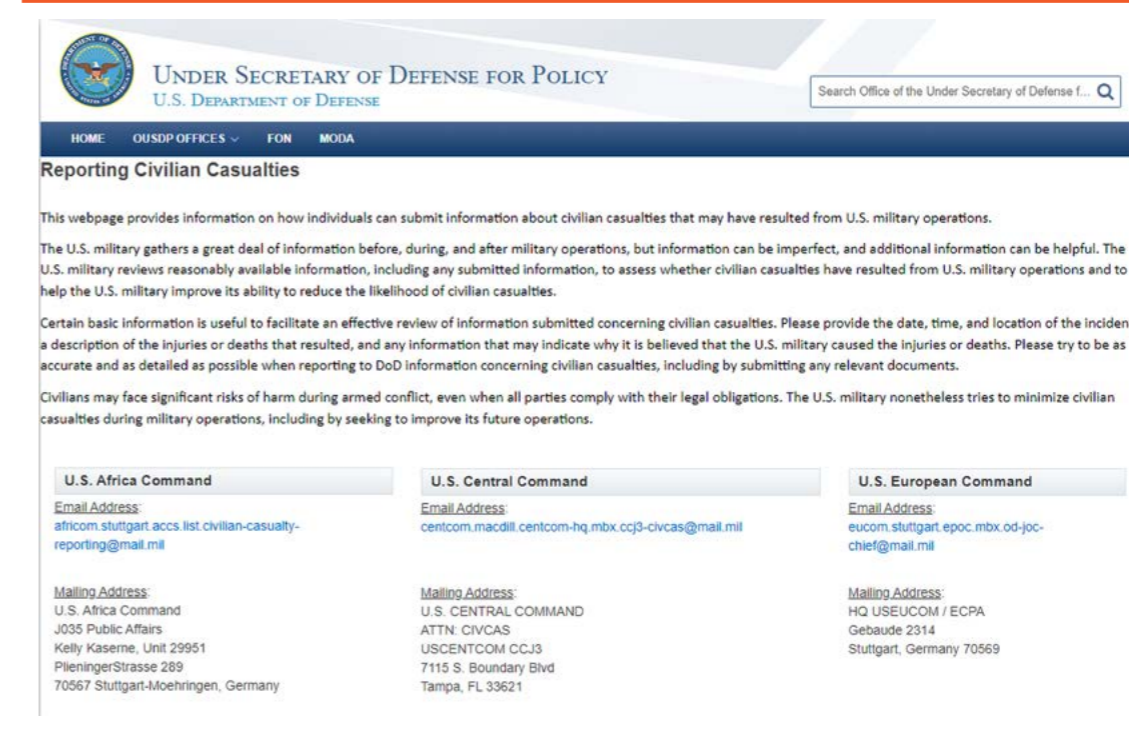


FIGURE 6 Screenshot of the DoD website “Reporting Civilian Casualties”. (Source: “Reporting Civilian Casualties”, Under Secretary of Defense for Policy, last consulted on 12 January 2022.)

A number of concerns are immediately apparent. Based on the instructions, reports are limited to physical injuries and fatalities, excluding matters like property damage. Nor does the website specify what will happen once a report has been made, or what the DoD will do with the personal details of people that reach out to one of the commands. It furthermore is not clear how people are supposed to find this website, which is part of a larger website by a specific US government entity and the existence of which is not advertised.<sup>114</sup>

Critically, the website is in English and does not offer (automated) translation options. This was criticized by a number of interviewees who argued that this severely limits potential reporting of civilian casualty events by people in many conflict-affected contexts, such as Yemen, Iraq, and Syria.<sup>115</sup> One interviewee mentioned that the people typically harmed by US operations in Yemen, live in “very remote areas”, continuing that “those areas are not areas where you get Internet connection”, making it “very unrealistic of the US military to expect people to file claims through such a website.”<sup>116</sup> Someone else noted that most Syrians “do not have the know-how, the investigative means, the resources” to use the website, making it necessary to go through an intermediary like an NGO.<sup>117</sup>

114 Interview with Emily Tripp and Chris Woods, *Airwars*, 8 September 2021.

115 Interview with Emily Tripp and Chris Woods, *Airwars*, 8 September 2021; interview with Bonyan Gamal, Mwatana for Human Rights, 8 September 2021; interview with Hamit Dardagan, *Iraq Body Count*, 22 September 2019; interview with Fadel Abdulghany, *Syrian Network for Human Rights*, 23 September 2021.

