

Literature review

# Civilians' perspectives on meaningful responses to civilian harm

PAX Protection of Civilians program  
Protection in Practice project  
Erin Bijl, September 2023



## Table of contents

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<b>Acknowledgements</b> .....	2
<b>List of acronyms</b> .....	3
<b>1. Introduction</b> .....	4
<b>2. Main findings</b> .....	6
<b>A note on terminology</b> .....	8
<b>3. Civilians’ perspectives on civilian harm response</b> .....	9
Entry 1: Center for Civilians in Conflict & Stimson Center (2023). (Un)Accountable: Rethinking US Security Sector Accountability Across the Domestic-International Divide. ....	9
Entry 2: Center for Civilians in Conflict (2018). “We Hope, But We Are Hopeless”: Civilians’ Perceptions of the Compensation Process in Iraq. ....	11
Entry 3: Center for Civilians in Conflict (2010). Civilian Harm and Conflict in Northwest Pakistan ..	13
Entry 4: Center for Civilians in Conflict (2009). Losing the People: The Costs and Consequences of Civilian Suffering in Afghanistan.....	15
Entry 5: Mwatana for Human Rights & Allard K. Lowenstein International Human Rights Clinic (2022). “Returned to Zero”: The Case for Reparations to Civilians in Yemen.....	17
Entry 6: Open Society Foundations (2021). A Passage to Justice: Selected Yemeni Civil Society Views for Transitional Justice and Long-Term Accountability in Yemen.....	18
Entry 7: Open Society Foundations (2010). The Trust Deficit: The Impact of Local Perceptions on Policy in Afghanistan. ....	20
Entry 8: Al-Ghad League, Intimacies of Remote Warfare & PAX (2022). After the strike: Exposing the civilian harm effects of the 2015 Dutch airstrike on Hawija.....	21
Entry 9: Sri Lanka Campaign for Peace and Justice (2015). “How Can We Have Peace?”: Tamil survivors of Sri Lanka’s civil war, in their own words, on their desires and expectations for justice and accountability, and what is needed to secure meaningful reconciliation and a lasting peace..	24
Entry 10: United Nations High Commissioner for Refugees & Center for Civilians in Conflict (2011). Civilian Harm in Somalia: Creating an Appropriate Response. ....	26
Entry 11: Vlaming, Frederiek de & Kate Clark (2014). War Reparations in Bosnia Herzegovina: Individual Stories and Collective Interests. ....	28
<b>4. Apologizing for harm</b> .....	29

## Acknowledgements

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The above list of publications on civilian harm response was jointly compiled by Erin Bijl, MA, Senior Project Officer Protection of Civilians at PAX and Joanna Naples-Mitchell, JD, Director, Redress Program, Zomia Center. The author thanks Kaleigh Heard, Joanna Naples-Mitchell and Wilbert van der Zeijden for their assistance finding relevant publications and/or for reviewing and commenting on an earlier draft of this literature review.

## List of acronyms

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<b>AMISOM</b>	African Union Mission in Somalia
<b>CHM</b>	Civilian Harm Mitigation
<b>CSO</b>	Civil society organization
<b>IMF</b>	International military forces
<b>INGO</b>	International non-governmental organization
<b>NATO</b>	North Atlantic Treaty Organization
<b>NGO</b>	Non-governmental organization

## 1. Introduction

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Many civil society organizations (CSOs) advocate for some form of civilian harm response: activities undertaken by security actors in reaction to civilian harm caused by their operations. This response functions both as a form of accountability and as a means to mitigate any further negative effects to civilians that may result from the initial harm that was caused. There is limited literature that directly reflects civilian perspectives on this topic, demonstrating the expectations, wishes and needs for responses to civilian harm of those who are meant to benefit from it: survivors of harm and/or their relatives.<sup>1</sup> Yet, while limited in number, there have been several good attempts by some CSOs to research the topic from precisely this perspective, shedding a light on when and how security actors' responses to harm may be perceived as just, meaningful and effective by those on the receiving end. Such research is important to inform ongoing advocacy and recommendations, and eventually to guarantee the development of civilian-centered military policy and practice, and should be explored further.

With this document, PAX maps those publications that address civilian harm response based on civilian views. Internally, this review provides a basis against which to check our assumptions and advocacy arguments. It may moreover serve to identify points of interest for further research on civilian harm response. External users may find it useful for its recommendations or as a resource document.

### Context

Civilian harm response is often understood as part of larger Civilian Harm Mitigation (CHM) efforts, which PAX has elsewhere defined as:

Efforts by armed groups, militaries, and nations to prevent, reduce, and address the harm resulting from military operations. It involves identifying and minimizing risks to civilians to the greatest extent possible. CHM goes beyond legal compliance.<sup>2</sup>

However, there are some actors – among them the United States Department of Defense – that instead refer to Civilian Harm Mitigation and Response (CHMR), turning them into two conceptually different, but related matters.<sup>3</sup> PAX regards the former as the more appropriate approach as post-harm responses can mitigate the risk of further negative impacts resulting from an initial instance of harm. Such negative impacts may include the development of hostile sentiments that can be the result of a lack of recognition or lack of assistance provided by security actors for harm done, or the negative economic impact that results from the loss of a breadwinner

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<sup>1</sup> Kaleigh Heard, *The Price of a Life: The Confluence of Strategy and Legitimacy in Civilian Harm Compensation* (unpublished manuscript: publication forthcoming), cited 11 September 2023.

<sup>2</sup> Marc Garlasco and Erin Bijl, "Civilian Harm Mitigation: A primer", Brief ([2023](#)).

<sup>3</sup> See, for instance, Department of Defense, "Civilian Harm Mitigation and Response Action Plan (CHMR-AP)", Report ([2022](#)).

or from increased medical costs to treat an injury. Response is therefore a crucial element of the broader, overarching concept of CHM, and has been recognized as such by other actors.<sup>4</sup>

## Scope

This literature review is predominantly focused on research reports by CSOs and to a lesser extent on academic publications, which were harder to access. While there is a larger body of work available on responses to violations of international law, the review is mostly – but not exclusively – focused on civilian harm caused by military operations, regardless of lawfulness, which is more in line with PAX’s work on civilian harm in armed conflict. While we attempted to include sufficient regional variation in the conflicts – and thus the background of civilian respondents – covered in this literature review, the majority of reports covers conflicts in the Middle East, often involving the US and/or NATO forces. While various reports touch more upon matters of transitional justice than what strictly would be considered civilian harm response, their findings were often sufficiently useful to warrant inclusion here.

