

Draft Political Declaration on Strengthening the Protection of Civilians from Humanitarian Harm arising from the indiscriminate use of Explosive Weapons in Populated Areas

Commented [FRANCE1]:
Alternatively : that may arise from

Part A: Preamble

Section 1

1.1 As contemporary conflicts become more protracted, complex and urbanised, the proportion of civilian casualties is increasing. Much of the harm and destruction observed in current conflicts appears to be the result of infringement of International Humanitarian Law fundamental rules and principles. The causes involve a range of factors, including the indiscriminate use of explosive weapons in populated areas, but also the use of tactics designed to exploit the proximity of civilians and civilian objects to military objectives in populated areas, such as the use of civilian as human shields and pose complex challenges for the protection of civilians.

Commented [FRANCE2]: We suggest to merge 1.1 and 1.4 as they both tackle the same issue: the violation of the rules of armed conflicts

1.2 As a result of direct attacks against civilians and civilian objects, indiscriminate or disproportionate uses of explosive weapons - including improvised explosive devices (IEDs) - by some parties to conflict, Explosive weapons with wide area effects can have a devastating impact on civilians and civilian objects in populated areas. Beyond immediate deaths and injuries, civilian populations can be exposed, beyond immediate deaths and injuries, to severe and long-lasting reverberating effects. These can occur in particular when critical civilian infrastructure is damaged or destroyed, such as hospitals, energy networks, and water and sanitation systems as well. The destruction of housing, schools and cultural heritage sites further aggravates civilian suffering. These destructions can result in the displacement of people within and across borders while explosive remnants of war can impede the return of displaced persons and cause casualties long after hostilities have ended. Urban warfare can also result in psychological and psychosocial harm to civilians. All of

Commented [FRANCE3]: We suggest to merge 1.2 and 1.3 as they both tackle the same issue: short and long term effects

Commented [FRANCE4]:
There is no internationally agreed definition of this concept

1.3 These effects can have a negative impact on progress towards the Sustainable Development Goals and can result in the displacement of people within and across borders. Following urban armed conflict, explosive remnants of war can impede the return of displaced persons and cause casualties long after hostilities have ended.

1.1.43 Tactics designed to exploit the proximity of civilians and civilian objects to military objectives in populated areas, the use of improvised explosive devices directed against civilian and civilian objects, and violations of International Humanitarian Law, including by non-State armed groups, all exacerbate these challenges and are of grave concern.

Commented [FRANCE5]: See new 1.1

~~1.5~~ While we recognize the challenges that may arise from the conduct of military operations in urban environment, ~~The inherent difficulty in directing and limiting the effects of explosive weapons with wide area effects to specific military objectives located in populated areas can increase the likelihood of civilian harm. While,~~ many militaries implement good operational policies and practices, consistent with fundamental principles of International Humanitarian Law, -designed to adapt themselves to the urban environment and to protect civilians, ~~There is nonetheless still scope for practical improvements in the universal implementation of, and compliance with, International Humanitarian Law, and in such good practices. Broadening and strengthening initiatives designed to share military policies and good practices on protecting civilians among States and their armed forces can support the promotion and better~~ improve concretely the implementation of International Humanitarian Law.

~~1.46~~ We recognise the importance of efforts to record, at national level, civilian casualties, and the use of all practical measures to ensure appropriate data ~~collection~~ collection by States parties to a conflict, including, where possible, data disaggregated by sex and age. The collection of data on civilian casualties can inform States' policies designed to mitigate civilian harm, aid efforts to investigate harm to civilians, establish accountability and enhance lessons learnt processes in armed forces.

~~1.57~~ We welcome the on-going work of the United Nations, the International Committee of the Red Cross (ICRC) and civil society to raise awareness ~~of~~ of the impacts and long-term humanitarian consequences that can arise from the conduct of hostilities use of explosive weapons in populated areas, notably when explosive weapons are used in a manner inconsistent with IHL. We also welcome work to empower and amplify the voices of those affected, including women and girls, and we encourage further research into the potential gendered impacts. We stress the imperative of addressing the short and long-term humanitarian consequences that can result from the conduct of hostilities in urban areas.

Section 2

2.1 We recall ~~the our obligations and commitments~~ under applicable international law, particularly International Humanitarian Law and International Human Rights Law as applicable, and reaffirm our commitment to support measures to hold accountable those responsible for violations of international law.

2.2 Existing International Humanitarian Law provides the sufficient framework to regulate the conduct of hostilities in armed conflicts, and is applicable to the use of explosive weapons ~~with wide area effects~~ in all operating environments, and to all parties to an armed conflict. We stress the importance of full compliance with International Humanitarian Law by all parties to a conflict as a means to protect

civilians and civilian objects and mitigate civilian harm when conducting hostilities, in particular within populated areas.

