

Comments on the Draft Declaration from the United Nations on behalf of: OCHA, ODA, OHCHR, UNEP, UNHCR, UNICEF, UNIDIR, UNMAS

DRAFT POLITICAL DECLARATION ON STRENGTHENING THE PROTECTION OF CIVILIANS FROM THE HUMANITARIAN CONSEQUENCES ARISING FROM THE USE OF EXPLOSIVE WEAPONS IN POPULATED AREAS

**6-8 April 2022
Consultations, Geneva**

Part A: Preamble	
Section 1	
<p>1.2 The use of explosive weapons can have has a devastating impact on civilians and civilian objects in populated areas. Blast, debris and fragmentation effects cause deaths and injuries, including lifelong disability. Beyond these direct effects, civilian populations, particularly children, are exposed to severe and long-lasting indirect effects – also referred to as ‘reverberating effects’. Many of these indirect effects stem from damage to or destruction of critical civilian infrastructure. When critical civilian infrastructure, such as energy, food, water and sanitation systems, and education, are damaged or destroyed the provision of basic needs and essential services, such as healthcare and education are, disrupted. These services are often interconnected and, as a result, damage to one component or service can negatively affect services elsewhere, causing harm to civilians and their environment that can extend far beyond a weapon’s impact area.</p>	<p>Suggesting deletion of the qualifier as even a single use of EWIPA causes harm, including continuous stress/psychological trauma.</p> <p>Suggesting explicit reference to “children” for several reasons: children are not identified in the declaration as a group on its own, while they are disproportionately vulnerable to indirect effects; children under 5 are more than 20 times more likely to die from diarrheal disease linked to unsafe water than violence in conflict; children account for 2/3 of all ERW casualties.</p> <p>Suggest including education as attacks on schools are a grave violation against children’s rights.</p> <p>Suggest including the environment to emphasize the impacts of ensuing environmental pollution and degradation on civilians.</p>
<p>1.3 The destruction of housing, schools, healthcare facilities and cultural heritage sites further aggravates civilian suffering, and impedes the enjoyment of numerous human rights, in particular economic, social and cultural rights. The natural environment can also be impacted by the use of explosive weapons, leading to the contamination of air, soil, water, and other resources , and generation of large amounts of dangerous wastes including military munition and debris. The use of explosive weapons in populated areas can also results in psychological and psychosocial harm to</p>	<p>Suggesting addition of “healthcare” as there is concrete evidence that destruction of healthcare facilities is a major cause of civilian suffering in these contexts.</p> <p>Suggesting additional reference to the human rights impact of EWIPA, in accordance with the statement of the Secretary-General from 28 March 2022. In particular, EWIPA reverberating effects are a denial of a number of rights (mainly ESCR), right to health, education, adequate standard of living (which includes housing, food, water) and right to life (if deaths result from lack of access to healthcare for example).</p>

<p>civilians. The use of explosive weapons in populated areas can also results in psychological and psychosocial harm to civilians.</p>	<p>Suggest deleting “natural” and use “environment” as standalone term as per current common usage, and also to reflect the fact that majority of the world’s population currently lives in built environments.</p> <p>Suggest underscoring the large volumes of toxic wastes and debris generated by conflicts in urban settings, which can expose the population to environmental health risks and impede the return of displaced persons.</p> <p>Suggesting deletion of the qualifier “can” as even a single use of EWIPA causes harm, including continuous stress/psychological trauma.</p>
<p>1.4 These effects have a severe impact on progress towards the Sustainable Development Goals. In addition, they often result in the displacement of people within and across borders, and impede their voluntary, safe, dignified and sustainable return. have a severe impact on progress towards the Sustainable Development Goals. Following the conduct of hostilities, unexploded ordnance impede the explosive ordnance and debris from damaged buildings and infrastructure further represent an additional impediment for the voluntary, safe, dignified and sustainable return of displaced persons, obstruct reconstruction efforts, and causes casualties long after hostilities have ended.</p>	<p>Suggesting reference to “Explosive remnants of war” which includes unexploded and abandoned ordnance and reference to ‘ERW’ language would also be more coherent with 3.5.</p> <p>Also suggesting qualified reference to the impact on displaced persons as well as reflection of the impact of ERW contamination and associated debris generation on stabilization and reconstruction efforts that take place long after hostilities have ended, hindering progress towards the achievement of the SDGs.</p> <p>Following paras 1.2 and 1.3, suggesting to create a stronger link between the whole range of EWIPA reverberating effects and mass displacement as well as the obstacles to return of displaced communities. Only referring to explosive ordnance in this context would narrow the displacement discourse. Furthermore, mentioning displacement and return in one and the same sentence would be more pertinent.</p>
<p>1.6 We recognise the importance of efforts to record and track civilian casualties, and the use of all practicable measures to ensure appropriate data collection, including, where feasible, data disaggregated by sex and age, disability, and cause, including in accordance with the Sustainable Development Goals. Where feasible, this data should be shared and made publicly available. Improved data on civilian casualties would help to inform policies designed to avoid, and in any event minimize, civilian harm, aid efforts to investigate harm to civilians, support</p>	<p>Sustainable Development Goal Indicator 16.1.2 envisages the collection of data on “conflict-related deaths disaggregated by sex, age and cause”. As defined in the related data collection methodology, “cause” refers, inter alia, to the weapon used. Recording information on cause is therefore critical in connection with understanding consequences from the use of explosive weapons in populated areas. We also suggest expansion to “disability” data, which is highly relevant to this context.</p>

