

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

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Part A: Preamble

Section 1

1.1 As contemporary conflicts become more protracted, complex and urbanised, the proportion of civilian casualties is increasing. The causes involve a range of factors, including the [non-compliance with International Humanitarian Law fundamental rules and principles](#) or the use of explosive weapons in populated areas, and pose complex challenges for the protection of [civilians](#).

Commented [MdMGB1]: We can accept the French proposal to merge para 1.1 and 1.4. The draft of para 1.1 in the French proposal is mostly in line with our analysis so we could consider accepting some of the proposed language.

1.2 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 to severe and long-lasting reverberating effects. These occur in particular when critical civilian infrastructure is damaged or destroyed, such as [hospitals](#), energy networks, and water and sanitation systems. The destruction of housing, schools, [hospitals and other medical facilities](#) and cultural heritage sites further aggravates civilian suffering. Urban warfare can also result in psychological and psychosocial harm to civilians.

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, 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 .

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.

Commented [MdMGB2]: There is no an international definition of “Explosive weapons with wide area effects” We can accept the French proposal to merge para 1.2 and 1.3.

1.4 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 some States and non-State armed groups](#), all exacerbate these challenges and are of grave concern.

Commented [MdMGB3]: In our view we cannot consider that all States violate Humanitarian law and principles, therefore we should underline that this is not always the case. Obligations are the same for all but not all States fulfil them.

1.5 [The inherent d](#) 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 designed to protect civilians, there is 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 can [support-improve](#) the promotion and better implementation of International Humanitarian Law.

We can accept to merge this para with 1.1.

1.6 We recognise the importance of efforts [at national level](#) to record civilian casualties, and the use of all practical measures to ensure appropriate data collection, 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

1.7 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 the impacts and long-term humanitarian consequences that can arise from [armed conflicts the use of explosive weapons](#) in populated

areas. 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 obligations and commitments under applicable international law, particularly International Humanitarian Law and International Human Rights Law, 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 framework to regulate the conduct of 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, including non-state ~~as a means to protect civilians and civilian objects and mitigate civilian harm.~~

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2.3 We recall the obligations on all States and parties to armed conflict to ~~adhere to comply with~~ 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. We also recall the obligation under International Humanitarian Law to provide civilians with general protection against dangers arising from military operations, specially for children, schools and medical personnel and facilities.

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), 2286 (2016) 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 from the use of explosive weapons ~~with wide area effects~~ in populated areas, we will:

3.1 Review and, where necessary, develop, improve and implement national and international policies and practices with regard to the use of explosive weapons, in urban areas areas during armed conflict. ~~Develop, review, implement, and, where necessary, improve national policy and practice with regard to the protection of civilians during armed conflict in urban areas.~~

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Commented [MdMGB4]: The current draft in this Part B seems to suggest that the measures proposed are not in place yet. Nevertheless, many countries include some of these measures in their laws and practises. We therefore propose new drafting. In this section there are also some concepts that will prove difficult to implement unless there is further clarification. For example, in paragraph 3.4 the reference to “reasonably be foreseen” can be subject to different interpretations on which is reasonable, especially in combat environments, with changing and incomplete information

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3.2 Ensure comprehensive training of our armed forces on International Humanitarian Law also in the framework of programs of military cooperation or capacity building, ~~promoting and on~~

Commented [MdMGB5]: The obligation to disseminate knowledge about the obligation to protect victims of armed conflicts in the military training is fully implemented at a national level. We can address this issue from the point of view of promoting also among other countries the same level of training by exchanging best practices.

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~~the~~ measures and good practices [among all countries](#) to be applied during the conduct of hostilities in populated areas to protect civilians and civilian objects.

3.3 Ensure that our armed forces, [in accordance with International Humanitarian Law](#), adopt and implement policies and practices to avoid civilian harm by restricting the use of explosive weapons ~~with wide area effects~~ in populated areas whose effects extend beyond the immediate area of a military objective.

3.4 Ensure that our armed forces make every effort in the planning of military operations and the execution of attacks in populated areas to consider direct, indirect and reverberating effects on civilians and civilian objects ~~which can reasonably be foreseen~~, and take appropriate mitigation measures to limit the risk of harm to civilians and civilian objects, [in particular on schools and medical facilities](#).

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

3.6 ~~Enhance the protection of civilians by identifying, developing and exchanging good practices to~~ [improve compliance with IHL and enhance the protection of civilians](#) ~~reduce aggregate 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

Commented [MdMGB6]: In this section we appreciate also some redundancy in paragraphs 3.6 and 4.1 as both paragraphs refer to the enhancement of protection of civilians by exchanging good practices. For this reason, the idea to merge or change these paragraphs may be considered.

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

4.2 Collect and, where appropriate [and feasible](#), 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, the ICRC and other organisations capturing data on the impact of ~~military combat~~ operations [by all parties to a conflict](#) involving the use of [any kind of](#) explosive weapons in urban areas, as appropriate, to complement and support the role of States in this area.

4.4 [In accordance with International Humanitarian Law](#), ~~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 stabilisation.

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 international organisations and relevant civil society organisations in 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 review the implementation of this declaration ~~and identify any relevant additional measures that may need to be taken in order~~ 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.

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