



# **Safeguarding Civilians**

**A Humanitarian Interpretation of the Political Declaration on the Use  
of Explosive Weapons in Populated Areas**



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October 2022

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## Summary

A new international political declaration offers a valuable tool to safeguard civilians from one of the greatest threats they face in contemporary armed conflict: the use of explosive weapons in populated areas. After three years of negotiations, countries will convene in Dublin, Ireland, on November 18, 2022 to endorse the Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas (the “Declaration”). Human Rights Watch and Harvard Law School’s International Human Rights Clinic (IHRC) urge states to seize the moment by signing on to the document and setting out their understandings of its provisions. This paper explains how the Declaration should be interpreted so as to maximize the Declaration’s goal of civilian protection. Such interpretations are the first step toward strong implementation.

The civilian harm arising from the use of explosive weapons in populated areas is extensive and well-documented. On average, 90 percent of the people who are killed or injured when explosive weapons are used in populated areas are civilians. Damage to or destruction of buildings, homes, infrastructure, and other civilian objects further exacerbates civilian suffering by disrupting access to services critical for the civilian population, including education and health care, and driving displacement. These direct and indirect, also known as reverberating, effects of the use of explosive weapons in populated areas have affected countless civilians in recent and ongoing armed conflicts across many countries.

Recognizing the acute need for action, representatives of 130 states gathered in Austria in October 2019 for the Vienna Conference on the Protection of Civilians in Urban Warfare and launched a political process to address the civilian harm inflicted by the bombing and shelling of villages, towns, and cities. Thereafter, Ireland convened several rounds of consultations to develop a shared understanding of the problem and to produce the Declaration’s set of guidelines for national policy and practice to address it. The final text is the product of close collaboration among states, United Nations agencies, including the Office for the Coordination of Humanitarian Affairs (OCHA), international organizations, notably the International Committee of the Red Cross (ICRC), and civil society organizations grouped under the International Network on Explosive Weapons (INEW), which Human Rights Watch co-founded in 2011.

States should endorse and promote the Declaration because it can help protect civilians from the effects of explosive weapons in three central ways. First, it promotes compliance with

international humanitarian law. Second, it delineates additional steps that states should take to prevent the humanitarian consequences of the use in populated areas of explosive weapons, especially those with wide area effects. Third, it commits states to assess and address the human cost of using explosive weapons by collecting and sharing data, adopting robust and expansive victim assistance programs, and holding regular follow-up international meetings.

This paper elaborates on the purpose of the Declaration, which should inform understandings of its provisions. It then offers interpretations of the instrument's key terms and commitments based on legal and policy precedent.

## Recommendations

Human Rights Watch and IHRC recommend that all countries endorse the Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas in Dublin on November 18, 2022. Doing so at a high-level endorsement conference will help demonstrate their commitment to ensuring its successful implementation.

To advance the Declaration's humanitarian objectives, countries should provide strong interpretations of the Declaration's provisions in their statements to the endorsement conference in November and beyond. In particular, they should:

1. Emphasize the breadth and foreseeability of the direct and indirect effects of explosive weapons;
2. Use international humanitarian law's definition of "concentration of civilians" when describing "populated areas";
3. Commit to refrain from using explosive weapons with wide area effects in populated areas and restrict the use of all other explosive weapons in populated areas;
4. Pledge to adopt concrete steps that take into account both the direct and indirect effects from the use of explosive weapons in populated areas because they are reasonably foreseeable;
5. Understand data collection and sharing to encompass all civilian harm as well as operational information;
6. View victim assistance as a robust undertaking designed to allow victims broadly defined to realize their human rights and participate fully in society; and
7. Clarify the regularity and substance of follow-up work on the Declaration, which is vital to the long-term success of the instrument.

## Purpose

The humanitarian purpose of the Declaration should inform interpretation of its terms and commitments. As the title makes clear, the Declaration’s goal is “strengthening the protection of civilians from the humanitarian consequences arising from the use of explosive weapons in populated areas.”<sup>1</sup>

The introduction, or “chapeau,” to the operative section in Part B provides more details about the Declaration’s purpose. It notes in part that the Declaration commits states to “strengthening compliance with and improving the implementation of applicable international humanitarian law.”<sup>2</sup> The chapeau also emphasizes that the Declaration goes beyond simply restating existing international law and commits states to take additional steps that will advance humanitarian ends. Elaborating on the goals expressed in the title, the chapeau specifically highlights “strengthening the protection of civilians” and “addressing the humanitarian consequences arising from armed conflict.”<sup>3</sup> These commitments refer to the prevention and remediation of harm from explosive weapons in populated areas.

The purpose of the Declaration illuminates the intent behind the language in the document. Therefore, when the meaning of paragraphs is not entirely clear from their text alone, the purpose of the Declaration can help to guide states’ interpretation.

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<sup>1</sup> Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas (hereinafter “Declaration”), concluded June 17, 2022, <https://www.dfa.ie/media/dfa/ourrolepolicies/peaceandsecurity/ewipa/EWIPA-Political-Declaration-Final-Rev-25052022.pdf> (accessed October 25, 2022), title.

<sup>2</sup> Ibid., Part B, chapeau.

<sup>3</sup> Ibid.

