

Draft Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences that can arise from the use of Explosive Weapons with Wide Area Effects in Populated Areas

Part A: Preamble

Section 1

- 1.1 As armed conflicts become more protracted, complex, and urbanised, the risks to civilians have increased. The causes of these risks can involve a range of factors, including the use of explosive weapons with wide area effects in populated areas, and pose complex challenges for the protection of civilians.
- 1.2 Explosive weapons with wide area effects can have a devastating impact on civilians and civilian objects in populated areas. Blast, debris and fragmentation effects can cause immediate deaths and injuries. Beyond these direct effects, civilian populations can also be exposed to severe and long-lasting indirect effects – also referred to as ‘reverberating effects’. These indirect effects can stem from damage to or destruction of ~~When~~ critical civilian infrastructure ~~is damaged or destroyed~~, such as energy networks, water and sanitation systems, ~~or when~~ the provision of essential services such as healthcare ~~is 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 that can extend far beyond the weapon’s impact area.
- 1.3. The destruction of housing, schools and cultural heritage sites further aggravates civilian suffering, and the natural environment can also be impacted by the use of explosive weapons with wide area effects, which may lead to the contamination of air, soil, groundwater, and other resources. Urban warfare can also result in psychological and psychosocial harm to civilians.
- 1.4 Together, these effects can often result in the displacement of people within and across borders. When these effects occur they have a negative impact on progress towards the Sustainable Development Goals. Following urban armed conflict, unexploded ordnance can also impede the return of displaced persons and cause casualties long after hostilities have ended.
- 1.5 Tactics designed to exploit the proximity of civilians and civilian objects to military objectives in populated areas, as well as the use of improvised explosive devices directed against civilian and civilian objects, and other violations of International Humanitarian Law, including by non-State armed groups, all exacerbate the risks to civilians and are of grave concern.
- 1.6 Many militaries already implement operational policies and practices designed to mitigate civilian harm, which include a detailed understanding of the effects of explosive weapons on a military target and its surrounding areas and the associated risk to civilians in populated areas. However, there is scope for practical improvements in the application and sharing of good practices and the encouraging of full implementation of, and compliance with, obligations under International Humanitarian Law among all parties to armed conflicts, ~~and the application and sharing of good practices~~. Broadening and strengthening initiatives designed to share military policies and practices on protecting civilians can support the promotion and better implementation of International Humanitarian Law.
- 1.7 We recognise the importance of efforts to record civilian casualties, and the use of all practicable measures to ensure appropriate data collection, including, where possible, data disaggregated by sex and age. Where possible and appropriate, this data should be shared and made publicly available. The data on civilian casualties can help inform policies designed to mitigate civilian

Commented [A1]: Inserted ‘of these risks’ simply to improve the clarity of the paragraph and make it completely clear what’s being discussed.

Commented [A2]: Inserted debris: most deaths are caused by debris and blast.

Commented [A3]: A qualifier (can) is needed – not always. It removes the automatic assumption that use of explosive weapons causes harm/should be avoided.

Commented [A4]: Removed ‘immediate’ as deaths/injuries can occur in immediate, short, med and long term – immediate arguably narrows the scope too much.

Commented [A5]: The changes to the second half of paragraph on indirect/reverberating effects are intended to make the explanation a little clearer. Although ‘reverberating’ isn’t underpinned by a definition outside of EWIPA discussions, we recognise that it is something used frequently (and an important factor) for many parties, so have no issue with its inclusion as long as it’s clearly defined – using it in line with indirect helps this.

Commented [A6]: Not always – this qualifier is required to make this clear.

Commented [A7]: A conditional clause is required – these effects aren’t certain and don’t happen all of the time.

Commented [A8]: The suggested changes are intended to shift the focus to the additional measures of sharing best practice and encouraging implementation among all parties – hopefully a helpful change to improve clarity.

harm, aid efforts to investigate harm to civilians, support efforts to determine or establish accountability and enhance lessons learnt processes in armed forces.

- 1.8 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 the use of explosive weapons with wide area effects in populated areas. We also welcome work to empower and amplify the voices of all those affected, including women and girls, and we encourage further research into the potential gendered impacts of the use of explosive weapons with wide area effects. We stress the imperative of addressing the short and long-term humanitarian consequences that can result from the use of explosive weapons with wide area effects arising from the conduct of hostilities, including in urban warfare.