<p>efforts to determine or establish accountability and enhance lessons learnt processes in armed forces.</p> <p>1.6bis We also recognize the importance of civilian casualty tracking mechanisms, implemented by armed forces to assess the impact of their operations on civilians and for identifying changes to military practice required to minimize harm to civilians.</p>	<p>The UN supports inclusion of a reference to civilian casualty tracking mechanisms to distinguish this from casualty recording and data collected pursuant to the SDGs.</p>
<p>1.7 We stress the imperative of addressing the short and long-term humanitarian consequences resulting from armed conflict involving the use of explosive weapons in populated areas. We welcome the on-going work of the United Nations, the International Committee of the Red Cross (ICRC) and civil society on the impacts and long-term humanitarian consequences arising from the use of explosive weapons in populated areas including on the environment.</p> <p>1.7bis In this regard, we take note of the joint appeal by the Secretary-General of the United Nations and the President of the ICRC to States to adopt policies and practices that will enhance the protection of civilians when warfare takes place in populated areas, including policies and practices to avoid the use of explosive weapons with a wide impact area, due to the significant likelihood of indiscriminate effects.</p>	<p>Suggest including the environment to underscore that that protection of people’s environment is an integral part of protection of civilians, and that environmental pollution from use of explosive weapons poses acute and chronic health risks.</p> <p>Suggest adding a reference to the repeated calls of the Secretary-General to avoid the use of explosive weapons with wide area effect in populated areas and to develop policies based on a presumption against such use. Can also use the ICRC/UN SG joint appeal for wording. Also, Santiago and Maputo communique make such reference.</p>
<p><u>Part B: Operative Section</u> Section 3</p>	
<p>3.3 Ensure that our armed forces adopt and implement a range of policies and practices to avoid civilian harm, including by restricting or refraining from avoiding the use of explosive weapons in populated areas with wide area effects., when the effects may be expected to extend beyond a military objective, in accordance with International Humanitarian Law.</p>	<p>Reiterating previous UN comments, in line with the consistent and long-standing position of the Secretary-General, that States should “avoid” the use of explosive weapons in populated areas.</p> <p>Suggesting deletion of “when effects may be expected...” as it implies that the use of explosive weapons with wide area effects in populated areas may not extend beyond a military objective. Any use of EWIPA, even without direct civilian deaths and injuries, can lead to other effects including psychosocial trauma and reverberating effects.</p> <p>Mentioning “in accordance with IHL” limits the stated policy of avoidance to that required by IHL.</p>

	This also risks undermining IHL by moving what are State obligations down to the level of a political declaration.
3.5 Ensure the provision of risk education , marking, clearance, and removal or destruction of explosive remnants of war as soon as possible after the end of active hostilities in accordance with our obligations under applicable international law.	Reiterating previous UN calls to include risk education as one essential precaution for the protection of the civilian population.
<u>Part B: Operative Section</u> Section 4	
4.3 Facilitate the work of the United Nations, the ICRC and relevant civil society organisations collecting data on the impact on civilians of military operations involving the use of explosive weapons in populated areas, as appropriate .	Suggest deletion of the qualifier ‘as appropriate’ in view of the fact that the facilitation of access to populations in need by States in line with customary international humanitarian law.
4.4 Provide, facilitate and support assistance to - people critically injured, survivors, families of people killed and/or injured - and communities affected by armed conflict in a holistic, integrated, gender, and age -sensitive and non-discriminatory manner, taking account of the rights of persons with disabilities, and supporting post-conflict recovery and durable solutions.	Suggesting inclusion of ‘age’ component in line with the Secretary-General’s report “Our Common Agenda” that “puts people at the centre, taking into account age, gender and diversity’.
4.5 Facilitate the work of the United Nations, the ICRC, other relevant international organisations and civil society organisations aimed at protecting and assisting civilian populations and addressing the direct and indirect humanitarian impact arising from the use of explosive weapons, as appropriate .	Suggest deletion of the qualifier ‘as appropriate’ in view of the fact that the facilitation of access to populations in need by States in line with customary international humanitarian law.