## Organization

The first section introduces the main findings that became apparent during the review, as well as some of the terminology related to civilian harm response. This is followed by the main body of the review: a section summarizing the various publications that contain information on civilian perspectives to, and expectations of, civilian harm response practices. A final section deals specifically with the matter of official apologies for harm caused to civilians, a form of response that merits separate discussion as there are a lot of lessons to be learned from historical practice here, both in terms of positive and negative examples. As evident from this section, an apology by itself is not necessarily a sufficient or adequate form of response. Rather, it needs to fulfill certain criteria in order to be perceived as meaningful by those receiving the apology. Note that this final section on apologies – in contrast to the preceding section on responses to civilian harm more generally – does not discuss individual publications. Rather, it immediately presents the main findings, with the underlying literature referenced in footnotes. While other forms of response should ideally receive as much attention as apologies, there unfortunately are too few publications to make this possible in this review. This could be a point of interest for further research.

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<sup>4</sup> See, for instance, NATO’s definition of Civilian Harm Mitigation as “[m]easures to prevent, identify, investigate, and track incidents of civilian casualties from own actions, **while also providing amends and post-harm assistance when civilians are harmed** as a result of these operations” in its [2021](#) PoC Handbook (p. 28, emphasis added).

## 2. Main findings

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Recognizing the limitations of this study, we distill the following findings:

- While civilian harm response is an advocacy focus for various organizations, **there is a continued need for further research into civilian perspectives on civilian harm response**, due to a so far limited body of research outlining civilian expectations of, and experiences with response processes.
- The available literature provides strong evidence that there is a risk that a (consistent) lack of adequate responses by security actors to civilian harm events lead to **frustration, anger and resentment** among affected civilians and their communities, undermining the perceived legitimacy of these security actors.<sup>5</sup>
- Civilian populations are not homogeneous and there will be differences within and across societies about what constitutes a just, meaningful and effective response to civilian harm. Nonetheless, with regards to the type of response, civilians appear to overwhelmingly prefer:
  - (individual) **Financial payments**
  - **Acknowledgement** of the suffering inflicted
  - An **explanation** of what happened and why
  - **Legal action** where warranted<sup>6</sup>
  - An **apology** from those responsible
- However, it appears that **many civilians prefer a combination of response options**. Several reports note that interviewees believed that providing financial compensation without also offering acknowledgement or an apology would not result in meaningful accountability, and vice versa.
- Overwhelmingly, civilians express that financial payment fulfills two important functions: It is often considered an important and **culturally appropriate** form of response from those who inflict harm (reminiscent of practices of ‘blood money’ in countries like Iraq,

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<sup>5</sup> Conversely, there is academic research to suggest that the practice of international forces providing condolence payments or humanitarian aid to civilian victims in Iraq and Afghanistan may have led to reductions in local insurgent violence against these forces. See Daniel Silverman, “Too Late to Apologize? Collateral Damage, Post-Harm Compensation, and Insurgent Violence in Iraq” *International Organization* 74(4) (2020) and Jason Lyall, “Civilian Casualties, Humanitarian Aid, and Insurgent Violence in Civil Wars”, *International Organization* 73(4) (2019) respectively. However, while the articles find a relationship between payments and insurgent violence, they do not explain why that relationship is there.

<sup>6</sup> However, this finding may be a result of bias in the literature consulted as various reports deal with explicit legal violations rather than incidental harm, or both. Additionally, civilians interviewed by PAX (see entry 8) often appeared to pursue legal accountability only when/because they had so far perceived a lack of meaningful response and accountability from the party they considered responsible for harming them.

Afghanistan and Somalia); and it addresses **important material needs** as people have often lost their income or have increased medical costs because of the harm they suffered.

- Several reports demonstrate that **civilians consistently prefer individual payments over community-level responses**. Community-level responses, while usually not opposed by civilians, are often not considered as meaningful or effective, and risk not addressing the needs of those directly affected. For instance, people may be differently affected by the same event, or those who were harmed may have left the area of the incident by the time a community-level response is initiated and so become excluded from its benefits.
- In order to be considered meaningful, **responses to civilian harm should come from the responsible security actor itself**.
- Civilians frequently indicate desiring **civilian-centered response mechanisms or policies**, i.e., mechanisms and policies that are set up with their needs in mind, or where civilians are involved in their design at the outset.
- **Processes set up to give civilians access to post-harm assistance are usually inadequately designed**. Challenges historically include: unrealistically high evidentiary requirements placed upon affected civilians in order to access financial assistance (see entry 2) or a failure to provide accessible information about where claims of compensation can be submitted (see entry 5).
- **When providing an apology for civilian harm, security actors should make efforts to ensure it is meaningful in both content and form**. Where practically feasible, an apology should contain: explicit acknowledgement of the harm committed and how this has affected civilians; explicit acceptance of responsibility; an expression of remorse; and conveyance of empathy and respect towards the victims. Ideally, the apology is issued by someone with a leadership mandate who represents the party responsible, and offered in a meaningful, often formal setting, whereby the primary victims are addressed directly.



## A note on terminology

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Several concepts frequently come up concerning civilian harm response, often without being explicitly defined or differentiated. These include **response** itself, but also **amends**, **redress**, **compensation** and **reparation**. Below, you will find how these concepts are used and understood here. Please note that usage of these terms by different actors may still vary.

PAX uses **civilian harm response** interchangeably with (making) **amends**, and follows Center for Civilians in Conflict's definition of the latter:

*The practice of warring parties providing recognition and assistance to civilians they harm within the lawful parameters of their combat operations. [...] Amends can include monetary payments, but also public acknowledgement of, and apologies for, harm, community level acknowledgement of harm, livelihood assistance, and restoration of damaged public infrastructure, and other offerings in accordance with victims' needs and preferences.*<sup>7</sup>

Amends should not be confused with **reparations**, a concept in international law that refers to:

*[M]easures that international law requires when a state commits an internationally wrongful act, such as a violation of international humanitarian law or international human rights law [which] seek to eliminate all the harmful consequences of a violation of rules of international law applicable in armed conflict and to re-establish the situation that would have existed if the violation had not occurred.*<sup>8</sup>

**Compensation** refers to one type of reparation, and entails “financial payment for physical or mental/emotional damages. It also includes payment for lost opportunities such as lost employment, education, or social benefits.”<sup>9</sup> Alternatively, the term **redress** is often used to refer to such legally required compensation payments, though – depending on context – may also be used to refer to **ex gratia payments**: payments made “out of kindness” as opposed to payments required by law. *Ex gratia* payments are made in recognition of harm suffered as a result of lawful military operations.<sup>10</sup> The term **voluntary compensation** is sometimes used as a synonym for *ex gratia* payments, which can lead to confusion as *compensation* legally typically refers to payments required by law.

