

## Academi Heddwch Cymru's definition of peace

Academi Heddwch Cymru understands peace to be more than simply the absence of war. Peace means a world without violence or the fear of violence, as well as the conditions to prevent conflict such as fairness and respect. It is also about social justice and equality; it is about the structures and processes, the laws and the culture which govern our lives. It is about how we might live. We draw a clear link between peace and well-being and align much of our work with the principles established by the Well-being of Future Generations (Wales) Act (2015).



## Compensation for Civilians Impacted by Armed Conflict: A Vital Need for Sustainable Peace

Report by Academi Heddwch Cymru with Steve Hollingworth  
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## Key Points

- Civilians are, almost always, the main victims of conflict.
- There is a legal and ethical obligation to compensate civilians for the harm done to them. Compensation also has a political benefit in enabling societies to build a sustainable peace.
- The international legal framework underpinning civilian compensation remains deficient and compensation, when paid, is often treated as a condolence payment rather than a right.
- A key difficulty in the system of compensation is the problem of enforcement due to the lack of political will.
- The lack of political will is in large part because of the narrative that compensation is too difficult, too expensive and that these difficulties may in turn harm the prospects for a ceasefire.
- What is required is a shift in the narrative so that compensation is seen as normal rather than exceptional, possible rather than difficult, and that states are focused as much on financing the conditions of peace as they are on the ability to conduct war.
- The protections offered by international law can be improved in a number of ways, and the political will to enforce these has increased.
- Wales has an opportunity to be a proactive good international citizen by taking a leadership role in a campaign to raise the prominence of civilian compensation in armed conflict.
- This would help to raise Wales's international profile and develop a distinctive identity on the world stage, in accordance with its 2020 International Strategy.

## Background

This Report concerns the issue of compensation for civilians impacted by armed conflict. It is intended to raise the profile of this issue and lead to action. The paper identifies areas where the Welsh Government and Welsh civil society can support and be instrumental in mobilising global efforts to ensure adequate and just compensation, laying the foundations for a sustainable peace.

Civilians are considered to be innocent parties in armed conflict by both ethics and international law, but they are amongst those who suffer the most. Compensation is not only to address loss but, along with the pursuit of justice and the promotion of reconciliation, one of the most important aspects of peacebuilding.

This Report is based on two webinars hosted by Academi Heddwch Cymru (the Welsh Peace Institute) in the summer of 2024 and subsequent discussions between participants. The webinars were introduced by Professor Colin McInnes (Research Lead at Academi Heddwch Cymru), and chaired by Steve Hollingworth. Keynote speakers were:

- **Professor Elizabeth Salmon Garate, Professor at Pontifical Catholic University of Peru**
- **Dr. Juan-Pablo Perez-Leon-Acevedo, Oxford University**
- **Professor Mohammed Abu Nimer, American University, Washington DC**
- **Professor Luke Moffett, Queen's University, Belfast**
- **Mojtaba Kazazi, former Executive Director of the United Nations Compensation Commission.**

Recordings of the webinars can be found [here](#).

Academi Heddwch Cymru is grateful for the contributions of all participants. It is especially grateful to Steve Hollingworth, and to Todd Davenport who acted as rapporteur.

This Report was written by Professor Colin McInnes and Steve Hollingworth, with additional input from the keynote speakers. Responsibility for the views expressed in this Report are those of Academi Heddwch Cymru and Steve Hollingworth alone.

## About Academi Heddwch Cymru

Academi Heddwch Cymru is Wales's national peace institute and is the first of its kind in the four nations of the United Kingdom. It belongs to a global family of peace institutes that bring together expertise to serve with the common aim of using peace-rooted approaches to global challenges.

Academi Heddwch aims to extend Wales's long-standing tradition of peace-making and peace-promotion by developing and coordinating an independent community of researchers in related fields. Funded by the Welsh Government but independent, Academi Heddwch works to place peace firmly on Wales's national agenda as well as on the international stage.

Academi Heddwch's aims are to ensure that:

- Wales makes an internationally recognised contribution to peace research and practice.
- A focus on peace is seen in relevant Welsh Government strategies and policies.
- There is strong public engagement with peace research and practice in Wales.

Academi Heddwch was established in 2020 and is an alliance of the 9 Universities in Wales, Coleg Cymraeg Cenedlaethol, the Learned Society of Wales, and the Welsh Centre for International Affairs (WCIA). It is also supported by representatives from the Peace Movement in Wales, Race Council Cymru, Urdd Gobaith Cymru, Rotary International, and the Office of the Future Generations Commissioner for Wales.