## Humanitarian Consequences

In interpreting and implementing the Declaration's commitments, states should recognize the negative humanitarian consequences that arise from the use of explosive weapons in populated areas. Drawing on the preamble's description, states should clarify how the terms used by the Declaration to refer to these consequences—direct effects and indirect, or reverberating, effects—should be understood, especially emphasizing their breadth and foreseeability.<sup>4</sup>

States should describe direct effects as the immediate impacts that occur in close physical and temporal proximity to the attack. Examples include deaths, injuries, and psychological harm, as well as damage and destruction to buildings, homes, property, and infrastructure.<sup>5</sup> Blast and fragmentation along with the immediate collapse of buildings and ignition of fires can inflict such harm.<sup>6</sup>

States should describe indirect, also known as reverberating, effects as encompassing the harm to civilians arising from the downstream impacts of the use of explosive weapons in populated areas. In particular, damage to or destruction of critical civilian infrastructure, such as energy generation plants, food sources, healthcare facilities, and water and sanitation systems, can interfere with services such as health care and education, infringing on human rights.<sup>7</sup> States should underscore that the interconnectedness of urban services often means that damage or disruption to one component or service can negatively affect services elsewhere, extending civilian harm beyond the weapon's immediate blast area.<sup>8</sup> Other indirect effects include harm to the environment and deaths, injury, and psychological trauma from the detonation of explosive ordnance months or years after initial use.<sup>9</sup> States should also emphasize that the threat of

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<sup>4</sup> Ibid., para. 1.3.

<sup>5</sup> For a description of direct effects, see Human Rights Watch and Harvard Law School's International Human Rights Clinic (IHRC), "Analysis of the Draft Elements of a Political Declaration on the Use of Explosive Weapons in Populated Areas," February 2021, [https://www.hrw.org/sites/default/files/media\\_2021/02/EWIPA\\_Feb21\\_FINAL2.pdf](https://www.hrw.org/sites/default/files/media_2021/02/EWIPA_Feb21_FINAL2.pdf); see also Mark Zeitoun and Michael Talhami, "The Impact of Explosive Weapons on Urban Services: Direct and Reverberating Effects across Space and Time," *International Review of the Red Cross*, vol. 98 (1) (2016), [https://international-review.icrc.org/sites/default/files/irc\\_97\\_901-6.pdf](https://international-review.icrc.org/sites/default/files/irc_97_901-6.pdf) (accessed October 25, 2022), p. 59.

<sup>6</sup> See generally Human Rights Watch and IHRC, "Key Questions and Answers on a Political Declaration on the Use of Explosive Weapons in Populated Areas," June 2020, <https://www.hrw.org/news/2020/06/02/key-questions-and-answers-political-declaration-use-explosive-weapons-populated>, p. 3.

<sup>7</sup> Ibid.

<sup>8</sup> See generally Zeitoun and Talhami, "The Impact of Explosive Weapons on Urban Services: Direct and Reverberating Effects across Space and Time," *International Review of the Red Cross*, pp. 59-60.

<sup>9</sup> See, for example, Sune Engel Rasmussen, "Afghans Live in Peril among Unexploded NATO Bombs that Litter Countryside," *Guardian*, January 29, 2015, <https://www.theguardian.com/world/2015/jan/29/afghans-lives-in-peril-unexploded-bombs> (accessed October 24,

casualties and obstacles to humanitarian access and the provision of basic needs and essential services lead to widespread displacement and impede progress toward reconstruction and development.<sup>10</sup>

States should make clear that when the Declaration uses the terms “civilian harm” and “humanitarian consequences,” it is referring to the direct and indirect effects described above.<sup>11</sup> In addition, they should note that Paragraph 1.3 equates indirect and reverberating effects. Therefore, the indirect effects referenced in commitments on planning and executing military operations in Paragraph 3.4, collecting, sharing, and making publicly available disaggregated data in Paragraph 4.2, and facilitating the work of international and civil society organizations in Paragraph 4.6, are the same as the reverberating effects discussed in the preamble and by many countries and experts in the field. Comprehensively understanding the breadth of these harms will enable states to implement their commitments in a way that maximizes civilian protection.

In their statements, states should also stress the foreseeability of the humanitarian consequences arising from the use in populated areas of explosive weapons, especially with wide area effects. The direct and indirect effects, including the ramifications of damaging or destroying critical civilian services, have been extensively documented in many recent armed conflicts, including in Afghanistan, Gaza, Iraq, Libya, the Philippines, Somalia, Sri Lanka, Ukraine, and Yemen.<sup>12</sup> On average, 90 percent of those killed and injured when explosive weapons are used in populated areas are civilians.<sup>13</sup>

Given that the harm is well-documented, states should treat it as foreseeable, even in the few lingering places in the Declaration where the qualifier “can” is used—for example, in the paragraphs noting that the use of explosive weapons in populated areas *can* result in psychological, psychosocial, or environmental harm.<sup>14</sup> Such an understanding is also important when interpreting Paragraph 3.4 on “taking into account” reasonably foreseeable effects in

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2022) (“A scrawny boy with jet-black hair, Sajad Ali has lost half the strength in his arm [after an unexploded shell detonated and sprayed him with shrapnel]... [He] has developed a stutter from the shock of the explosion, and is afraid to leave the house.”).

<sup>10</sup> Declaration, paras. 1.3-1.6.

<sup>11</sup> Ibid, paras. 1.8-1.9.

<sup>12</sup> ICRC, *Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas*, January 2022, [https://www.icrc.org/en/download/file/229018/ewipa\\_explosive\\_weapons\\_with\\_wide\\_area\\_effect\\_final.pdf](https://www.icrc.org/en/download/file/229018/ewipa_explosive_weapons_with_wide_area_effect_final.pdf) (accessed October 24, 2022), p.9.

<sup>13</sup> Action On Armed Violence, *A Decade of Explosive Violence Harm*, May 2021, <https://aoav.org.uk/wp-content/uploads/2021/05/A-Decade-of-Explosive-Violence-Harm.pdf> (accessed October 24, 2022).

<sup>14</sup> Declaration, paras. 1.5-1.6.



military planning and execution of attacks. States should recognize that “conflict cannot be fought in populated areas in the same way it is fought in open battlefields.”<sup>15</sup>

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<sup>15</sup> “Protecting Civilians from Explosive Weapons in Conflict: 5 Things You Should Know,” *UN News*, June 5, 2022, <https://news.un.org/en/story/2022/06/1119552> (accessed October 24, 2022).