116 Interview with Bonyan Gamal, Mwatana for Human Rights, 8 September 2021.

117 Interview with Fadel Abdulghany, *Syrian Network for Human Rights*, 23 September 2021.

Regarding the user friendliness aspect from the military perspective itself, there have been reports that the website receives a great deal of spam messages rather than authentic reports on civilian harm incidents. This is a technological aspect that should be looked into.

Not all interviewees saw value in a mechanism designed for reporting by civilians themselves, arguing that such engagements should involve lawyers or NGOs with the necessary expertise and resources who can act as intermediaries and who also do not face the psychological barrier of having to confront those who caused them harm.<sup>118</sup> Others saw value in exploring possibilities to set up as many different sorts of reporting mechanisms as possible, in consultation with credible local civil society organizations, to better enable reporting by civilians.<sup>119</sup> An interviewee mentioned that for individual countries, regional differences should also be taken into account when designing the most appropriate approach, stressing that, in general, if “the US wants to, they will find a way” to make sure civilians can report harm directly.<sup>120</sup>

### 3.3.3 CREATING AWARENESS

One of the more critical issues hampering effectiveness of the reporting mechanism is the lack of awareness of its existence in the first place. Apart from a press release, the DoD has not taken any steps to actively promote such awareness. From the outset, this is likely to limit the website’s use to international civil society organizations that closely follow CHM policy and practice developments, and which – more frequently than not – have already established direct channels of communication with the military or with specific commands, making the website largely superfluous. Regarding awareness, it is telling that even a prominent Yemeni human rights organization was at first entirely unaware of the website’s existence, prompting its staff to seek contact with a US-based institution to aid them in filing civilian harm reports to the military directly. The interviewee recalled that “we did not know where to go with our information [on civilian casualties]. Who to contact in the US government? This was difficult to figure out.”<sup>121</sup>

Interviewees recommended that both the reporting mechanism and promotional efforts should always be available in the most used local languages.<sup>122</sup> Specifically for Yemen, it was advised that the DoD use TV, social media, and flyers to better advertise the website and the possibility for people to use it to directly provide information on civilian casualties.<sup>123</sup>

### 3.3.4 FOLLOW-UP

As with the previous two cases, the effectiveness of using the website as a reporting mechanism was called into question in relation to what its use is perceived to achieve. There have been reports that the website is hardly used to file allegations and, consequently, that its use has never led to revised assessments by the DoD and, in turn, to the making of amends to affected civilians. This is concerning because it may tell something about lack of follow-up as well as lack of awareness, which may reduce the incentive for people to use the website. As one interviewee said, if there is no response “people lose hope”, they will wonder why they should take the effort “if nothing is going

to happen”.<sup>124</sup> Others stressed that implementing a reporting mechanism only serves a purpose if it is part of a holistic approach of improving CHM, meaning that it is necessary to invest in tracking, investigation, as well as response efforts.<sup>125</sup>

More generally, questions remain about how the US military deals with and follows up on non-military reports of possible civilian casualties from US use of force. The Yemeni organization that filed civilian harm reports directly with CENTCOM had to wait several months before receiving a response, and even then were left with many answers:

*They basically told us [...] that we are a civil organization and that they have more accurate intelligence and that our information is basically wrong. They did not tell us if they interviewed any victims, they did not tell us if they talked to any people in the area, they did not tell us of their procedure and how they decided these people were AQAP and where they stood in that command, and how it was decided it was legal to target them. They did not tell us and until now we do not know.*<sup>126</sup>

Of the 38 civilian casualties across 11 different US operations that the organization reported, CENTCOM eventually admitted to one death as having concerned a civilian who died by US military force. Even in this case, the military did not seek direct contact with the remaining relatives, did not apologize for the mistake it had made, and neglected to pay compensation. It moreover cited national security reasons as its reason not to divulge any information regarding its investigation into and assessment of the incident.<sup>127</sup> The refusal to pay compensation occurred on the grounds of fear that this money would end up supporting AQAP in the area. The NGO representative said it was “a very bad call” for her to make to the family, to tell them that the US had killed their husband and father but was unwilling to provide amends, stating that “[n]ot providing compensation is a way of saying that all the people in that area are terrorists, which is a shameful label to give to those people.”<sup>128</sup>

This example is part of a broader problem to which civil society organizations have repeatedly called attention. In spite of the fact that the US Congress has an approved budget of 3 million dollars annually to make *ex gratia* payments for civilians harmed by US military operations, this budget is not being used despite some acknowledgements of civilian casualties by the military itself.<sup>129</sup> Not only does this add to the harm inflicted to civilians, for instance when they lose their livelihood because of damage to property, or when they lose their family breadwinner, but it may also contribute to grievances against the US, which in some contexts have been seen to contribute to support for insurgencies.<sup>130</sup>

### 3.3.5 RECOMMENDATIONS FOR THE US DOD

1. Invest in setting up more, diverse and context-appropriate reporting mechanisms through which civilians and civil society can directly report civilian harm allegations. Ensure that (local) civil society in different conflict areas is consulted on what the most context-

118 Interview with Hamit Dardagan, Iraq Body Count, 22 September 2019; interview with Fadel Abdulghany, Syrian Network for Human Rights, 23 September 2021.