## 1. Introduction

Civilians are, almost always, the main victims of conflict. Their suffering is not only in terms of physical harm, including the possibility of death, but mental trauma and material loss. This pattern of civilian suffering is repeated today in armed conflicts in Israel/Gaza, Sudan, Ukraine, Myanmar and numerous other conflicts and insurgencies globally.

There is an ethical obligation to compensate civilians for the harm done to them. There is also an evolving body of international humanitarian law and guidelines concerning civilian rights in conflict which requires civilians to be compensated when those rights are violated. Compensation also has a political benefit - by addressing grievances resulting from conflict and in helping to restore a sense of justice after conflict, it enables societies to build a sustainable peace.

However, more often than not, compensation is not provided to civilians impacted by armed conflict; and when it is, it is often poorly implemented. An ad hoc approach globally to the issue of compensation is a contributing factor to the continued cycle of grievance and violence. This failure helps to frustrate reconciliation and a sense of justice.

Sadly, the cost of waging war usually dwarfs the investments in humanitarian support, rebuilding and compensation to civilians. This equation acts to perpetuate a state of conflict.

There is a pressing need to change national and international approaches to compensation not only to provide justice for those who have suffered, but to help solidify the rights of protection for individuals during armed conflict. The international community needs to universally see civilians impacted by armed conflict as rights bearers. This should underpin efforts to enable societies to move on from conflict and build peace. It requires actions to develop more transparent reporting and data, a consistent laws framework, and standards for adjudication and awards.

## 2. A State of Confusion: Is Compensation about Obligations or Rights?

'It is a basic rule of international law that reparation is to be made for violations of international law'.<sup>1</sup>

The legal basis for civilian compensation in war has traditionally been located within International Humanitarian Law (IHL). IHL distinguishes between civilians and combatants in conflict, advances the principle of proportionality to minimise harm, and commits to standards of conduct during and after conflict. Of particular significance is the ICRC's Rule 150 of Customary International Humanitarian Law, which states that 'A State responsible for violations of international humanitarian law is required to make full reparation for the loss or injury caused.'<sup>2</sup> Rule 150 effectively places an obligation on both nation states and non-state actors to compensate civilians.

However, this 'obligation' has proved to be an insufficient measure for addressing the needs and rights of civilians impacted by armed conflict. The crucial problem is that IHL has largely focused on the obligations of states to either pursue or provide compensation, rather than the rights of individuals affected by conflict.

In 2005 however, the UN General Assembly passed a Resolution concerning the 'basic right' to victim compensation in the context of 'gross violations of International Human Rights Law and serious violations of International Humanitarian Law'.<sup>3</sup> This is an important effort to frame the issue through the perspective of legal rights. However, this Resolution is narrowly focused on violations of IHL, where civilians have few rights, and has been interpreted and adjudicated differently by national and international bodies - with some interesting successes but mainly little or no action. Compensation, when paid, is often treated as a condolence payment rather than a right.

<sup>1</sup> ICRC International Humanitarian Law Database Rule 150: Reparations, available at: <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule150> last accessed 27 August 2024.

<sup>2</sup> ICRC International Humanitarian Law Database Rule 150: Reparations, available at: <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule150> last accessed 27 August 2024.

<sup>3</sup> UN General Assembly Resolution 60/147, 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, available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation> last accessed 27 August 2024.

Civilians are left with a complex of confusing and inconsistent international laws and ad hoc adjudication and implementation, which only go a very short way to addressing the needs and rights of the civilians impacted by armed conflict in a few contexts.

The issue of compensation is also made more difficult by the lack of effective enforcement mechanisms and a 'calculus of harm' - that is, globally accepted standards for compensation. Further complications arise from specific issues, such as those surrounding armed conflicts pursued by non-state actors, and those of dual status victims (such as child soldiers).

Although some provisions for compensation therefore exist in international law, and although momentum has been shifting towards the rights of individuals to compensation, the legal framework underpinning civilian compensation remains deficient. There is a pressing need to build on current IHL so that compensation is considered an individual right and is properly calculated and enforced at the international level. This is important because, as Professor Luke Moffat commented in our webinar: 'Rights are connected to remedies, and if we don't have effective remedies then rights are eroded.'

## 3. The Political Dimension: The Need for Building a Consensus

A key difficulty in the system of compensation is the problem of enforcement due to the lack of political will. As Professor Mohammed Abu Nimer commented in our webinar: 'Any legal or practical decision regarding reparation requires a political decision, [and] requires a moral and ethical commitment on the part of all parties involved.'

Some of this difficulty may be the result of a divided international community. Even a blatant invasion of one state by another is not necessarily sufficient to unite the international community in condemnation. Without unity in the international community, it becomes more difficult to create the political will to enforce compensation.

