

Convention on Cluster Munitions Interessionals

Casualty recording presentation

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Serena Olgiati

Obligations to record casualties is already established in a number of international treaties:

- Art 5.1 of the CCM: Each State Party shall make every effort to collect reliable relevant data with respect to cluster munition victims;
- Art. 30 CRPD record data and statistics on PWD

UN Institutions have also adopted recording systems to monitor specific violations on international law, for example:

- Efforts to monitor gross violations of Human Rights (UN Mission in Congo),
- UNICEF recording instruments to monitor children in armed conflict

Casualty recording already happens but not always systematically. There is a need for countries and civil society organisations to come together and promote systematic casualty recording.

CR is key to:

1. Prevent and reduce armed violence, both at policy and programmatic level
2. The first step to ensure rights of victims of armed violence
3. Inform programmes and policies to support fulfillment of victims' rights

1. Preventing and reducing armed violence

- Inform policies

Casualty recording allows to identify patterns of harm and build stigmatization of the use of certain weapons, see Mine Ban Treaty, Convention on Cluster Munitions, and lately the Arms Trade Treaty. This has led to politically and legally binding instruments.

It also informs policy efforts to prevent use of explosive weapons in populated areas. AOAV explosive weapons monitoring project has been mentioned in the UN Secretary General report on the protection of civilians in armed conflict.

- Inform action in the field

Casualty recording and the collection of disaggregated data is key to inform the right type of programmes. For e.g. disaggregated data on casualties of armed violence has shown that contrary to what was believed young men, and not children and women are the main direct victims of armed violence. Whilst children and women are the biggest indirect bearers of violence. This informs the approach of programmes to address violence.

- Influence directives and practices of military operations

Afghanistan:

Interesting case because it clearly showed how:

- Civilian casualties in situations of occupation by foreign troupes are a cause of major concerns not only to the host country's citizens and government, but also to the occupying forces.

On this base, and recognizing that under International Humanitarian Law states have an obligation to minimize civilian casualties, both United Nations Assistance Mission in Afghanistan (UNAMA) and the International Security Assistance Force (ISAF) established casualty-tracking mechanisms.

UNAMA (United Nations Assistance Mission in Afghanistan):

- Civilian effort to record casualties in Afghanistan
- Since 2007 re-oriented casualty recording to record the CIRCUMSTANCES in which civilians were killed instead of being preoccupied only to whether a VIOLATION had occurred and what legal implications there would be.
- This new approach served as a strong advocacy tool to reduce civilian casualties.

How did UNAMA casualty recording reduce and prevent violence:

- Served as a catalyst for ISAF to develop a Civilian Casualty Tracking Cell in 2008.
- It also showed that air strikes were a major cause of civilian casualties. This has led ISAF to adopt a new directive on limiting air strikes in certain situations.

ISAF (International Security Assistance Force) in Afghanistan:

- Established a Civilian Casualties Tracking Cell in 2008.
- It tracks deaths and injuries of Afghan civilians where ISAF was involved, and identifies month, region, weaponry and perpetrators.
- For the militaries, one of the major purposes of this system is to improve future operations, and to reduce casualties in the future.
- In contrast to previous tracking mechanisms, it was not dependent solely on after-action reports from troops involved in particular incidents but considers all reports alluding to ISAF involvement. Those are thoroughly investigated and reviewed before being coded in the database.

How has ISAF reduced and prevented violence:

- In 2010 based on ISAF data, a new directive on 'escalation of force' was issued. It referred to the shooting of civilians due to communication breakdown. Meaning shooting of civilians for e.g. at checkpoints when the cars would not stop as requested.
 - The disaggregated data from ISAF showed a trend that fatalities would occur within a certain range approaching the checkpoint.
 - This was due to a reaction of the soldier that sees the vehicle NOT slowing down and fearing for his life detonates because he/she had no NONLETHAL option available to respond to the threat.
- The new directive provided soldiers with paint ball guns and other non lethal options to respond to a threat.
- This measure has shown a decrease of 50% in civilian casualties in the 8 month after the directive went out. (Data provided by ISAF).