## Populated Areas

States should confirm the scope of the Declaration by articulating their understanding of the term “populated areas.” To advance the purposes of the Declaration, they should consider “populated areas” synonymous with “concentration of civilians.”<sup>16</sup> The ICRC, INEW, and the UN Institute for Disarmament Research (UNIDIR) have all recommended this definition be applied to “populated areas” in the explosive weapons context.<sup>17</sup>

Concentration of civilians is an “established legal notion” that has been used in international humanitarian law to promote civilian protection.<sup>18</sup> Protocol III on Incendiary Weapons of the Convention on Conventional Weapons (CCW) defines the term as any “concentration of civilians, be it permanent or temporary, such as in inhabited parts of cities, or inhabited towns or villages, or as in camps or columns of refugees or evacuees, or groups of nomads.”<sup>19</sup> Protocol III’s references to refugees, evacuees, and nomads and uses of the term “inhabited” suggests that presence of civilians—which need not be in great numbers—is a defining characteristic of areas in which the use of certain weapons should be restricted.

Additional Protocol I to the Geneva Conventions shows that the term “concentration of civilians” is appropriate in the explosive weapons context in particular. Article 51(5)(a) of Protocol I prohibits carpet bombing, i.e., “an attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a *city, town, village or other area containing a similar concentration of civilians or civilian objects*.”<sup>20</sup> Protocol I’s use of the term in its prohibition of carpet bombing, a classic example of the use of

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<sup>16</sup> “ICRC Q&A on the Issue of Explosive Weapons in Populated Areas,” *International Review of the Red Cross*, vol. 98 (1) (2016), [https://international-review.icrc.org/sites/default/files/irc\\_97\\_901-8.pdf](https://international-review.icrc.org/sites/default/files/irc_97_901-8.pdf) (accessed October 8, 2022), pp. 97–105 (“Simply put, the terms ‘densely populated areas’ and ‘populated areas’ should be understood as synonymous with ‘concentration of civilians’, the latter being the only one of these terms defined by IHL treaties, as in ‘a city, town, village or other area containing a similar concentration of civilians or civilian objects’.”).

<sup>17</sup> INEW, “Explosive Weapons in Populated Areas – Key Questions and Answers,” September 2019, <https://www.inew.org/wp-content/uploads/2020/07/INEW-QA-SEP-2019-REVJUL20.pdf> (accessed October 8, 2022) (“Populated areas include villages, towns, cities, and other places where civilians are concentrated.”); UNIDIR, “FAQ on the Use of Explosive Weapons in Populated Areas,” April 2022, [https://unidir.org/sites/default/files/2022-04/UNIDIR-EWIPA\\_FAQ.pdf](https://unidir.org/sites/default/files/2022-04/UNIDIR-EWIPA_FAQ.pdf) (accessed October 8, 2022).

<sup>18</sup> INEW, “Explosive Weapons in Populated Areas – Key Questions and Answers” (“[D]ensely populated areas’ and ‘concentration of civilians’ are established legal notions in relation to the protection of civilians and the regulation of the conduct of hostilities.”).

<sup>19</sup> Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons, 1342 UNTS 137, entered into force December 3, 1998, art. 1.2, <https://geneva-s3.unoda.org/static-unoda-site/pages/templates/the-convention-on-certain-conventional-weapons/PROTOCOL%2BIII.pdf> (accessed October 24, 2022).

<sup>20</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted June 8, 1977, 1125 U.N.T.S. 3, entered into force December 7, 1978, art. 51(5)(a) (emphasis added).

explosive weapons in populated areas, underscores the term’s relevance for interpretations of the Declaration.

The Protocol I language, also used by CCW Amended Protocol II on Mines, Booby-Traps, and Other Devices, explicitly encompasses areas with civilian objects as well as civilians.<sup>21</sup> It thus includes areas with homes, schools, shops, and other civilian infrastructure not being used for military purposes, the damage of which would cause the indirect effects discussed above. To prevent such harm, states should understand “populated areas” in the new Declaration, like “concentration of civilians” under international humanitarian law, to contain civilians and civilian objects.

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<sup>21</sup> Ibid.; Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996, 2048 U.N.T.S. 93, entered into force December 3, 1998, art. 7(3).

## Refraining From or Restricting Use (Paragraph 3.3)

While Paragraph 3.3 may not create the clear rules many argued for during the negotiations, states can and should interpret it strongly because it establishes the core commitment for how to avoid the civilian harm that the Declaration seeks to address. The paragraph commits states to “[e]nsure that [their] armed forces adopt and implement a range of policies and practices to help avoid civilian harm, including by *restricting or refraining as appropriate from the use of explosive weapons in populated areas, when their use may be expected to cause harm to civilians or civilian objects.*”<sup>22</sup> Common usage of the terms “refrain from” and “restrict,” combined with the purpose and content of the political commitment, call for understanding Paragraph 3.3 to maximize civilian protection. Specifically, states should refrain from using explosive weapons with wide area effects in populated areas and restrict the use of all other explosive weapons in populated areas.