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<sup>7</sup> Center for Civilians in Conflict and Essex University Conflict Hub, “Amends and Reparations for Civilian Harm in Armed Conflict,” Brief (2023), 6.

<sup>8</sup> Center for Civilians in Conflict and Essex University Conflict Hub, “Amends and Reparations”, 8.

<sup>9</sup> Brianne McGonigle Leyh, “Reparations for Victims”, in Paul R. Williams and Milena Sterio (Eds.), *Research Handbook on Post-Conflict State Building* (Cheltenham, Edward Elgar Publishing: 2020), 229-30.

<sup>10</sup> Amsterdam International Law Clinic and Center for Civilians in Conflict, “Monetary Payments for Civilian Harm in International and National Practice”, Report (2013), 6.

### 3. Civilians' perspectives on civilian harm response

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Entry 1: Center for Civilians in Conflict & Stimson Center (2023).  
 (Un)Accountable: Rethinking US Security Sector Accountability Across the Domestic-International Divide.

**Title** (Un)Accountable: Rethinking US Security Sector Accountability Across the Domestic-International Divide

**Authors** Rosie Berman, Dan Mahanty and Annie Shiel

**Organizations** Center for Civilians in Conflict & Stimson Center

**Publication date** February 2023

**Type of publication** Research report

[Link](#)

#### Topic

The report is focused on the matter of accountability within the US security sector, both for its activities domestically and internationally. It identifies perceived challenges towards achieving accountability and recommendations for improving this from the perspective of (affected) civilians. Data and methodology: The findings are based on a combination of polls, civil society roundtables, subject matter expert interviews, and desk research.

#### Relevance

For this review, the sections on accountability in relation to US military activities abroad are most relevant, as is the emphasis placed on what civilians consider 'ingredients of accountability' (see below).

#### Key findings and takeaways

- The report puts together a 'vision of accountability' that is based on elements that were suggested by interviewed US civilians as being necessary to achieving accountability. These are:
  - Acknowledgement, explanation, and apologies
  - Taking responsibility and making amends
  - Legal liability and disciplinary action, where warranted
  - Ensuring non-repetition
  - Designing accountability measures that are reflective of victims' and survivors' needs. (pp. 39-42)
- In relation to acknowledgement, interviewees further indicate that this may include recognizing a person's innocence: for instance, in situations of armed conflict, acknowledging that a harmed individual was a civilian rather than a combatant. (p. 39)

- Interviewees stress that apologies for harm must come from the security institution that is responsible and should be addressed at victims and survivors. (p. 40)
- Acknowledgement and apologies for harm done are often not considered sufficient by themselves, and may be considered meaningless if not accompanied by additional measures, such as (monetary) compensation for losses. (p. 40)
- ‘Taking responsibility’ – one of the ingredients identified by interviewees – was taken to mean a variety of things, but most frequently tangible assistance in the form of monetary payments. This is often perceived to be both materially and culturally important. Yet, as a stand-alone response it may again not amount to meaningful accountability from a civilian perspective:

*Despite the tangible benefits monetary amends can provide, participants pointed out that they represent only one piece of accountability and can sometimes be seen as inappropriate or unsatisfactory on their own. One participant argued that monetary amends must be paired with acknowledgement while another highlighted that changed behavior matters as well. (p. 41)*

- According to interviewees, ensuring non-repetition is another major part of accountability. Accountability is perceived as not merely being about addressing a specific instance of harm, but also about stopping (future) cycles of harm. For some, seeing the same forms of harm being repeated over and over again, makes potential other accountability efforts by that security institution seem meaningless. (p. 42)
- Non-repetition includes: changing laws and policies, adjusting use-of-force standards, and documenting and implementing lessons learned. (p. 42)
- As a final element, interviewees stress that accountability efforts must be civilian-centered, i.e., designed and informed by (affected) civilians’ needs and expectations. (p. 42)

## Entry 2: Center for Civilians in Conflict (2018). “We Hope, But We Are Hopeless”: Civilians’ Perceptions of the Compensation Process in Iraq.

**Title** “We Hope, But We Are Hopeless”: Civilians’ Perceptions of the Compensation Process in Iraq

**Author** Caroline Baudot

**Organization** Center for Civilians in Conflict

**Publication date** December 2018

**Type of publication** Research report

[Link](#)

### Topic

The report’s focus is on the Iraqi law 20, *Compensating the Victims of Military Operations, Military Mistakes and Terrorist Actions*, also known as the ‘compensation law’: a means through which the national authorities provide financial compensation for deaths, injuries, and damages caused by ISIS or during military operations against ISIS. It specifically deals with civilians’ perceptions of and experiences with this law and its implementation. Data and methodology: The report findings are based on semi-structured interviews with Iraqi civilians who have been affected by military operations, lawyers representing law 20 applicants, and several officials and government employees.

### Relevance

Usefully, the report deals both with harm caused by violations of International Humanitarian Law and harm caused incidentally, the latter being more the focus of PAX’s work on civilian harm response. The report also stands out because of its focus on a mechanism *already* in existence to provide compensation, and highlights specific practical challenges civilians face in accessing these payments. Perhaps less useful is that the report covers compensation by the Iraqi government, also in instances where it is not the actor responsible for the harm that was caused.

### The compensation process (explained on pp. 9-11)

There is a Baghdad-based central committee that approves or rejects claims for compensation that are received and reviewed by governorate-level subcommittees, which also recommend a compensation amount. There are also some offices at the district level. The law offers applicants the opportunity to appeal the committee’s decision within a fixed timeframe. There are different compensation ‘classes’, based on the level of harm that was caused.

