



Elements for a political declaration on the challenges of protecting civilians in urban warfare

Switzerland is of the view that a political declaration should:

- Underline our humanitarian concern related to the short and long term humanitarian consequences of the conduct of hostilities within cities, towns, villages and other areas containing a similar concentration of civilians and civilian objects¹ (hereafter “concentration of civilians”);
- Contribute to the better respect and implementation of international humanitarian law (IHL), indicating that IHL is a sufficient framework to regulate the conduct of hostilities within concentrations of civilians;
- Not imply that the use of explosive ordnance with wide area effects in concentrations of civilians is per se contrary to IHL;
- Not imply that practices developed to achieve zero-civilian casualty in certain types of operations (e.g. stabilisation operations) reflect minimal standards for the implementation of IHL.

1. The **preamble** should emphasise:

Urbanisation of armed conflict and humanitarian concerns

- That the conduct of hostilities in concentrations of civilians is notably a consequence of the increasing urbanisation and also of the fact that military objectives are increasingly located in such areas;
- That the conduct of hostilities in concentrations of civilians is also a consequence of the fact that some parties to the conflict use the presence or movement of the civilian population or individual civilians as human shields, thereby endangering them and posing particular challenges for their protection;
- The increasing urbanisation of armed conflicts and their increasingly protracted nature which can lead to serious short and long-term humanitarian and socio-economic challenges, including the destruction of civilian objects and infrastructure necessary to the civilian population such as housing, schools, hospitals, water and sanitation systems, as well as to large scale internal and international displacement;
- That much of the harm and destruction observed in current conflicts appears to be caused by direct attacks against civilians and civilian objects, or indiscriminate or disproportionate uses of explosive ordnance with wide area effects by parties to a conflict, including by using Improvised Explosive Devices (IEDs), or inadequate implementation of IHL;
- That the conduct of hostilities in concentrations of civilians poses important challenges both with regard to the protection of civilians and for relief actions, as these operations can negatively impact access for the civilian population to humanitarian relief and the ability of humanitarian organisations to serve the population in need;
- That the use of explosive ordnance can result in contamination by explosive remnants of war, which can kill and injure people for decades after hostilities have ended and can impede the return of displaced populations.

¹ Terminology taken from Article 51, paragraph 5 of Protocol I of the Geneva Conventions.

IHL framework

- That existing IHL is a sufficient framework to protect civilians and civilian objects when hostilities are conducted in concentrations of civilians;
- The obligation of all parties to a conflict to respect and ensure respect for IHL in all circumstances, in particular the need to comply with the principles of distinction, proportionality and precautions in the conduct of hostilities and that the failure to do so, including in concentrations of civilians, is a serious concern;
- Recall that IHL is binding regardless of whether it is respected by an enemy;
- That many States have obligations under international law to remove or destroy explosive remnants of war as soon as feasible after the cessation of active hostilities;
- Encourage the ratification of international treaties and protocols relevant for the protection of civilians.

2. A political declaration should include concrete **measures and commitments**, with the objective to enhance the respect of IHL and the protection of civilians and civilian objects from the effects of the conduct of hostilities in concentrations of civilians, such as:

Measures and commitments to improve the protection of civilians

- Respect and ensure the respect for international humanitarian law in all circumstances and adhere to all applicable obligations under international human rights law;
- Disseminate and promote IHL, its respect and implementation, including by organised armed groups, as well as to exert our influence, to the degree possible, to stop its violations;
- Condemn violations of IHL by any actor;
- In accordance with their respective obligations under international humanitarian law, parties to an armed conflict must, *inter alia*, respect and protect:
 - the wounded and sick as well as medical personnel, transports and units and prohibit the misuse of the distinctive emblems;
 - humanitarian personnel as well as objects used for humanitarian relief operations and allow rapid and unimpeded passage for humanitarian relief to civilians in need;
 - cultural property.
- Unless provided otherwise by applicable international humanitarian law, parties to an armed conflict must not:
 - attack, destroy, remove or render useless objects indispensable to the survival of the civilian population;
 - attack works and installations containing dangerous forces.
- Reiterate the prohibition to kill, injure or capture an adversary by resort to perfidy;
- Ensure that the chain of command is set up with a view to ensure the respect of IHL;
- Take all feasible precautions, notably in the choice of means and methods of attack, with a view to avoiding, and in any event to minimising, incidental loss of civilian life, injury to civilians and damage to civilian objects. This could include, *inter alia*:
 - a targeting process, which includes the necessary legal evaluations and encompasses the definition of desired end state, the development of targets and their prioritisation, the analysis of own capabilities to develop effects on target, the assignation of force and decision by a commander to attack, the development of a plan of attack and to execute the mission as well as measures to assess results;
 - in this process, such measures as taking into consideration alternative means and methods of warfare, the precision and the area of impact of the ordnance to be used, adjusting the moment of the attack, the settings of the weapon chosen, and the direction of attack as well as giving effective advance warnings could contribute to minimising civilian harm.

- Include reasonably foreseeable indirect or reverberating effects in our proportionality assessments;
- When carrying out collateral damage estimations, take into account as far as feasible, collateral damage resulting from previous attacks;
- Conduct battle damage assessment, to the degree possible, in order to identify lessons learned for future operations, in particular on collateral damage estimation procedures;
- Facilitate the marking and clearance, removal or destruction of explosive remnants of war in accordance with applicable international law.

Measures and commitments to ensure accountability

- In cases of allegations of violations of IHL, seek clarification and support establishing the facts, including through established mechanisms of fact-finding such as the International Humanitarian Fact-Finding Commission (IHFFC);
- Investigate war crimes allegedly committed and, if appropriate, prosecute the suspects.

Measures and commitments in relation with cooperation and assistance

- Without prejudice to existing IHL, identify and share best practices, policies and practical measures, which may contribute to improving and supporting the protection of civilians against the consequences of the conduct of hostilities in concentrations of civilians;
- Share best practices to ensure an adequate military chain of command, battlespace awareness, directives, rules of engagement and manuals, as well as appropriate training;
- Share best practices on the establishment and operation of targeting processes;
- Share best practices in carrying out collateral damage estimations, including with regard to:
 - reasonably foreseeable indirect or reverberating effects;
 - lessons learned from previous attacks.
- Foster cooperation, training and exchange of expertise between armed forces to ensure better protection of civilian populations and civilian objects;
- Promote the rights of victims, including as part of the rights of people with disabilities, their families and affected communities.

Measures and commitments with regard to national implementation

- In accordance with national procedures, implement and, where necessary and as appropriate, review, develop or adapt national practice and policy with regard to the conduct of hostilities in concentrations of civilians;
- Ensure adequate training of armed forces on IHL, as well as on the measures and best practices to be applied during the conduct of hostilities in concentrations of civilians to effectively protect civilians;
- Meet on a regular basis, also inviting relevant international and regional organisations and civil society representatives to facilitate some of the above mentioned exchange of information;
- Promote this declaration, distribute it to all relevant stakeholders and seek the adherence of the greatest possible number of States.