119 Interview with Emily Tripp and Chris Woods, Airwars, 8 September 2021; interview with Bonyan Gamal, Mwatana for Human Rights, 8 September 2021.

120 Interview with Bonyan Gamal, Mwatana for Human Rights, 8 September 2021.

121 Interview with Bonyan Gamal, Mwatana for Human Rights, 8 September 2021.

122 Interview with Emily Tripp and Chris Woods, Airwars, 8 September 2021.

123 Interview with Bonyan Gamal, Mwatana for Human Rights, 8 September 2021.

124 Interview with Bonyan Gamal, Mwatana for Human Rights, 8 September 2021.

125 Interview with Emily Tripp and Chris Woods, Airwars, 8 September 2021.

126 Interview with Bonyan Gamal, Mwatana for Human Rights, 8 September 2021.

127 Interview with Bonyan Gamal, Mwatana for Human Rights, 8 September 2021.

128 Interview with Bonyan Gamal, Mwatana for Human Rights, 8 September 2021.

129 Annie Shiel and Chris Woods, “A Legacy of Unrecognized Harm: DoD’s 2020 Civilian Casualties Report,” *Just Security*, June 7, 2021; Magid, “No Apologies”.

130 See, for instance, Kolenda et al., “The Strategic Costs of Civilian Harm”.

- appropriate, and therefore more effective, mechanisms can be. Forms that could be considered are a standalone website, a dedicated phonenumber, a physical office, or enabling reports through trusted intermediaries (e.g. certain humanitarian organizations, national government representatives).
2. Ensure that new reporting mechanisms are available in the most-used local languages.
  3. Improve the current online reporting website by:
    - a. Making it easier to find on the DoD's website or by considering setting up a standalone website
    - b. Providing translation of the text in the most-used languages of the conflict zones where the US military operates
    - c. Broadening the scope of civilian harm incidents that can be reported to also include property damage
    - d. Including information on what civilians who make a report can expect in terms of follow-up, including whether or not a report may lead to amends, how long an investigation realistically takes, whether or not the outcome of the investigation will be communicated to them personally, and what will happen with their personal information.
  4. Increase awareness of the current – and potentially new – reporting mechanism(s) among national civil societies and local communities by actively disseminating information about them. Forms that should be considered are: flyers and brochures, advertisements on traditional and social media, active outreach to trusted community leaders and relevant legal associations.
  5. Ensure that people whose report is confirmed are notified of this personally, and will receive appropriate amends (e.g. an apology, financial assistance). Additionally, ensure that a clear policy or SOP is put in place for the practice of amends, ensuring consistency across cases.
  6. Be more transparent in how civilian harm incidents are assessed and on the basis of what information claims are denied or confirmed.

## 4. Methodology

The findings and recommendations in this report are based on 17 interviews with experts. Interviewees have a range of backgrounds, and include (former) staff members of the UN working on the Protection of Civilians, of the AU, NATO, US Defense officials, as well as representatives from civil society organizations operating internationally and in contexts like Iraq, Somalia, Syria and Yemen. We made a conscious choice to interview both mission and military staff, as well as civil society representatives in order to study and hear about the issue of reporting civilian harm from different perspectives. However, the balance between military and civil society interviewees is in favor of the latter because of access reasons. The data from the interviewees is supplemented with primary and secondary literature research. We did not receive comment on the section on the US DoD.

The relatively small sample of interviewees is reflective of the limited existing practice around reporting channels. At the same time, it cannot be ruled out that there is a larger body of practice than incorporated in this report, which may have remained unanalyzed because of a lack of secondary sources, too short a track record to merit evaluation, or a lack of public knowledge of the mechanisms in question. Finally, PAX is aware of ongoing talks and processes with(in) the US DoD to review and potentially improve its reporting mechanism as it currently exists. Nonetheless, the findings of the analysis of the DoD case study still hold general value and should inform future practice in relation to this topic.





Sint Jacobsstraat 12  
3511 BS Utrecht  
The Netherlands

[www.paxforpeace.nl](http://www.paxforpeace.nl)  
[info@paxforpeace.nl](mailto:info@paxforpeace.nl)  
+31 (0)30 233 33 46

P.O. Box 19318  
3501 DH Utrecht  
The Netherlands