

**Statement by CIVIC  
at the  
Informal UN Debate on Responsibility While Protecting, hosted by the Mission of  
Brazil  
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On behalf of my organization CIVIC and our Making Amends Campaign, I wish to sincerely thank Minister Patriota, Ambassador Viotti, and distinguished colleagues at the Mission of Brazil here in New York for convening this important and timely discussion on the new concept of Responsibility While Protecting (RWP). It is an honor to participate in this discussion.

As you know, CIVIC works to advance a simple yet compelling principle once an armed conflict has commenced: for warring parties to be more responsible toward civilians during the full life cycle of their combat operations – thus before combat operations are launched, while they are being carried out, and after they have been completed.

As such, CIVIC strongly believes that warring parties should do everything in their power to avoid harming civilians, even when such harm is within the permissible bounds of international law, and, when harm is caused, to proactively take steps to recognize and assist with that harm – what we call “making amends.”

In practical terms, this means prioritizing the prevention and mitigation of civilian harm at a policy level, as a matter of statecraft—i.e. planning for and considering at length the implications and consequences of any military operation on life, limb, property, the social fabric of populations, and related harm about which you are all intimately familiar.

Given our mandate, CIVIC follows the discussions and development of RWP with great interest. We particularly welcome paragraph 7 of the November 2011 RWP Concept Note, which states,

“Even when warranted on grounds of justice, legality and legitimacy, military action results in high human and material costs,”

and further in the same paragraph,

“the use of force must then be preceded by comprehensive and judicious analysis of the possible consequences of military action on a case-by-case basis.”

CIVIC’s approach to civilian protection is closely aligned with these statements. Over the course of the past eight years, we have witnessed firsthand in Iraq, Afghanistan, Pakistan, Libya, and Somalia that warring parties’ combat operations frequently result in lost lives and livelihoods for civilians. Combat operations – be they aerial only or some other combination of forces - are inherently dangerous to the civilian population

and can - and often do - cause civilian harm, however unintended. Accordingly, even military interventions conducted on humanitarian grounds in accordance with the Principle of the Responsibility to Protect are no exception.

As such, CIVIC believes that warring parties, and particularly those undertaking a military intervention for the stated goal of protecting civilians, should ensure three categories of efforts: thorough planning before the start of combat operations, civilian casualty data tracking, investigations and improvements through lessons learned during the course of combat operations, and the provision of amends for harm in the aftermath of harm caused by combat operations.

With respect to the first category of combat planning, activities should include but are not limited to: assessing the potential of collateral damage within a restrictive framework; training forces with a mindset of civilian protection; acquiring non-lethal weapons to be used whenever possible; ensuring all lessons learned from past conflicts are being considered in the present context; ensuring strict and appropriate targeting practices; and, importantly, setting up systems of proper data tracking and analysis, investigatory capacities and amends considerations before the first shot is ever fired. All of this requires leadership from high-level policymakers, who must ensure civilian protection is prioritized as these decisions are made.

The second category entails civilian casualty tracking, thorough investigations of harm caused, and maintaining lessons learned feedback into training and operations. In order to ensure that a warring party is using force proportionate to a military target, it must know how many civilians it intends to harm, and, how many it ends up harming. Thus, collateral damage estimates are used beforehand and battle damage assessments afterwards; these may easily be considered obligations under IHL.

However, keeping careful track of all civilian harm caused in a centralized database and subsequently analyzing it for trends, challenges and lessons learned is a relatively new concept in warfare, and equally imperative.

By keeping such data and putting it to use through a feedback loop, combat forces are better trained, tactical orders are more appropriate, challenges to civilian protection are better identified, and critically, more lives can be saved. Similarly, timely and extensive investigations into every incident of potential civilian harm allow a warring party to absorb crucial data about its operations and, again, feed such analysis back into their learning cycle.

For warring parties engaged in military intervention on civilian protection grounds, promptly and effectively tracking, investigating, recording, and reporting all instances of civilian harm is essential to ensure that *all* civilians in the conflict are, in fact, being protected, and that those unintentionally harmed receive prompt recognition and assistance toward rebuilding their lives. Political considerations or concerns over logistical difficulties should not undermine this imperative.

This leads up to the last category of efforts warring parties should undertake: the provision of amends.

In conjunction with our active support for accountability and redress for victims harmed in violation of warring parties' international legal obligations, CIVIC works to ensure that civilian victims harmed within the permissible bounds of international law – often called “collateral damage” by warring parties – are also not forgotten on the battlefield. For these victims, there is no formal recourse to have their harm addressed; in fact even the most basic dignifying gesture, namely recognizing the harm done, is not required of warring parties.

This arrangement reflects a notable deficit of overall accountability for the human cost of war, and one that exacerbates civilian harm and degrades civilian victims. Victims tell CIVIC they want apologies and assistance. They cannot understand how some warring parties who state a commitment to the protection of civilians fail to appropriately acknowledge their suffering when harm is nonetheless caused.

Failing to acknowledge the harm that a warring party causes – no matter how inadvertent or unintended – does damage to the basic dignity of the victims. Dignity can only be restored through meaningful recognition and tangible gestures of condolence. Importantly, amends can take a variety of forms and must be culturally appropriate. They can include public apologies, monetary and in-kind payments, and other offerings in accordance with victims' needs and preferences.

In this regard, we welcome references to the emerging practice of amends by various member states of the UN, as well as UN officials including Secretary General Ban Ki Moon, in his November 2010 report on the Protection of Civilians in Armed Conflict.

Minister Patriota, Ambassador Viotti, Professor Luck, and distinguished delegates and participants, my organization looks forward to continued dialogue and discussion on the emerging concept of Responsibility While Protecting, and welcomes the opportunity to further discuss and contribute to RWP with each of you going forward.

We thank you for convening this event, and allowing us this floor statement.