



ICRC

**Protecting Civilians in Urban Warfare:
Towards a Political Declaration to Address the Humanitarian Harm Arising from the use of
Explosive Weapons in Populated Areas**

**Geneva Consultations chaired by Ireland
10 February 2020**

Statement of the International Committee of the Red Cross (ICRC)

Thank you Mr. Chair.

On behalf of the ICRC, let me begin by thanking Ireland for leading this historic effort to strengthen the protection of civilians from the use of explosive weapons with wide area effects in populated areas.

We welcome the high number of States and of international & civil society organizations participating in this meeting, indicating a recognition of the urgency of this issue and a strong will of the international community to achieve a Political Declaration.

We thank Ireland for the Elements paper which provides a very good basis for further work.

The ICRC has submitted its **comments on the text in writing**, along with **two explanatory notes**, which aim to facilitate understanding of the issue of **explosive weapons with wide area effects in populated areas (EWIPA)**: a paper on the relevant **rules of international humanitarian law (IHL)** and some of the legal issues that arise with regard to the use of EWIPA, and a paper on **the scope of the issue** of EWIPA, which explains key terms.

In terms of the ICRC's general comments on the draft text, we welcome that it focuses specifically on explosive weapons with wide area effects in populated areas, that it emphasizes the obligation to comply with IHL in all circumstances, and that it reflects many of the key elements needed to address the humanitarian impacts of these weapons, including good practices.

In the ICRC's view, several aspects of the text should be substantially strengthened to ensure its commitments effectively protect civilians, and we highlight the main ones here:

- 1. The correlation between the wide area effects of explosive weapons and the high risk of civilian harm should be more clearly acknowledged.**

As we continue to see in urban conflicts, when explosive weapons with a wide impact area are used in populated areas, there is a significant likelihood that they will have

effects occurring well beyond the target, exposing civilians to a high risk of harm, and giving rise to a high risk of indiscriminate effects.

2. The Declaration should also acknowledge the **indirect or ‘reverberating effects,’** as these account for much of the civilian harm resulting from the use of EWIPA.

The Declaration should recognize that damage to critical infrastructure **that enables services essential to civilian survival** leads to the disruption of these services, ultimately affecting a much larger part of the civilian population than those located in the weapon’s immediate impact zone.

The Declaration should acknowledge that **these ‘reverberating effects’ must be considered** in the planning and execution of attacks, insofar as they are **reasonably foreseeable**.

3. The Declaration should contain **a clear and unequivocal commitment to avoid the use of explosive weapons with wide area effects in populated areas**. In the ICRC’s view, this should be **at the core** of the Political Declaration, whichever formulation is chosen to reflect it.

As the ICRC has often explained, including at the November consultations, an **‘avoidance policy’** means that explosive weapons with wide area effects **should not be used** in populated areas, **unless** sufficient mitigation measures are taken to limit weapon’s area effects and the consequent risk of civilian harm.

4. While the ICRC welcomes that the elements recall existing IHL obligations and highlight the need to respect and strengthen compliance with IHL, **the mix of legal obligations and policy commitments**, especially in Part B of the paper, **creates some uncertainty about what States would be committing to** in the Declaration as a matter of policy, and risks to undermine IHL by lowering the legal threshold for existing obligations.

In the ICRC’s view, the text would be clearer in this respect **if the elements recalling IHL rules** are left in a preambular section (Part A), while the operative part of the Political Declaration (Part B) focus on **policy commitments**.

Indeed, rather than simply reaffirming the obligation to comply with IHL in relation to the use of explosive weapons in populated areas, **the Declaration’s added value will consist in committing States to take action through policy commitments and good practices** in a number of areas to strengthen the protection of civilians from the use of these weapons, **regardless of whether such policies and good practices are considered to be required by IHL**. In any case, such policy commitments and practical measures **will undoubtedly facilitate compliance with IHL**.

5. The Political Declaration should foresee a mechanism for **following up on its implementation**, as is done in the Safe Schools Declaration – which commits States to meeting on a regular basis to review the implementation of the declaration.