### Key findings and takeaways

- Interviewees identify several practical challenges in accessing the compensation process, one of those being an ‘evidentiary bar’ that many consider to be too high. People have often lost or have been unable to receive some of the documents that the process

requires in order to access compensation, such as death certificates, IDs, or documents demonstrating property ownership. (p. 3) This excludes them from much-needed assistance:

*While the death certificate requirement is designed to prevent fraudulent compensation and death claims, it prevents many families from applying for compensation for up to four years, and deprives them of much-needed support, particularly women who lost their husbands who were the primary breadwinner for the family. (p. 17)*

- Other practical barriers include the costs involved and the frequent need to travel across governorates in collecting the required documentation, resulting in many affected civilians not even considering applying for compensation. (p. 3)
- Many applicants complain about not having received any compensation or only a very small amount, which creates resentment vis-à-vis the authorities. (p. 3)
- Regarding external evaluation and oversight of the compensation process, it is problematic that the Iraqi government does not share or rarely shares data on the amount and value of granted disbursements. (p. 3)
- Further issues at the government level are (1) that the (sub-)committees that coordinate the compensation process are under-resourced, meaning that the processing of an individual application can take over two years, and (2) that the process appears plagued by corruption, with richer or better-connected people receiving compensation more often or in higher amounts than those who are most vulnerable. (pp. 11-13)
- Another issue of discontent among Iraqi civilians is that former ISIS members and, especially concerning, their relatives are excluded from the compensation process. (p. 18)
- The report makes recommendations, several of which have practical relevance beyond Iraq and its 'compensation law' alone:
  - Establish mobile compensation teams / teams for civil documentation, so that civilians do not have the additional burden of having to travel long distances
  - Review the evidentiary requirements and ensure that these do not place an excessive burden on civilians, but contribute to a faster, more efficient and more consistent application and compensation process
  - Provide public data on the number and amount of distributed compensation payments. (pp. 5-6)

### Entry 3: Center for Civilians in Conflict (2010). Civilian Harm and Conflict in Northwest Pakistan

**Title** Civilian Harm and Conflict in Northwest Pakistan

**Author** Christopher Rogers

**Associated organization** Center for Civilians in Conflict

**Publication date** October 2010

**Type of publication** Research report

[Link](#)

#### Topic

The report documents the negative civilian harm effects of conflict in northwest Pakistan, and analyzes its humanitarian, security and strategic consequences. Data and methodology: The report is based on interviews with 160 Pakistani civilians who have suffered directly from the use of force, as well as interviews with US and Pakistani policymakers, humanitarians and officials from international organizations.

#### Relevance

The report covers civilian harm in Pakistan caused by a range of state and non-state armed actors, including harm from US drone strikes. There are specific sections on civilians demands' regarding making amends for harm and on their experiences with existing compensation practices, which are especially useful.

#### Key findings and takeaways

- Both the occurrence of civilian harm and the subsequent failure by those considered responsible to provide an appropriate response causes anger among those affected and undermines the perceived legitimacy of the actor in question. (p. 9)
- A lack of recognition or apology for harm suffered by state actors was considered by many civilians to add 'insult to injury'. (p. 55)
- Many civilians, especially those in great need, feel that apologies and recognition by themselves would hold little meaning or appeal if not combined with more material forms of response, especially compensation. The combination was argued to make the conveyance of regret more meaningful. (p. 56)
- Civilians do not demand or expect compensation or other assistance from non-state armed groups, but they do expect it from state actors like the Pakistani or US government. (pp. 56, 81)
- Offering compensation after causing harm is considered both culturally appropriate – compensation is described as having a firm rooting in Pakistani society – and as fulfilling dire material needs faced by the victims. (pp. 57-58)

- The Pakistani military has set up a compensation scheme for victims of terror acts as well as of its own military operations, whereby payments are disbursed for fatalities and serious injuries. Yet, this system is criticized for being ad-hoc, not always delivering on its promises of compensation to civilians, is rumored to be corrupt, and lacks centralized oversight. (pp. 63, 66-67)
- For women especially, it is reportedly difficult to access compensation because of cultural stigmas around being seen to interact with public officials, as well as limited access to official documentation as women often rely on their husbands' identifying documents. (p. 69)

## Entry 4: Center for Civilians in Conflict (2009). Losing the People: The Costs and Consequences of Civilian Suffering in Afghanistan.

**Title** Losing the People: The Costs and Consequences of Civilian Suffering in Afghanistan  
**Authors** E.L. Gaston and Rebecca Wright  
**Associated organization** Center for Civilians in Conflict (at the time: Campaign for Innocent Victims in Conflict)  
**Publication date** February 2009  
**Type of publication** Research report  
[Link](#)

### Topic

The report documents the harm experienced by Afghan civilians caused by international military forces (IMF), as well as their experiences with and expectations for various compensation and victim assistance mechanisms. Data and methodology: The report is based on interviews with 143 Afghan civilians negatively affected by the conflict.

### Relevance

In terms of content and methodology, this report strongly meets the type of resource needed to answer the original research question, and is usefully based on interview data with a large group of civilians. Interestingly, the report contains an annex, 'Civilians, in their own words', which shows direct quotations from the interviews with several affected civilians.

### Key findings and takeaways

- Regarding the *type* of response for harm suffered, interviewed civilians generally indicated desiring (pp. iii, 29, 31, 38-39, 43):
  - Recognition for the harm suffered
  - An explanation and/or apology
  - Monetary or *ex gratia* payments, though many respondents indicated having problems accessing this kind of assistance:

*There is no standardized system across ISAF [International Security Assistance Force] forces for providing compensation but when money was provided, and especially when this was combined with an apology, civilians expressed satisfaction and reduced anger toward IMF. **This combined approach seemed to be the best way to make amends for civilian harm.** (p. 31, emphasis added)*

- Medical assistance by international forces, if timely. In fact, some respondents were more positive about this than about monetary payments, because the medical assistance was valued, perceived to be of high quality, and perceived to be more easily accessible than *ex gratia* payments



*[S]ome said they did not even care or want further compensation or apologies so long as their family members received necessary treatment. (pp. 38-39)*

- A formal trial of the soldier responsible for a death or injury
- Regarding the *process* of providing response, interviewed civilians generally indicated desiring (pp. iii, 29-30):
  - Timely and adequate assistance
  - The response to come from those who they deem responsible for having caused the harm. More precisely, civilians stated that assistance by another actor (e.g., the national government, humanitarian organizations) is not considered a sufficient substitute for an apology and compensation by those forces who are responsible:

*CIVIC's interviews suggest there is no 'one-size-fits-all'. However, one of the more significant findings from our interviews was that **civilian satisfaction was far more dependent on who gave the assistance than on the type or amount provided**. When, for example, responsibility for the loss was attributed to the IMF and apologies, financial aid or livelihood assistance came directly from the IMF, civilians were more likely to feel redress had been provided. (p. 43, emphasis added)*

- The report flags that a lack of response following civilian casualties or property loss due to operations by international forces often leads to anger and resentment among those negatively affected. (iii)
- While in Afghanistan much harm was caused by either the Taliban or IMF, the report found that civilians expressed higher expectations of amends or compensation by the latter. (p. 30)
- The report notes that certain desires/expectations regarding response may be context and culture-dependent, and referenced the Afghan tradition of providing 'blood money' as a way to resolve conflicts:

*Within Afghan society, loss of family members, property or other harms are often settled through informal dispute systems that require those responsible to make an apology and provide a sum as a token of recognition for the loss. Perhaps for this reason, many civilians said they wanted or expected direct compensation from the military[.] (p. 39)*

- Concludingly, the report remarks:

*According to CIVIC's preliminary research, a combination of an apology, a gesture of respect by those perceived as responsible for the loss and monetary payments appears most likely to satisfy desires for redress. (p. 46)*

Entry 5: Mwatana for Human Rights & Allard K. Lowenstein International Human Rights Clinic (2022). “Returned to Zero”: The Case for Reparations to Civilians in Yemen.

**Title** “Returned to Zero”: The Case for Reparations to Civilians in Yemen

**Author** *not specified*

**Associated organizations** Mwatana for Human Rights and Allard K. Lowenstein International Human Rights Clinic, Yale Law School

**Publication date** June 2022

**Type of publication** Research report

[Link](#)

### Topic

The report discusses acts by parties to the conflict in Yemen that amount to violations of international law and discusses these actors’ legal obligations to provide reparations to affected civilians, while comparing this to the actual steps they have taken, or lack thereof. Data and methodology: the report is based on a combination of document analysis and 81 reparations-focused interviews with civilian victims, their relatives, and human rights lawyers.

### Relevance

The report’s focus on international law violations and the corresponding right to reparation does not always align with the scope of the research question, which is focused on civilian harm more generally. However, it still sheds some light on what responses civilians need and desire.

### Key findings and takeaways

- According to the report, interviewed civilians express different priorities for justice. These predominantly include: monetary compensation, revenge, putting those responsible on trial in an international court of justice. (p. 18)
- Consistently, interviewees indicate that those they consider responsible for the harm that was caused to them should also be the one providing the reparation. (p. 18)
- For those harmed by operations by the Saudi/United Arab Emirates-led Coalition, interviewees express having little idea of where they can submit their claims to reparation, and even those that did receive some monetary assistance indicate not understanding how the process worked. (p. 85)
- Many interviewees desire some form of financial compensation, which they say they need to pay for medical treatment or as a substitute to income that was lost. (pp. 90-91)
- Monetary payments have generally come without an apology or acknowledgement of fault, which contributes to a perception among many interviewees that these responses do not meet the threshold of meaningful justice or redress. (p. 92)

## Entry 6: Open Society Foundations (2021). A Passage to Justice: Selected Yemeni Civil Society Views for Transitional Justice and Long-Term Accountability in Yemen.

**Title** A Passage to Justice: Selected Yemeni Civil Society Views for Transitional Justice and Long-Term Accountability in Yemen

**Author** Marta Abrantes Mendes

**Associated organization** Open Society Foundations

**Publication date** February 2021

**Type of publication** Research report

[Link](#)

### Topic

The report has collected Yemeni civil society views on current transitional justice mechanisms, as well as people's ideas on what future accountability and redress mechanisms should look like regarding violations by all parties to the conflict in Yemen. Data and methodology: The report is based on 26 semi-structured interviews with representatives of Yemeni CSOs and several other stakeholders.

### Relevance

The report is mostly focused on transitional justice and violations of international law, and not necessarily on civilian harm caused by military operations regardless of their lawfulness. However, it does provide recommendations on response based on civilian perspectives.

### Key findings and takeaways

- Interviewees stress that transitional justice mechanisms should be set up using a victim-centered approach, meaning that civilians should be meaningfully involved in their design and establishment. (p. 10)
- The main elements of transitional justice mechanisms identified by interviewees were:
  - Truth-telling through which the (cause of) suffering of victims is publicly recognized
  - Redress, which was generally taken to mean acknowledgement and the provision of financial compensation
  - Mental health support. (p. 10)
- Regarding truth-telling, it is worthwhile to note that interviewees used two different interpretations. It was either considered to mean the acknowledgement of wrong-doing and the harm caused to civilians, or as having access to all the facts of what had occurred. (p. 22)
- Interviewees rejected the notion of offering compensation without prior acknowledgement:

*Ready-made formulas that did not consider the participation of victims in developing processes and mechanisms were promptly discarded by interviewees. One example concerned compensation offered to victims without prior acknowledgement of the wrongs and/or violations committed. For many of the respondents interviewed, this was deemed 'offensive' to victims. (p. 22)*

## Entry 7: Open Society Foundations (2010). The Trust Deficit: The Impact of Local Perceptions on Policy in Afghanistan.

**Title** The Trust Deficit: The Impact of Local Perceptions on Policy in Afghanistan

**Author** Jonathan Horowitz

**Associated organization** Open Society Foundations

**Publication date** October 2010

**Type of publication** Policy brief

[Link](#)

### Topic

The policy brief seeks to uncover and understand the reasons for the many negative perceptions among Afghan civilians vis-à-vis international military forces (IMF), and provide recommendations for how these can be addressed. Data and methodology: the report is based on interviews with over 250 Afghans, carried out individually or in focus groups, and consultations with human rights monitors, community representatives and researchers.

### Relevance

The report has little relevance to the research question, as it minimally touches upon matters related to how IMF have responded to civilian harm caused by their operations, or on general perceptions of what responses to civilian harm should look like.