Because “to refrain from” is stronger than “to restrict,” under Paragraph 3.3, states should commit to refrain from using explosive weapons in populated areas when their use leads to heightened risk to civilians. The *Oxford English Dictionary* defines “refrain” as “to abstain from doing something.”<sup>23</sup> The term is comparable to “avoid,” which the dictionary defines as “to have nothing to do with, refrain from.”<sup>24</sup> International humanitarian law similarly uses the term refrain to direct states to avoid or cease action. For example, Article 57(2)(a)(iii) of Protocol I instructs states to “*refrain* from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”<sup>25</sup>

States should make clear that it is “appropriate” under Paragraph 3.3 to refrain from using explosive weapons in populated areas when they have wide area effects. As noted in Paragraph 1.2, such effects heighten the risk of “devastating impacts on civilians.” Explosive weapons have wide area effects if they have a large blast and fragmentation radius, are inaccurate, or deliver multiple munitions at once, or have a combination of these characteristics.<sup>26</sup> Examples include certain air-delivered weapons, large-caliber artillery, multi-barrel rocket launchers, and mortars,

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<sup>22</sup> Declaration, para. 3.3 (emphasis added).

<sup>23</sup> Oxford English Dictionary Online, v. “refrain,” <https://www.oed-com.ezp-prod1.hul.harvard.edu/view/Entry/161057?result=3&rskey=7nzLD9&> (accessed October 2, 2022).

<sup>24</sup> Oxford English Dictionary Online, v. “avoid,” <https://www.oed-com.ezp-prod1.hul.harvard.edu/view/Entry/13796?rskey=AzR5VF&result=3#eid> (accessed October 2, 2022).

<sup>25</sup> Protocol I, art. 57(2)(a)(iii) (emphasis added).

<sup>26</sup> Article 36, “Explosive Weapons with Wide Area Effects and Risk to Civilians,” February 2022, <https://article36.org/wp-content/uploads/2020/02/Wide-area-effects-1.pdf> (accessed October 8, 2022).

artillery, and rockets that fire unguided munitions.<sup>27</sup> As discussed above, use of these weapons in populated areas has been widely documented to increase the incidence of civilian deaths, injuries, psychological impact, environmental harm, and damage to civilian objects, including critical infrastructure necessary for essential services.<sup>28</sup> It thus crosses Paragraph 3.3's threshold of "expect[ing] to cause harm to civilians or civilian objects."

During negotiation of the Declaration, there was widespread, although not universal, agreement that states should commit to avoid the use of explosive weapons in populated areas. Many states, such as Austria, Chile, Costa Rica, Ecuador, Mexico, Mozambique, Senegal, South Africa, and a coalition of Latin American countries, specifically called for avoiding the practice when the weapons have wide area effects.<sup>29</sup> Some states, including Ecuador and Peru, referred to a presumption of non-use for explosive weapons in populated areas.<sup>30</sup> The ICRC proposed an avoidance policy, under which explosive weapons with wide area effects "should not be used in populated areas, unless sufficient mitigation measures are taken to limit the weapons' wide area effects and the consequent risk of civilian harm."<sup>31</sup> UN agencies, including OCHA, the UN Children's Fund (UNICEF), and the UN Office of Disarmament Affairs (UNODA), as well INEW and its member organizations, including Human Rights Watch, also argued for avoiding the use of explosive weapons with wide area effects in populated areas.<sup>32</sup>

Under Paragraph 3.3, states should agree that it is appropriate to "restrict" the use in populated areas of explosive weapons without wide area effects when "their use may be expected to cause harm to civilians or civilian objects." "Restrict" is defined in the *Oxford English Dictionary* as "to confine *to* or *within* certain limits."<sup>33</sup> The commitment would thus not prevent all use of explosive

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<sup>27</sup> Human Rights Watch, "Explosive Weapons Devastating for Civilians," February 6, 2020, <https://www.hrw.org/news/2020/02/06/explosive-weapons-devastating-civilians>.

<sup>28</sup> See, for example, ICRC, *Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas*, p. 26; Human Rights Watch, "Explosive Weapons Devastating for Civilians."

<sup>29</sup> Reaching Critical Will, "Towards a Political Declaration on the Use of Explosive Weapons in Populated Areas: States Need to Ensure that Expressed Commitments Translate into Real Impacts on the Ground," November 19, 2019, <https://reachingcriticalwill.org/news/latest-news/14451-towards-a-political-declaration-on-the-use-of-explosive-weapons-in-populated-areas-states-need-to-ensure-that-expressed-commitments-translate-into-real-impacts-on-the-ground> (accessed October 8, 2022); Reaching Critical Will, "Report on the March 2021 Consultations on a Political Declaration on the Use of Explosive Weapons in Populated Areas," <https://reachingcriticalwill.org/news/latest-news/15213-report-on-the-march-2021-consultations-on-a-political-declaration-on-the-use-of-explosive-weapons-in-populated-areas#positions> (accessed October 9, 2022).

<sup>30</sup> Reaching Critical Will, "Report on the March 2021 Consultations on a Political Declaration on the Use of Explosive Weapons in Populated Areas."

<sup>31</sup> ICRC, *Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas*, p. 23 (emphasis removed).

<sup>32</sup> See, for example, Reaching Critical Will, "Report on the March 2021 Consultations on a Political Declaration on the Use of Explosive Weapons in Populated Areas."

<sup>33</sup> Oxford English Dictionary Online, v. "restrict," <https://www.oed-com.ezp-prod1.hul.harvard.edu/view/Entry/164018?rskey=sPutOx&result=2#eid> (accessed October 2, 2022).

weapons in populated areas but would limit the practice if there was a foreseeable risk of harm to civilians or civilian objects, as is often the case.<sup>34</sup> Restrictions could include measures such as identifying “no-strike entities” for certain civilian sites, requiring a higher level of approval, and setting aside additional time to consider alternative weapons choices.<sup>35</sup> Existing policies and practices could inform restrictions that states could adopt.<sup>36</sup>

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<sup>34</sup> According to one observer, such restrictions “indicate that use of the weapon is disallowed in hostilities under given conditions, but this does not rule out employment of the same weapon in other combat situations.” Yoram Dinstein, “Warfare, Methods and Means,” *Max Planck Encyclopedia of Public International Law*, September 2015, <https://opil-ouplaw-com.ezp-prod1.hul.harvard.edu/view/10.1093/law:epil/9780199231690/law-9780199231690-e441?rskey=UZTl1d&result=10&prd=MPIL> (accessed October 8, 2022).

