Frequently Asked Questions on Amends

What do we mean by “making amends?”

Making amends is the practice of warring parties providing recognition and assistance to civilians they harm within the lawful parameters of their combat operations, despite having no legal obligation to do so. At its core, the practice of making amends is a gesture of respect to victims. Amends can take a variety of forms and must be culturally appropriate. They can include public apologies, monetary payments, livelihood assistance programs, and other offerings in accordance with victims' needs and preferences.

Why does Center for Civilians in Conflict work on amends?

The Center believes that all civilian victims – including those harmed in the course of lawful combat operations – need their harm recognized and their suffering addressed by the warring parties themselves.

For too long, the international community has dismissed civilian harm as an acceptable consequence of armed conflict, leaving victims to pick up the pieces of lost lives and livelihoods. International Humanitarian Law (IHL) and other international legal developments over the past century have undoubtedly put key rules in place to better protect civilians in wartime. Even so, armed conflict remains highly dangerous for civilians caught in the fighting. Furthermore, warring parties have no formal obligation to recognize or help the civilians they harm if the harm was not in violation of their existing legal obligations. As such, a family killed in the course of a proportionate attack on a legitimate military target, or a teenage passerby wounded in a sudden skirmish between opposing forces, is considered ‘collateral damage.’ In an international legal framework designed to protect civilians in armed conflict, this is a gap that only exacerbates the suffering of war-torn populations.

Are amends the same as reparations?

No, amends are distinct from reparations, despite the two sharing a common foundation and taking similar forms in some contexts.

Reparations are a legal remedy to which victims are entitled for violations of international human rights, humanitarian, and criminal law. In contrast, amends are not legally mandated for civilian victims harmed within the course of warring parties’ lawful combat operations. As such, the Center seeks to ensure, as a matter of policy, that these victims also receive recognition and assistance from warring parties. In line with its focus on amends, the Center strongly supports the rights of all victims to justice and accountability for harm they have suffered as a result of violations, including the provision of reparations. The Center believes that warring parties that are committed to the practice of amends must comply with their existing international legal obligations to take all feasible precautions to minimize civilian harm in the first place.

Importantly, amends and reparations do share similarities. Both concepts arise from principles of human dignity and humanity, which are universal to all victims regardless of how they have been harmed in armed conflict. Furthermore, both amends and reparations can and should take a variety
of forms, each of which should be sufficiently victim-centric. Reparations can take the form of financial redress such as compensation, as well non-financial redress such as rehabilitation, satisfaction, and guarantees of non-repetition. Similarly, warring parties’ practice of amends has ranged from monetary payments and in-kind assistance to public apologies to victims. In this regard, the practice of amends contributes to the preservation of the human dignity of civilians harmed in the crossfire of armed conflicts.

Ultimately, underpinning both amends and reparations is the notion of recognition of harm. As such, the need victims feel to have their harm recognized by those who caused it is at the heart of the Center’s mission.

Does the Center itself assess whether victims have been harmed lawfully or as a result of a violation?

No. The Center believes that warring parties should take responsibility for investigating and addressing harm they cause in the course of their combat operations. Accordingly, all warring parties ought to have the proper structures and processes in place to effectively and transparently monitor, investigate, record, and report on all civilian harm and casualties. The Center notes that many warring parties do not have such mechanisms in place or may simply be indifferent to civilian suffering. For warring parties that are committed to properly addressing incidences of civilian harm, they should not let the process of assessing the nature of the harm prevent victims from receiving prompt recognition and assistance.

It is important to note that accepting amends does not disqualify victims from subsequently pursuing any applicable legal claims against a warring party for alleged violations of domestic or international law. Conversely, the provision of amends by a warring party is also not prima facie evidence of legal liability for a violation.

Who should receive amends?

All civilian victims harmed in the crossfire of armed conflict should receive amends. As a matter of practice, the Center feels strongly that warring parties should take an over- as opposed to under-inclusive approach when making amends to civilian victims. As such, the Center defines “civilian” in the negative:

“All persons who are not members of State armed forces or of organized armed groups belonging to a party to an armed conflict are civilians and, therefore, are protected against direct attack unless and for such time as they directly participate in hostilities.”