2.3 We recall the obligations on all States and parties to armed conflict to ~~adhere~~ respect their obligations under applicable International Humanitarian Law when conducting hostilities in populated areas, including the requirements to distinguish between combatants and civilians as well as between military objectives and civilian objects; the prohibitions against indiscriminate and disproportionate attacks; ~~and~~ the obligation to take all feasible precautions in attack; ~~and~~ ~~We also recall~~ pursuant to the general obligations ~~the obligation~~ under International Humanitarian Law, to provide civilians with general protection against dangers arising from military operations.

2.4 We welcome the work of United Nations Security Council to strengthen the protection of civilians during armed conflict and to strengthen compliance with International Humanitarian Law, and recall to that end UNSC Resolutions on the protection of civilians in armed conflicts, including Resolution 1265 (1999), 1894 (2009) and 2417 (2018).

Part B: Operative Section

Section 3

Committed to strengthening the protection of civilians and civilian objects in armed conflict, strengthening compliance with International Humanitarian Law, and addressing the humanitarian harm that ~~can arise~~ may result from the conduct of hostilities in populated area, in particular when the use of explosive weapons with wide area effects in populated areas are used, we will:

3.1 Develop, review, implement, and, where necessary, improve national policies ~~and~~ and practices with regard to the protection of civilians during armed conflict in urban areas.

3.2 Ensure comprehensive training of our armed forces on International Humanitarian Law, and on the measures and good practices to be applied during the conduct of hostilities in populated areas to protect civilians and civilian objects and mitigate civilian harm.

3.3 Ensure that our armed forces, in the conduct of military operations, will, in accordance with International Humanitarian Law, adopt and implement policies and practices to minimize ~~avoid~~ civilian harm by ~~restricting~~ refraining from the using of explosive weapons with wide area effects in populated areas ~~whose effects extend beyond the immediate area of a military objective~~ when they may consist in indiscriminate attacks.

3.4 Ensure that our armed forces make every feasible effort in the planning of military operations and the execution of attacks in populated areas to consider ~~direct, indirect and reverberating~~ incidental effects on civilians and civilian objects which can reasonably be foreseen, and take ~~appropriate mitigation measures~~ all feasible precautions in attack to ~~limit~~ minimize the risk of harm to civilians and civilian objects.

3.5 Ensure the marking, clearance, and removal or destruction of explosive remnants of war ~~as soon as possible~~ after the end of active hostilities and as soon as feasible, in accordance with applicable international law.

3.6 ~~Enhance the protection of civilians by identifying~~ identifying, ~~developing and exchanging~~ developing and exchanging good practices to ~~reduce aggregate~~ improve compliance with International Humanitarian Law and to enhance the protection of civilians ~~risks to civilians~~ during military operations in urban warfare.

3.7 Facilitate the dissemination and understanding of International Humanitarian Law by all parties to armed conflict.

Section 4

4.1 Strengthen international cooperation and assistance among armed forces with respect to exchanges of technical ~~information~~ and tactical ~~doctrine~~ expertise in order to develop a community of good practice to enhance the protection of civilians. As a starting point, an informal working group composed of representatives of interested parties ~~States~~, could agree a voluntary toolbox of good practice, which could form the basis for structured military-to-military exchanges, workshops, and seminars.

4.2 ~~Collect and, where~~ feasible and appropriate, collect and share disaggregated data, on the direct and indirect impact on civilians of our military operations involving the use of explosive weapons in urban areas.

4.3 ~~Support~~ Encourage the United Nations ~~and~~, the ICRC ~~and other organisations~~ capturing data on the impact of military operations and non-state actors ~~destructions~~ involving the use of explosive weapons, including IEDs in urban areas, as appropriate, to complement and support the role of States in this area.

4.4 Make every effort to assist victims, families and affected communities in a holistic, integrated and non-discriminatory manner, taking account of the rights of persons with disabilities, and supporting post-conflict stabilization, in accordance with existing obligations under IHL.

4.5 Provide and facilitate rapid and unimpeded access for humanitarian relief to all persons in need.

4.6 Support the United Nations, the ICRC, other qualified international organisations and relevant civil society organisations in the conduct of actions aimed at protecting and assisting civilian populations and ~~addressing the direct and indirect humanitarian impact of the use of explosive weapons with wide area effects in populated areas.~~

4.7 Encourage appropriate cooperation with local stakeholders, civil society experts, and humanitarian organisations specialised in this field.

4.8 Meet periodically to exchange good practices and lessons learned on ~~review the implementation of this declaration and identify any relevant additional measures that may need to be taken~~ with a view to improve compliance with existing International Humanitarian Law and strengthen the protection of civilians and civilian objects

~~with regard to the use of explosive weapons with wide area effects in populated areas.~~

4.9 Actively promote this declaration, distribute it to all relevant stakeholders and seek adherence to it by the greatest possible number of States.

ENDS