<sup>35</sup> OCHA, *Compilation of Military Policy and Practice: Reducing the Humanitarian Impact of the Use of Explosive Weapons in Populated Areas*, August 2017, <https://www.unocha.org/sites/unocha/files/OCHA%20Compilation%20of%20Military%20Policy%20and%20Practice%202017.pdf> (accessed October 8, 2022), pp. 7-8.

<sup>36</sup> *Ibid.*; ICRC, *Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas*, pp. 117-119; ICRC, “The Use of Force in Armed Conflicts: Interplay between the Conduct of Hostilities and Law Enforcement Paradigms, Expert Meeting,” November 2013, <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-4171.pdf> (accessed October 8, 2022) (“[I]n 2009, [US] General McChrystal issued the tactical directive ... which was given to commanders and intended to make them think about the broader effects of certain operations. The directive led to a diminution of air strikes by requiring in many cases the soldiers to withdraw or use small arms fire instead.... [T]he tactical directive has been effective in significantly reducing the number of civilian casualties.”).

## Addressing Foreseeable Effects (Paragraph 3.4)

To meet the Declaration's goal of advancing civilian protection, states should consider both the direct and indirect effects of the use of explosive weapons in populated areas in the policies and practices that they have committed to develop and implement. Paragraph 3.4 of the Declaration commits states to ensuring that their armed forces "take into account the direct and indirect 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."<sup>37</sup>

In their interpretive statements, states should specify that the references to reasonably foreseeable direct and indirect effects encompass all of the humanitarian consequences of the use of explosive weapons in populated areas. As described in the preamble and discussed above, the use of explosive weapons, especially with wide area effects, in populated areas, produces well-documented harm. It causes death, injury, psychological harm, and displacement beyond the immediate time and place of attack. In addition, damage to civilian infrastructure can interrupt services, and in turn infringe on human rights.

Consideration of indirect effects builds on interpretations of existing international humanitarian law. The principle of proportionality prohibits an attack expected to cause "incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof" that is excessive in relation to anticipated military advantage.<sup>38</sup> Many believe that indirect effects must be incorporated into this assessment. For example, some legal experts understand the term "injury" to include disease and severe mental suffering, and "damage to civilian objects" is often interpreted as encompassing environmental harm.<sup>39</sup> Such effects are similarly foreseeable in the context of the use in populated areas of explosive weapons, particularly those weapons with wide area effects. In many instances, the practice violates the proportionality test, but regardless states that have endorsed the Declaration should heed their commitment to "take into account" these indirect effects when planning and executing attacks.

States should also understand Paragraph 3.4's phrase to "take into account" as going beyond mere consideration of direct and indirect effects and to entail concrete steps to enhance civilian

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<sup>37</sup> Declaration, para. 3.4.

<sup>38</sup> Protocol I, art. 51(5)(b).

<sup>39</sup> See, for example, Clark Orr, "Reverberating Effects and International Law," *Center for Civilians in Conflict*, September 28, 2021, [https://civiliansinconflict.org/blog/reverberating-effects-and-international-law/?utm\\_source=rss&utm\\_medium=rss&utm\\_campaign=reverberating-effects-and-international-law](https://civiliansinconflict.org/blog/reverberating-effects-and-international-law/?utm_source=rss&utm_medium=rss&utm_campaign=reverberating-effects-and-international-law) (accessed October 3, 2022).

protection, the central goal of the Declaration. In particular, this process could inform when and how states should *restrict* the use of explosive weapons in populated areas. (As discussed above, states should *refrain* from the use of explosive weapons *with wide area effects* in populated areas.) States should also take these effects into account when, for example, engaging in risk and damage assessments, collecting and sharing data on civilian harm, and providing assistance to victims.<sup>40</sup> Implementing these commitments effectively will necessitate a thorough evaluation of all foreseeable effects on civilian populations.

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<sup>40</sup> Declaration, paras. 3.4, 1.8, 4.2, 4.3, 4.5.



## **Data Collection and Sharing (Paragraphs 1.8, 3.4, 4.2, and 4.3)**

States should recognize the Declaration's multiple provisions relating to data collection and sharing as multifaceted and robust, and implement the commitments articulated in these provisions accordingly. These commitments include conducting damage assessments, exchanging humanitarian assessments with other states and stakeholders, and collecting, sharing, and making publicly available "disaggregated data" on the "direct and indirect effects" of the use of explosive weapons in populated areas.<sup>41</sup> While Paragraph 1.8 sets out the importance of "efforts to record and track civilian casualties," the operative paragraphs signify the Declaration's efforts to move beyond mere acknowledgment of the value of data collection toward making data collection a fundamental part of state policy and practice.

In their statements, states should stress that data collection is vital to implementing the Declaration's other commitments and informing the content of future meetings.<sup>42</sup> First, collecting and sharing data serves the humanitarian ends of the Declaration: it provides a clearer understanding of the direct and indirect effects of the use of explosive weapons in populated areas and can in turn influence state policy and practice and lessons learned related to civilian protection.<sup>43</sup> Second, building an accurate picture of civilian harm facilitates victim assistance by identifying the types of support needed and allowing states to direct their resources more efficiently and effectively.<sup>44</sup> Third, documentation of the use of explosive weapons in populated areas is essential for assessing the lawfulness of specific military operations and providing accountability for victims, including by identifying possible violations of international humanitarian law.<sup>45</sup> Fourth, information about progress made in implementing the political Declaration's commitments promotes monitoring, encourages compliance, and facilitates international cooperation and assistance.