### Key findings and takeaways

- IMF-caused civilian casualty incidents contributed to negative perceptions of these forces among Afghan civilians, especially as many interviewees indicated that such incidents happen without the IMF offering an explanation or taking responsibility. Consequently, people developed the perception that IMF did not care about them or even that they may have been killing and otherwise harming Afghan civilians intentionally. (p. 8)

## Entry 8: Al-Ghad League, Intimacies of Remote Warfare & PAX (2022). After the strike: Exposing the civilian harm effects of the 2015 Dutch airstrike on Hawija.

**Title** After the strike: Exposing the civilian harm effects of the 2015 Dutch airstrike on Hawija

**Authors** Saba Azeem, Lauren Gould, Erin Bijl and Jolle Demmers

**Associated organizations** PAX and Intimacies of Remote Warfare, Utrecht University

**Publication date** April 2022

**Type of publication** Research report

[Link](#)

### Topic

The report aims to map the diverse direct and indirect, short- and long-term civilian harm effects from one specific airstrike in Iraq, carried out as part of Operation Inherent Resolve. Its focus includes material consequences, as well as (changed) perceptions among civilians. Data and methodology: The report is based on interviews with 119 affected civilians and 40 key informants, several focus group discussions, and documentary and imagery analysis.

Note: The findings and takeaways described below are based on both the report itself, as well as on the underlying datasets. Not all information presented below can therefore be found in the publicly available report.

### Relevance

The report is largely based on the experiences and perceptions of civilians who have experienced harm, and contains a short section on their expectations vis-à-vis those they consider responsible (the US-led Coalition against IS and, more specifically, the Netherlands). The underlying dataset offers detailed information on their expectations and needs regarding response, and offers rarely available quantifiable information on this topic.

### Key findings and takeaways

From the report:

- A lack of response by the Netherlands or the larger Coalition – the party/parties most of those affected by the airstrike hold responsible for their suffering – has led to increased negative sentiments towards these parties, which often were not present at the outset of the conflict or even before this particular airstrike. (pp. 10, 97-101)
- Victims of the airstrike identify receiving an official apology and direct financial compensation from the Netherlands as their top priorities regarding response. (pp. 10, 102-3)

- Interviewees generally prefer individual compensation payments over (financial) assistance through INGOs, large international organizations, or national authorities, as there exists considerable distrust of these actors and fear that the money will disappear in the political ‘chaos’ or because of corruption:

*There is chaos currently in Iraq [...] and this chaos leads to corruption. We therefore want individual compensation, since if funding is given to the government or to NGOs, we will never see a single penny. Moreover, when it comes to [community rehabilitation] projects [...] these should be taken out of the compensation, since this is the responsibility of the government of Iraq, and not any NGO or international government. We are taxpaying citizens, and therefore, the government needs to rehabilitate the infrastructure. (p. 103)*

- With regard to community rehabilitation projects through international organizations, interviewees moreover expressed their dissatisfaction with the fact that such projects are often carried out without consultation of the victims themselves on how and where money should be spent. (p. 103)

From the dataset:

- Recurring answers to the question how the responsibly party should take responsibility and action following the harm that was caused, include: financial compensation (99%), acknowledgement that a mistake was made (60%), legal justice by taking the responsible party to court (60%), an apology (30%)<sup>11</sup>, a visit to Hawija and direct communication with those affected (6%).
- Regarding those interviewees who indicated wanting to take the Netherlands (and sometimes the Coalition more generally) to court, some were explicit about this being a last resort option because of a lack of – in their eyes – meaningful response so far and this potentially being a way to have their suffering acknowledged and to still access financial compensation, while for others it was not clear whether this was the case.
- Illustrative quotes of the above:

*The aim is to help us financially, to compensate us a little for what we have lost because they [the Netherlands] cannot return our loved ones again, but they can support us financially in order to restore our life to its right course because we are tired of being in need. (person who got injured in the airstrike themselves, as well as several relatives, and who suffered damages to their house and workplace)*

*After the liberation [in 2017], they should have come and seen all the civilians harmed by the strike and tell them that they made a mistake and we want to support you financially and morally. Even the moral support and encouragement would have been enough, but we have not*

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<sup>11</sup> In translating the responses from Arabic to English, some nuances may have gotten lost. A case can also be made that 68 percent of interviewees desired the responsible party to apologize as the difference – linguistically and culturally – between admitting a mistake and apologizing is minimal.

*seen anything.* (person whose daughter got permanently injured and who suffered damages to several owned shops)

*The highest officials must apologize.* (person whose children got injured and whose two shops and house were damaged)

- Notably, interviewees had a different approach to the matter of those responsible providing an apology: between 30-68 percent (see footnote 10) indicated this was desirable, some indicated that what happened was unforgivable and therefore no apology should be made, while certain others also expressed that the deed was unforgivable but that those responsible should nonetheless offer an apology “*though we will not grant one*”.
- While a majority of respondents mentioned wanting to take those responsible to court, some interviewees were adamantly against this. One respondent, for instance, saw this as fixing “*a mistake with a mistake*”.
- While all interviewees saw the Netherlands and/or the International Coalition against IS as the main party responsible for their suffering and for providing a response, 19 percent nonetheless also held the federal Iraqi government responsible and perceived it as a party who should, mainly, have provided general assistance to Hawija and those affected following the strike and/or liberation from IS.
- In the interviewees, many people indicated desiring medical and/or psychological assistance but it was often not clear whether they perceived this as a need, as an expected response from the Netherlands, or both.



Entry 9: Sri Lanka Campaign for Peace and Justice (2015). “How Can We Have Peace?”: Tamil survivors of Sri Lanka’s civil war, in their own words, on their desires and expectations for justice and accountability, and what is needed to secure meaningful reconciliation and a lasting peace.

**Title** “How Can We Have Peace?”: Tamil survivors of Sri Lanka’s civil war, in their own words, on their desires and expectations for justice and accountability, and what is needed to secure meaningful reconciliation and a lasting peace

**Author** *not specified*

**Associated organization** Sri Lanka Campaign for Peace and Justice

**Publication date** March 2015

**Type of publication** Research report

[Link](#)

### Topic

Following the Sri Lankan civil war, this report sets out to map the victims’ perspectives on what is needed and expected from the Sri Lankan government in order to achieve accountability, justice and reconciliation. Data and methodology: The report is based on between 15-20 focus group discussions, involving about 150-200 Tamil civil war victims. Participants had all lost an immediate family member who were either killed or “disappeared” during the war.