However, the lack of political will is also because of the narrative surrounding compensation - that it is too difficult, too expensive and may harm the prospects of achieving a ceasefire if significant compensation is a consequence.

As Mojtaba Kazazi demonstrated in our webinar however, it is possible to devise and implement an effective process to compensate civilians, but the financial costs of compensation will almost always be dwarfed by the costs of preparing for and conducting war.

What is then required is a shift in the narrative so that compensation is seen as normal rather than exceptional, possible rather than difficult, and that states are focused as much on financing the conditions of peace as they are on the ability to conduct war. A critical means of shifting the narrative is to emphasise the benefits of compensation in building a sustainable peace. In particular, establishing a sense of justice can help to remove victimhood and provide a pathway to reconciliation. As Professor Mohammed Abu Nimer commented in our webinar: 'Reparation is not about revenge. It's quite the opposite. It's about rebuilding relationships. It's about rebuilding human life.'

## 4. What needs to be done?

Compensation for civilians affected by armed conflict is important not simply for reasons of justice, but (perhaps more importantly) for building sustainable peace. However, at the moment, neither international law nor the political will is sufficient to meet this need. Action is therefore required both to build the protections provided by international law, and to change the political narrative.

The protections offered by international law and especially IHL can be improved in a number of ways, including:

- Elevating compensation as an individual right rather than an obligation of states in international humanitarian and human rights law, thereby helping to create a victim-centred approach.
- Elevating Rule 150 to the level of an enforceable human right by lobbying the UN and the ICRC.
- Establishing a standing panel of experts to improve the support for litigation in the three international human rights courts.
- Expanding the jurisdiction of the right to compensation beyond the current international courts to include all nations and actors in conflict.
- Supporting states in developing victim-centred legislation by providing them with legal or technical expertise.
- Establishing common language and benchmark standards for compensation which are sensitive to local context.

However, as Professor Luke Moffett has commented: 'More law isn't going to save us'. Enforcing international law will require a normative shift which sees civilian compensation as a natural consequence of armed conflict along with the political will to enforce it.

Creating these conditions will involve increasing the prominence of compensation as an issue in armed conflict, developing the momentum and groundswell of support to establish this as an international norm, and changing the narrative to one of possibility and expectation. Practical, relatively low-cost initiatives (especially when compared with expenditure on preparing for war) which will help develop momentum to change the narrative include:

- Better sharing of experience to build credibility in compensation processes through the establishment of an international centre, or a unit in an established international centre.
- Improved data gathering on civilian losses – human and material – to be undertaken by a body with international standing and credibility.
- Recognising and acknowledging organisations and individuals for their work in this area, thereby providing them with increased status and credibility.
- Improving our understanding of civilian compensation by supporting and/or establishing annual meetings or panels at conferences, at national, regional and international levels.
- Developing skills and expertise through embedding the study of civilian compensation in university courses and other training modes, especially those which are focused on peacebuilding and conflict resolution.

## 5. An opportunity for Wales?

In its 2020 *International Strategy for Wales*, the Welsh Government identified a set of core ambitions. These included raising Wales's profile internationally and establishing Wales as a globally responsible nation.<sup>4</sup>

Wales has an opportunity to be a proactive good international citizen by taking a leadership role in a campaign to raise the prominence of civilian compensation in armed conflict. This would help to raise Wales's international profile and develop a distinctive identity on the world stage – much as the Nordic nations have achieved with respect to peacebuilding.

<sup>4</sup> Welsh Government, *International Strategy for Wales (2020)*, available at <https://www.gov.wales/sites/default/files/publications/2020-10/international-strategy-for-wales-v1.pdf> last accessed 30 August 2024.

In her Foreword to the Welsh Government's 2020 International Strategy, the now-First Minister Eluned Morgan MS wrote that 'With limited resources we need to focus on specific areas of ambition.'<sup>5</sup> Relatively small investments to develop momentum in raising the profile of civilian compensation can realise significant returns. Specific initiatives might include:

- An annual international conference on civilian compensation in armed conflict. This might not only help to address specific issues, it would also raise the profile of both civilian compensation and of Wales as an international actor.
- An annual prize recognising the work of individuals or organisations working in the field.
- Developing and promoting short courses at Welsh universities to develop international expertise, either in person or as an online resource.

Establishing an international centre or a data repository would be a slightly more ambitious undertaking and might be considered as a second stage in the development of a programme. In particular, the National Library of Wales has world leading expertise in conserving and providing access to digital material and might serve as the basis for a global data repository; and in terms of establishing an international centre, Cardiff University has outstanding academic expertise in international law while Aberystwyth University has global recognition as the first Department of International Politics.

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<sup>5</sup> Eluned Morgan, 'Foreword', International Strategy for Wales p.1.