The preamble notes the importance of both recording and tracking civilian harm, and states should confirm that they will include both activities as part of their data collection under

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<sup>41</sup> Ibid., paras. 3.4, 4.1, 4.2.

<sup>42</sup> Ibid., para. 4.7.

<sup>43</sup> Human Rights Watch and IHRC, "Analysis of the Draft Political Declaration on the Use of Explosive Weapons in Populated Areas," April 2022, [https://www.hrw.org/sites/default/files/media\\_2022/04/EWIPA%20Text%20Analysis%20April%202022\\_o.pdf](https://www.hrw.org/sites/default/files/media_2022/04/EWIPA%20Text%20Analysis%20April%202022_o.pdf).

<sup>44</sup> Declaration, para. 4.5.

<sup>45</sup> Simon Bagshaw, Article 36, "Committing to Civilian Casualty Tracking in the Future Declaration on the Use of Explosive Weapons in Populated Areas," <https://article36.org/wp-content/uploads/2022/04/Article-36-Casualty-Tracking-and-the-Political-Declaration-on-EWIPA.pdf> (accessed October 8, 2022).

Paragraph 4.3.<sup>46</sup> Recording captures total casualty numbers at a single moment.<sup>47</sup> By contrast, tracking refers to armed forces' systematic gathering of "data on civilian deaths and injuries, property damage or destruction, and other instances of harm to civilians caused by its operations."<sup>48</sup> Undertaken by states or other armed actors, civilian harm tracking enables forces to identify trends over time and fully understand the scope of direct and indirect effects on civilians and civilian property, buildings, and infrastructure.<sup>49</sup>

Recording and tracking should be applied to a broad range of data. As noted in Paragraph 4.3, states should collect, share, and make public data that encompasses the full range of direct and indirect effects described above and disaggregate this data—for example, by age, sex, and disability—to illuminate underlying trends and reveal disparate impacts.<sup>50</sup> Capturing indirect effects also requires establishing baseline data, for example, on the presence of civilian objects, access to urban services, and human development indicators that exist prior to military operations, to facilitate comparison with conditions following the use of explosive weapons.<sup>51</sup> States should work to develop a coherent set of standards to guide this data collection, including the "alignment of disparate definitions, coding schemes, and methodologies" in the future meetings provided for in Paragraph 4.7.<sup>52</sup>

Fulfilling the commitments in Section 3 on the use of explosive weapons in populated areas entails collecting operational data. Operational data on the types and numbers of weapons used, the locations hit and intended targets, and circumstances of the weapons' use is essential to assessing the effectiveness of military policy and practice in protecting civilians, as well as giving states information necessary to respond to harm caused.<sup>53</sup> Without this comprehensive information, states cannot identify lessons learned and inform future conduct. Collecting operational data also necessitates that states adequately resource their investigators and develop

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<sup>46</sup> Declaration, para. 1.8.

<sup>47</sup> Human Rights Watch and IHRC, "Analysis of the Draft Political Declaration on the Use of Explosive Weapons in Populated Areas," April 2022, p. 6.

<sup>48</sup> Simon Bagshaw, "Committing to Civilian Casualty Tracking in the Future Declaration on the Use of Explosive Weapons in Populated Areas," p. 1.

<sup>49</sup> Ibid.

<sup>50</sup> Andrea Farrés Jiménez, "Gendering the Legal Review of New Means and Methods of Warfare," *Just Security*, August 2022, <https://www.justsecurity.org/82745/gendering-the-legal-review-of-new-means-and-methods-of-warfare/> (accessed October 24, 2022).

<sup>51</sup> InterAction and The Freeman Spogli Institute for International Studies at Stanford, *Building the Evidence Base: Addressing the Reverberating Effects of Military Operations on Civilian Life*, October 2020, <https://www.interaction.org/wp-content/uploads/2020/11/Building-the-Evidence-Base-Workshop-Report-October-2020-FINAL.pdf> (accessed October 24, 2022).

<sup>52</sup> Ibid.

<sup>53</sup> Human Rights Watch and IHRC, "Analysis of the Draft Political Declaration on the Use of Explosive Weapons in Populated Areas," April 2022, p. 12.

transparent and consistent internal processes resistant to bias toward internal military reporting.<sup>54</sup> States should further underscore that, for the purposes of both military planning and collecting data on civilian harm, there is a presumption of civilian status, and emphasize in their interpretations that systemic underreporting of civilian harm can undercut the Declaration's intention to fully recognize the humanitarian consequences of the use of explosive weapons in populated areas.<sup>55</sup>

While the Declaration qualifies data collection and sharing with the terms “feasible” and “appropriate,” both caveats should be understood in light of the ultimate purpose of the Declaration: civilian protection.<sup>56</sup> Given states’ access to information and duty to address potential harm, states are responsible for ensuring these actions are “feasible.” In those instances where data collection is genuinely not feasible for states, however, they should facilitate the collection of data by other actors, in line with commitments in Paragraph 4.3. Regardless, robust collaboration among academia, civil society groups, international organizations, humanitarian organizations, and governments is necessary to establish an evidence base that reflects the best technical expertise available and, therefore, can most accurately inform state policy and practice.<sup>57</sup>

Similarly, states should presume that data collection and sharing is “appropriate” in the interest of transparency, which promotes accountability and enables monitoring and assessments by independent experts. The limited situations in which data collection and sharing may not be appropriate should be strictly humanitarian. States may refrain from sharing information on civilians or civilian objects if states have a strong reason to suspect that the dissemination or publication of that information may risk further civilian harm. For example, they should take note of concerns about publicizing information that may endanger individuals or make critical civilian infrastructure vulnerable to targeting.<sup>58</sup>

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<sup>54</sup> Airwars and PAX, *Seeing Through the Rubble: The Civilian Impact of the Use of Explosive Weapons in the Fight against ISIS*, October 2020, <https://airwars.org/wp-content/uploads/2020/10/PAXAirwars-Through-the-Rubble.pdf> (accessed October 24, 2022), p.13.