Section 2

- 2.1 We recall our obligations and commitments under applicable international law, including International Humanitarian Law and International Human Rights Law, and reaffirm ~~our~~ ~~obligation~~ ~~the importance of holding to hold~~ accountable those responsible for violations and our commitment to end impunity.
- 2.2 Existing International Humanitarian Law provides the framework to regulate the conduct of armed conflict, 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, including both State and non-State armed groups. We stress the importance of full compliance with International Humanitarian Law as a means to protect civilians and civilian objects and to mitigate civilian harm when conducting hostilities, in particular within populated areas.
- 2.3 We recall the obligations on all parties to armed conflict to comply with International Humanitarian Law when conducting hostilities in populated areas, and recall in particular the obligation to distinguish between combatants and civilians ~~as well as between civilian objects and military objectives, and to direct operations only against military objectives; 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.
- 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

~~Committed~~ ~~improving~~ ~~promoting~~ to strengthening the protection of civilians and civilian objects in armed conflict, ~~improving~~ ~~promoting~~ compliance with applicable International Humanitarian Law, and addressing the civilian harm that can arise from the use of explosive weapons with wide area effects in populated areas, we will, ~~as appropriate:~~

Section 3

- 3.1 Review, develop, implement, and, where necessary, improve national policy and practice with regard to the protection of civilians during armed conflict in populated areas.

Commented [A9]: This must change – there is no general obligation to hold accountable anybody who violates IHL, so wording on holding to account is much more appropriate.

Commented [A10]: Changes are intended to increase the coherence and better reflect the structure of obligations under IHL – the wording is now pretty true to the wording of API A48:

- In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.

Commented [A11]: Required to make sentence make sense – assume this was a drafting omission.

Commented [A12]: Confirmation required please: we believe this preamble relates to section 3&4 – please confirm.

Commented [A13]: An important shift of emphasis. 'Improving' would suggest that we (the UK) need to improve our compliance with IHL – not something that we would agree with or sign up to. 'Promoting' enables states who already fully comply with IHL to sign up, and commit to promoting compliance among other parties.

Commented [A14]: An important qualifier requested but not included. Certain parts of the operative section will require further discussions on implementation, which should not prejudice negotiation of the PD as a whole – this qualifier provides for this. In addition, 'as appropriate' removes any problems with para 3.5 for states not party to CCW Protocol V, such as the UK.

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.

~~3.3 Ensure that our armed forces *Implement policies and practices to ensure that, where we are party to armed conflict, our armed forces take all feasible precautions to avoid, and in any event to minimize, civilian harm – in particular by carefully assessing the use of explosive weapons with wide area effects in populated areas.* adopt and implement a range of policies and practices to avoid civilian harm, including by restricting the use of explosive weapons with wide area effects in populated areas, when the effects may be expected to extend beyond a military objective.~~

Commented [A15]: This paragraph **must** change - this is a blanket restriction which potentially limits our legal and responsible use of force.

3.4 Ensure that our armed forces take into account the direct and reverberating effects on civilians and civilian objects which can reasonably be foreseen in the planning of military operations and the execution of attacks in populated areas.

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 in accordance with our obligations under applicable international law.

Commented [A16]: This paragraph requires the 'as appropriate' at the end of the preamble.

3.6 Facilitate the dissemination and understanding of International Humanitarian Law and promote its respect and implementation by all parties to armed conflict, including by non-State armed groups.

Section 4

4.1 Strengthen international cooperation and assistance among armed forces, and other relevant stakeholders with respect to exchanges of technical and tactical expertise in order to develop good practice to enhance the protection of civilians in urban warfare.

4.2 Collect and, where possible and appropriate, share and make publicly available disaggregated data, on the direct and reverberating effects on civilians of our military operations involving the use of explosive weapons with wide area effects.

4.3 Support 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 with wide area effects, as appropriate.

4.4 Make every effort to assist victims, their families and communities affected by armed conflict in a holistic, integrated and non-discriminatory manner, taking account of the rights of persons with disabilities, and supporting post-conflict stabilisation.

4.5 Support the work of the United Nations, the ICRC, other qualified international organisations and relevant civil society organisations as appropriate aimed at protecting and assisting civilian populations and addressing the direct and indirect humanitarian impact that can arise from the use of explosive weapons with wide area effects in populated areas.

4.6 Meet on a regular basis to review the implementation of this Declaration and identify any relevant additional measures that may need to be taken to improve compliance with 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. As a starting point, a working group of interested States could agree a baseline compilation of good practice, which could form the basis for structured military-to-military exchanges, workshops, and seminars.

4.7 Actively promote this Declaration, distribute it to all relevant stakeholders and seek its adoption by the greatest possible number of States.