To independently and comprehensively determine the impact of those changes in directives on reducing civilians, there is a need to further study the cases of UNAMA and ISAF.

2. First step towards fulfilment of right of victims of armed violence

- *Without a record, victimisation goes unpunished. Without records, governments can't be held accountable and perpetrators can't be brought to justice.*

Recognition of victimisation is the first step to recovery and move beyond the trauma caused. It brings dignity to survivors and honours those killed.

When this does not happen, it can become a new source of violence. For e.g. sometimes this is the case with child soldiers, or youth leaving in violent areas that adhere to armed groups and gangs as a way to protect their families and get revenge for the killing of other family members.

- *If you are not recorded you don't exist as a victim, so you are not entitled to victims' rights.*
 - So for e.g. victims can't access justice.
 - They are not entitled to government assistance and
 - Their reintegration into society becomes even more challenging.

In this respect there are two key elements that inform the type of data that needs to be gathered:

1. Record casualties not only in situation of conflict

- Most deaths and injuries occur outside of a conflict situation, so the obligation to record casualties needs to consider all victims of armed violence and not only in conflict situations.

2. Record both death but also injuries

- It is also known that for each death person at least 10 are injured, which means that casualty recording should not be related only to death, but also record injuries.

This poses additional concrete challenges but it is nevertheless key to show the entire picture of the problem and ensure that rights of victims can be fulfilled.

E.g. ISAF and UNAMA record both, so do many practitioners around the world.

3. Inform programmes and policies to support fulfilment of victims' rights

- Without information on the victims, governments are not able to assess the extent of the problem and the needs of the people affected.

This does not allow them to put in place policies and programmes and allocate funds needed to assist these groups.

- Research conducted by AOAV and SEHLAC in Latin America has found that there is a big difference from country to country on the notion of who to record, and how to record casualties. In most cases, there is little to no information available on victims. Even where there is, there is little connection between the information collected and programs available to assist victims.

- The effort to record casualties in itself is an important mean to inform survivors about their rights to access government assistance programs:
 - AOA's own survey done in Western Sahara last year showed that only approximately 10% of survivors of landmines, cluster bombs and Explosive Remnants of War had any knowledge that they had a right to receive a free-of-cost prosthesis from the International Committee of the Red Cross workshop located in the camps.

Conclusion

Countries and civil society organisations need to recognise the importance of casualty recording and engage with this issue.

- Countries should commit to pursue casualty recording, to publish the information and share it with recorders if it is safe to do so.
- At a minimum information on casualties should include information on the date, location, number of people killed, description of the violence (weapon involved, circumstances etc.)

→ They key element is not just to gather information on casualties but to be clear about the **purpose for which casualties are recorded**. This informs the type of information that needs to be gathered and the way it can be used and shared. It also informs on the sources of data.

→ CR can be very challenging, not just because of the political sensitivity related to this type of data, but also because in certain cases making it public can endanger the victims and the people that are collecting the data.

- Need to **increase the evidence on how casualty recording can be done** in challenging situations. Such call has already been issued by states in the framework of the Protection of Civilians' debates. They have called for the next UN Secretary General report on the Protection of Civilians to include an overview of casualty recording practices. AOAV and Oxford Research Group are planning a research project to produce this type of information.
- **Show how casualty recording can concretely prevent and reduce armed violence.**

→ *Recognise CR as the first step in ensuring victims' rights.*

→ *Define what it is understood more broadly by victims' rights in an armed violence framework.*

Victims and survivors of armed violence are often left without any recourse to justice, without any assistance beyond medical emergency responses, and as most of those injured are left with permanent disabilities, they face discrimination and exclusion.

Therefore, it is essential that we seek recognition of all the rights of victims of armed violence, including civil, political, social, economic and cultural.

ACTION ON
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