<sup>55</sup> Protocol I, Article 50(1); DDH, *Official Records*, vol. VI, CFFH/Sr.31, May 26, 1977, p. 161; Airwars and PAX, *Seeing Through the Rubble*.

<sup>56</sup> Declaration, paras. 3.4 and 4.2.

<sup>57</sup> InterAction and The Freeman Spogli Institute for International Studies at Stanford, *Building the Evidence Base*, p.8.

<sup>58</sup> Century Foundation, *The UN Made a List of Hospitals in Syria. Now They're Being Bombed*, June 13, 2019, [https://production-tcf.imgix.net/app/uploads/2019/06/13100110/Lund\\_syria\\_UN\\_FinalPDF1.pdf](https://production-tcf.imgix.net/app/uploads/2019/06/13100110/Lund_syria_UN_FinalPDF1.pdf) (accessed October 24, 2022).

## Victim Assistance (Paragraph 4.5)

States should underscore the importance and elaborate on the meaning of victim assistance under the Declaration. Victim assistance is necessary to fulfill the Declaration's goal, articulated in Part B's chapeau, of "addressing the humanitarian consequences arising from armed conflict involving the use of explosive weapons in populated areas."<sup>59</sup> Without victim assistance measures, attempts to remedy the devastating impact on civilians discussed in the preamble of the Declaration would be severely lacking.

States should construe victim assistance broadly to allow victims to realize their human rights and participate fully in society. They should understand assistance to encompass basic needs, including safety, shelter, food, water, emergency and ongoing medical care, hygiene, sanitation, and electricity. To address the psychological and psychosocial harm to civilians recognized in the preamble of the Declaration, victim assistance should also include psychological support and measures for socio-economic inclusion.<sup>60</sup> The 2008 Convention on Cluster Munitions similarly lists not only medical care and rehabilitation but also psychological support and measures for "social and economic inclusion" as forms of victim assistance.<sup>61</sup> Victim assistance should advance post-conflict recovery through the rebuilding of accessible civilian infrastructure, such as transportation systems and power plants, as well as other critical civilian establishments, notably schools, hospitals, and places of worship. To inform development of programs that most effectively respond to victims' needs and rights, states should collect and make publicly available disaggregated data on civilian casualties and other harm, the needs of survivors and other persons with disabilities, the reasons for fatalities, and available services.

To ensure this assistance has the greatest impact, the term "victim" should receive a broad interpretation. The Declaration specifies that victims include "people injured, survivors, families of people killed or injured."<sup>62</sup> The Declaration's reference to "communities affected by armed conflict" should be understood to encompass communities that have experienced both the direct and indirect effects of the use of explosive weapons in populated areas.<sup>63</sup>

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<sup>59</sup> Declaration, Part B, chapeau.

<sup>60</sup> Ibid., para. 1.6.

<sup>61</sup> Convention on Cluster Munitions, adopted May 30, 2008, entered into force August 1, 2010, art. 5(1). The Oslo Commitments on Armed Violence call for "adequate care and rehabilitation" as well as "social and economic inclusion." Oslo Commitments on Armed Violence, 2010, para. 8.

<sup>62</sup> Declaration, para. 4.5.

<sup>63</sup> Ibid.

States should unpack the meaning of Paragraph 4.5’s “holistic, integrated, gender-sensitive, and non-discriminatory approach to [victim] assistance, taking into account the rights of persons with disabilities.”<sup>64</sup> For example, a holistic approach recognizes that the harm caused by the use of explosive weapons in populated areas tends to affect multiple aspects of victims’ lives, and that addressing each of those facets is an essential component of victim assistance. According to the group Humanity & Inclusion, also known as Handicap International, an integrated approach means “that assistance provided through development, human rights and humanitarian initiatives also include survivors and indirect victims.”<sup>65</sup> Gender sensitivity encourages states to acknowledge that “the same conditions are experienced differently by women and men.”<sup>66</sup> It should be accompanied by sensitivity to age, as recognized in multiple disarmament treaties, and disability, which should be guided by the Convention on the Rights of Persons with Disabilities.<sup>67</sup> States should also clarify that they understand non-discrimination in this context to parallel the meaning in the Convention on Cluster Munitions, which commits states parties to “not discriminate against or among cluster munition victims, or between cluster munition victims and those who have suffered injuries or disabilities from other causes.”<sup>68</sup>

States should particularly recognize the importance of the inclusion of victims in implementing Paragraph 4.5. Although not an explicitly enumerated commitment in the Declaration, inclusion is a fundamental principle of victim assistance.<sup>69</sup> The Convention on Cluster Munitions, for example, requires states to closely consult with and actively involve victims and their representative organizations in fulfilling their victim assistance obligations.<sup>70</sup> Inclusion should take place at every stage of the victim assistance process, from planning, design, and implementation, through monitoring and evaluation.<sup>71</sup>

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<sup>64</sup> Ibid.

<sup>65</sup> Humanity & Inclusion, “Victim Assistance in the Context of the Use of Explosive Weapons in Populated Areas,” *Global CWD Repository*, August 2016, <https://commons.lib.jmu.edu/cgi/viewcontent.cgi?article=2445&context=cisr-globalcwd> (accessed October 8, 2022), p. 5.

<sup>66</sup> Ibid., p. 9.

<sup>67</sup> Convention on Cluster Munitions, 2008, art. 5(2); Treaty on the Prohibition of Nuclear Weapons, adopted July 7, 2017, entered into force January 22, 2021, art. 6(1); Convention on the Rights of Persons with Disabilities, adopted December 13, 2006, entered into force May 3, 2008.