### Relevance:

The report is about a civil war context and concerns justice and accountability for acts that appear mostly deliberate and can amount to gross legal violations. However, while the context is different, the findings and underlying research methodology are relevant to the central research question.

### Key findings and takeaways

- Overwhelmingly, the focus group participants identified hearing the truth from the government as their primary need. This was an especially strong sentiment among those participants whose family members were “disappeared” during the war. (p. 4)
- The second priority was that of legal justice, by seeing those considered responsible – especially the top leadership – stand trial. (pp. 5-7)
- A majority of participants considered financial compensation a necessary element to the reconciliation process and described this as fulfilling both a material need (for instance when the loss of a family breadwinner has resulted in a reduced family income) and as a matter of natural justice. However, participants stressed that, to achieve accountability, money could never replace the need for having access to the truth. (p. 12)
- There was more division among interviewees where it concerns forms of non-monetary reparation (e.g., investment in education), with some being in favor, while others were

too distrustful of the government or did not regard this, by itself, as sufficient for reconciliation. (p. 12)

- Participants identified apologies for and acknowledgement of the suffering that was inflicted upon them as important, but generally emphasized that justice and truth were more important to them. The report suggests that this may show that justice needs to be achieved before apologies can meaningfully be considered and received. (p. 13)

## Entry 10: United Nations High Commissioner for Refugees & Center for Civilians in Conflict (2011). Civilian Harm in Somalia: Creating an Appropriate Response.

**Title** Civilian Harm in Somalia: Creating an Appropriate Response

**Author** Nikolaus Grubeck

**Associated organizations** United Nations High Commissioner for Refugees and Center for Civilians in Conflict (at the time: Campaign for Innocent Victims in Conflict)

**Publication date** November 2011

**Type of publication** Research report

[Link](#)

### Topic

The publication seeks to inform how the African Union Mission in Somalia (AMISOM) and other parties to the conflict in Somalia respond to civilian harm caused by their operations by identifying the expectations and wishes of Somalis themselves with regard to this topic. Data and methodology: the author conducted over 100 interviews with Somali civilians, both in Somalia and in the diaspora, as well as with humanitarian organizations, international donors, UN staff, and AMISOM personnel.

### Relevance

The topic and methodology of the publication closely resemble the scope of this literature review, and the findings reflect the perspectives of (affected) civilians themselves. Of note is also that, while the report does not substantiate its findings with quantitative claims, it does signal that the views of civilians of what should be done in response to civilian casualties were largely consistent across interviews.

### Key findings and takeaways

- Most respondents are in favor of incorporating traditional Somali dispute resolution mechanisms into any policy or practice on responses to civilian harm. (p. 2) More concretely, this can mean that:
  - Clan elders have decision-making power, there is an emphasis on joint healing and reconciliation, response includes an aspect of financial compensation (traditionally, paying *diyya*)
  - The report notes that certain aspects of traditional mechanisms require closer consideration. For instance, because they may not be directly applicable to contexts of modern warfare or because of other issues like discrimination in the paying of *diyya*, where such ‘blood money’ compensation is traditionally higher for male casualties than female casualties. (pp. 25-26)
- Somalis generally desire both recognition of the harm caused, as well as tangible assistance. Financial compensation can serve to convey regret and acknowledgment by

those considered responsible, while also offering a practical solution to address the needs that are a consequence of the harm caused (e.g., by covering medical expenses or the reconstruction of damaged property). (p. 3)

- The majority of interviewees prefers individual compensation payments over community-level compensation or rehabilitation projects, such as the building of a school or clinic. (p. 3)
- Most interviewees agree that any kind of compensation is better than none, though there was considerable disagreement over what constitutes an appropriate amount. Some argue that compensation payments can be prioritized for those who appear to need it most like elderly people or orphans. (pp. 3, 36)
- Interviewees acknowledge that creating a system for civilian harm response will be difficult, as there are risks of receiving false allegations of harm or of creating disparities within communities because of compensation payments. Nonetheless, interviewees flag that these issues should not be considered insurmountable, and that having a system in place is better than having no system in place. (pp. 3-4)

## Entry 11: Vlaming, Frederiek de & Kate Clark (2014). War Reparations in Bosnia Herzegovina: Individual Stories and Collective Interests.

**Title** War Reparations in Bosnia Herzegovina: Individual Stories and Collective Interests

**Authors** Frederiek de Vlaming and Kate Clark

**Associated organization** N/A

**Publication date** March of 2014

**Type of publication** Academic article in a larger publication (*Narratives of Justice In and Out of the Courtroom: Former Yugoslavia and Beyond*. Editors: Dubravka Zarkov and Marlies Glasius)

[Link](#)

### Topic

The article seeks to compare two different legal approaches to justice and reparations. Data and methodology: The article is based on documentation of past court cases and other (mostly academic) literature.

### Relevance

This entry is much more legally focused in both its topic and approach, yet it does contain some findings that are more reflective of civilians' experiences with seeking justice and reparations that touch upon the main research question.

### Key findings and takeaways

- Relatives of four Bosnian men who died during the massacre of Srebrenica began a court case against the Netherlands, who were present under the UN banner. The claimants saw the court case as important for two reasons: **(1)** It restored their trust in the Dutch government and **(2)** it confirmed 'their' truth as the truth, and so contributed to a sense of acknowledgement. (p. 172)
- In Bosnia, a Human Rights Chamber was set up as a body that could offer reparation to victims of human rights violations. In certain cases, it ordered collective compensation measures. In the case of one such collective measure,

*notwithstanding the huge amount awarded to them, the applicants were not satisfied with the HRC's decision only to order a collective measure. They considered this to be an inadequate response to the genocide and the suffering of the individual applicants and because it gave insufficient consideration to the victims' social and economic needs. (pp. 178-79)*

## 4. Apologizing for harm

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Apologies are frequently called for when it comes to responding to a civilian harm event. The literature discussed in section 3 further reinforces this call, as it shows that civilians affected by conflict often desire apologies from those who have harmed them. However, more can be said about this than merely calling for *an* apology to be made: there is a distinct body of literature on the topic of state or political apologies, providing ample evidence that – depending on how, where, and by whom an apology is uttered – it can be welcomed as a meaningful gesture that possibly contributes to healing and reconciliation, or – if done wrong – it can be perceived as adding insult to injury. The richness of data and literature available – especially as compared to other response options – merits a specific section on apologies. While there is no universal answer explaining what makes a good apology, the below discusses some good practices as well as potential pitfalls in making a public apology for a civilian harm event, based on a review of (state) apology-related literature.