The term “victim” should be interpreted broadly to include individuals and their families. This approach is consistent with both the non-binding Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, and the Convention on Cluster Munitions.

Who are “warring parties” and why should they be the ones to make amends?

The Center takes an equally broad approach to the term “warring party.” In the context of making amends, a warring party is a state or a non-state armed group that is engaged in armed conflict.
Warring parties should make amends to civilian victims simply because it is the right thing to do. US Senator Patrick Leahy made the case for the moral imperative behind making amends when he stated in 2009, “To not respond, I think, goes to our very conscience and our very morality.”

Warring parties should also make amends because doing so can help heal war’s wounds. Half of all countries emerging from civil war relapse into conflict within five years, compounding civilian suffering and fueling cycles of violence. If warring parties leave civilians with nothing but devastation, communities will lack the much-needed strength of spirit and resources required for rebuilding lives and achieving a sustainable peace. Making amends can help build a foundation for stability.

Every civilian victim is entitled to the full range of assistance and recognition for the harm suffered, including from the victim’s own government.

Does the practice of making amends apply to non-state actors as well?

Yes. Like state actors, a non-state entity that is considered a warring party to an armed conflict should make amends to civilian victims harmed in the course of its combat operations, in accordance with victims’ preferences. However, a state or non-state actor that deliberately inflicts civilian casualties as a military tactic is an unlikely candidate for making amends to victims. Violations of international law by warring parties should be dealt with through legal channels to obtain full criminal accountability and redress for victims.

Why focus on making amends instead of preventing harm in the first place?

The Center’s programs do include strategies to protect civilians and prevent civilian harm. However, armed conflicts still frequently result in tragedy for innumerable civilian victims. The Center works to ensure these victims are recognized and offered assistance when appropriate.

Some warring parties are already exploring the practice of amends. The North Atlantic Treaty Organization (NATO) adopted a compensation policy for Afghan war victims; the US Congress has created the first-ever livelihood assistance programs for civilians harmed in Iraq, Afghanistan, and Pakistan as result of US combat operations. These examples are welcome efforts, but they must not stop here. The Center is knitting individual efforts such as these into a larger effort to ensure that civilian victims of conflict everywhere receive the recognition and help they deserve.

What international legal precepts inform the principle of making amends?

International law does not obligate warring parties to make amends of the scope envisaged by the Center. However, numerous sources of international and domestic jurisprudence underpin the concept and practice of warring parties making amends to civilians deemed as ‘collateral damage’ in conflicts. These sources include conflict-specific amends programs and post-conflict claims commissions, several international treaties, resolutions, and guidelines adopted by the UN General Assembly, draft principles by the International Law Commission, and documents from international human rights bodies and criminal courts.
Is the Center seeking an international convention or treaty?

No. The Center is seeking a new standard of behavior by warring parties through policy channels. Furthermore, warring parties should recognize and help civilians now, and the long and arduous process of drafting a treaty might both distract from victims’ immediate needs as well as undermine the need for amends to be uniquely tailored to the harm caused in each context. Importantly, the Center does not seek to reinterpret existing international law, including the application of IHL. The Center joins other entities in calling on state and non-state actors alike to ensure respect for and fully comply with their IHL obligations.

Does providing financial payment as a form of amends assign a monetary value to life?

No. The loss of a parent, sibling, or child is incalculable. Warring parties can never make up for the loss of a life with any amount of monetary payment or other form of assistance. Instead, parties make amends to show that they respect the losses civilians have suffered as a result of the fighting. The Center urges warring parties to always consult with local communities to assess and ensure the proper provision of amends. Amends need not necessarily come solely in the form of monetary payments; civilians suffering harm may also need community aid, livelihood assistance, public apologies, or in-kind offerings like livestock or materials to rebuild homes.

Furthermore, some victims may not wish to receive monetary payments at all, as it might insult local traditions or customs. Ultimately, amends ought to be made on the basis of the inherent human dignity and specific needs of survivors, not an arbitrary value placed on a life or limb. The Center promotes this in principle, and holds warring parties responsible to undertake in good faith the task of assessing victims’ needs and preferences, and ensuring they are promptly addressed.

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