### Why apologize

It is important to acknowledge that certain actors face practical concerns when considering whether or not to apologize: some states, for instance, may be reluctant to issue an apology as it opens the door for legal liability and claims for compensation.<sup>12</sup> However, as this review is informed by what those on the *receiving* end desire in terms of response and accountability, it is our point of view that the onus should be on those actors to explore how they may still meet their moral responsibility and the expectations of those they have harmed. Further, some of the findings here may also be used to inform different forms of response, such as public acknowledgement of harm.

In providing policy recommendations for state apologies, Wohl et al. identify four reasons to apologize: **(1)** it is a moral imperative to provide an apology for harm; **(2)** apologies can contribute to constructing a shared history of past events that is acceptable to both the apologizer and the institution they represent, and to the victim community; **(3)** apologies help bring attention to past wrongs that may otherwise end up forgotten; and **(4)** apologies have the potential to improve relationships between those who were harmed and those responsible for that harm.<sup>13</sup> There is further evidence that people – whether harmed or not – generally perceive state apologies as an important gesture, suggesting that recognition of wrongdoing and consequent suffering is important in and of itself.<sup>14</sup> Specifically in relation to civilian harm events, the literature discussed

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<sup>12</sup> Michael J. A. Wohl, Matthew J. Hornsey and Catherine Philpot, “A Critical Review of Official Public Apologies: Aims, Pitfalls, and a Staircase Model of Effectiveness”, *Social Issues and Policy Review* 5(1) (2011).

<sup>13</sup> Wohl et al., “A Critical Review” (2011).

<sup>14</sup> Thia Sagherian-Dickey et al., “Meaningless gestures or pathway to healing and reconciliation? Comparing the perspectives on political apologies in victim and non-victim communities in El Salvador, the Republic of Korea and United Kingdom”, *British Journal of Social Psychology* 62(1) (2023).

in the previous section further suggests that apologies can play a key role in creating or maintaining a security actor's legitimacy.

### Apology best practices

Different authors and researchers have varied perspectives on what constitutes a 'good' apology, in other words, an apology that is perceived as meaningful by those affected. Nonetheless, certain characteristics are consistently brought up as constituting key elements: crucially, an apology must contain explicit **acknowledgement** of the harm that was committed, to whom, and by whom. In other words, the apology must provide an account of what transpired, and must clarify who is apologizing to whom. A successful apology must further contain an **expression of remorse** through use of words like 'sorry' or 'apologize'. Third, it is important that the apologizer explicitly accepts **responsibility**. And finally, the actor making the apology should recognize and name the **suffering** of those affected, while conveying **empathy** and **respect**. Less consistently but still frequently mentioned is also the need for a **promise of non-repetition**.<sup>15</sup>

Besides the apology's content, it is further important to consider its form. Key considerations here are to ensure that the person apologizing is seen to be representative of the entity that caused the harm and has a leadership mandate, and that the apology is offered in an appropriate and formal setting. It is further crucial that the apology is directed at the primary victim of the committed transgression, something that might seem obvious but that often goes wrong in state apologies (see below).<sup>16</sup>

### Apology pitfalls

While there is general agreement about the value of (meaningful) state apologies, many scholars recognize that state apologies often come across as insincere and fall short of the recipients' expectations, thereby missing out on important opportunities to contribute to reconciliation. One cause is that there is often the perception that state actors utter an apology more for or towards their (domestic) constituency, for instance as a way to improve their reputation, rather than towards those who have been harmed. This may then be taken as a sign of disrespect by the latter.<sup>17</sup>

On content, there are various ways to present an apology that appear to diminish the apologizer's responsibility rather than acknowledge it. These include: use of passive voice; not taking *explicit* responsibility ("I regret that ... has happened"); downplaying the suffering of those who have been

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<sup>15</sup> Wohl et al., "A Critical Review" (2011); Marieke Zoodsma et al., "These Are Not Just Words: A Cross-National Comparative Study of the Content of Political Apologies", *International Review of Social Psychology* 34(1) (2021); Rhoda Howard-Hassmann, "Official Apologies", *Transitional Justice Review* 1(1) (2013); Girma Negash, *Apologia Politica: States and Their Apologies by Proxy*, (Pennsylvania, Lexington Books: 2007).

<sup>16</sup> Wohl et al., "A Critical Review" (2011); Negash, *Apologia Politica* (2009); Alice MacLachlan, "Trust Me, I'm Sorry: The Paradox of Public Apology", *The Monist* 98(4) (2015).

<sup>17</sup> MacLachlan, "Trust Me, I'm Sorry" (2015).

harmed; blurring or diminishing the event by not explicitly naming it; spreading the blame; or providing justifications for what happened while apologizing.<sup>18</sup> According to Zoodsma et al., such weak apologies may actually work counterproductive:

*For this reason, [it has been] argued that political apologies should contain an explicit apology, with an explicit acknowledgement of wrongdoing and an explicit acceptance of responsibility, to be perceived as valid and remorseful. It has been hypothesized that in the absence thereof, political apologies actually have the potential to reignite or fuel animosities rather than reduce them.*<sup>19</sup>

A final point worth stressing here – and backed up by the findings in the previous section – is that an apology by itself may not be a sufficient form of response. Across various studies, it was found that victim communities are likelier to perceive an apology as insincere if it is not also accompanied or followed by material assistance or demonstrations of changed behavior.<sup>20</sup> This reinforces the finding evident in the previous section that security actors may need to consider a combination of response options in case of civilian harm events in order to meaningfully meet the expectations of those they have harmed.

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<sup>18</sup> Zoodsma et al., “These Are Not Just Words” (2021); Negash, *Apologia Politica* (2009); Zohar Kampf, “Public (non-)apologies: The discourse of minimizing responsibility”, *Journal of Pragmatics* 41(11) (2009).

<sup>19</sup> Zoodsma et al., “These Are Not Just Words” (2021), 3.

<sup>20</sup> Howard-Hassmann, “Official Apologies” (2013); Wohl et al., “A Critical Review” (2011).