<sup>68</sup> Convention on Cluster Munitions, 2008, art. 5(2).

<sup>69</sup> International Campaign to Ban Landmines—Cluster Munition Coalition, “Guiding Principles for Victim Assistance,” January 2021, <http://www.icbl.org/media/3187736/ICBL-Guiding-Principles.pdf> (accessed October 8, 2022), p. 2.

<sup>70</sup> Convention on Cluster Munitions, 2008, art. 5(2).

<sup>71</sup> International Campaign to Ban Landmines—Cluster Munition Coalition, “Guiding Principles for Victim Assistance,” p. 2.

States should clarify that their commitment to “provide, facilitate, or support assistance” will involve different types of engagement.<sup>72</sup> States can provide assistance directly by establishing access to services and delivering aid themselves. They can facilitate it by helping other actors, often nongovernmental or international organizations, engage in victim assistance activities. Finally, states should support affected states’ implementation of their victim assistance measures through the provision of international cooperation and assistance.

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<sup>72</sup> Declaration, para. 4.5.

## Follow-up Meetings (Paragraph 4.7)

States should clarify the regularity and substance of their follow-up work on the Declaration, which is vital to its long-term success. Paragraph 4.7 states that signatories should “meet on a regular basis to review in a collaborative spirit the implementation of this Declaration and identify any relevant additional measures that may need to be taken.”<sup>73</sup> This paragraph advances the goals of the Declaration by promoting implementation and opening the door to further action. More specificity regarding the frequency and content of meetings is needed to maximize their efficacy.

A review of past armed conflict-related political declarations indicates that meeting on a “regular basis” should entail meeting at least once every two years, if not more often. Following the signing of the 2006 Geneva Declaration on Armed Violence and Development, which stipulated that signatory states were to “meet again no later than 2008 to assess [their] progress in achieving” the goals outlined in the document, review conferences were held in 2008 and in 2011.<sup>74</sup> Signatories met again in 2014 at a series of five regional review conferences.<sup>75</sup> Since the signing of the 2015 Safe Schools Declaration, which requires that signatories “meet on a regular basis,” states have been meeting once every two years, first in March 2017, then in March 2019, and most recently in October 2021.<sup>76</sup>

As the Declaration notes, states should use future meetings for a variety of purposes, including exchanging policies and practices and sharing “views on emerging concepts and terminology.”<sup>77</sup> It is common to use meetings following the signing of a political declaration to exchange policies and best practices. For example, a toolkit to “assist in the understanding and implementation of the *Guidelines*” was shared at the 2017 International Conference on Safe Schools.<sup>78</sup> This Human Rights Watch and IHRC paper, which outlines strong humanitarian interpretations of the explosive weapons Declaration, could inform discussions of the new document’s content and terms.

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<sup>73</sup> Ibid., para. 4.7.

<sup>74</sup> Geneva Declaration on Armed Violence and Development, “Review Conferences,” <http://www.genevadeclaration.org/fileadmin/docs/GD-Declaration-091020-EN.pdf> (accessed October 3, 2022).

<sup>75</sup> Ibid.

<sup>76</sup> Safe Schools Declaration, 2015, [https://protectingeducation.org/wp-content/uploads/documents/documents\\_safe\\_schools\\_declaration-final.pdf](https://protectingeducation.org/wp-content/uploads/documents/documents_safe_schools_declaration-final.pdf) (accessed October 3, 2022); Global Coalition to Protect Education from Attack, “Meet on a Regular Basis to Review implementation of the Declaration and the Guidelines,” 2022, <https://ssd.protectingeducation.org/implementation/meet-on-a-regular-basis/> (accessed October 3, 2022).

<sup>77</sup> Declaration, para. 4.7.

<sup>78</sup> Second International Conference on Safe Schools, “Chair’s Summary,” March 2017, [https://protectingeducation.org/wp-content/uploads/documents/documents\\_buenos\\_aires\\_conference\\_chairs\\_summary.pdf](https://protectingeducation.org/wp-content/uploads/documents/documents_buenos_aires_conference_chairs_summary.pdf) (accessed October 5, 2022).

States should also note that Paragraph 4.7's list of meeting topics is non-exhaustive and identify other important means through which these forums can help increase the impact of the Declaration. States can use future meetings to reaffirm their commitment to the terms of the Declaration, to provide updates on their progress in implementation, to share data that has been collected, and to promote universalization of the Declaration. Meetings following adoption of political declarations on armed conflict have often taken up similar topics. For example, at the 2008 Review Summit for the Geneva Declaration on Armed Violence and Development, states released a "Summit Statement" that reaffirmed their "support and commitment to the goals laid down" in the 2006 declaration.<sup>79</sup> Conference Reports of the Safe Schools Declaration meetings have often contained updates on progress toward the political declaration's objectives and highlighted key resources produced or distributed at the meetings.<sup>80</sup>

Finally, states should underscore the importance of including key stakeholders beyond states in follow-up meetings. Paragraph 4.7 notes that the "United Nations, the ICRC, other relevant international organisations and civil society organisations may participate in these meetings." Victims of the use of explosive weapons in populated areas should also be included in the work because they can offer first-hand experiences of the direct and indirect effects of the practice and expertise in how it should be dealt with. Inclusion of these perspectives would help to ensure that the Declaration's purpose of increasing the protection of civilians is realized.

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<sup>79</sup> "Review Summit Geneva Declaration on Armed Violence and Development hosted by the Government of Switzerland and the UNDP," September 12, 2008, <http://www.genevadeclaration.org/fileadmin/docs/Geneva-Declaration-Review-Summit-Statement-final-12092008-ENGLISH.pdf> (accessed October 5, 2022).

<sup>80</sup> Global Coalition to Protect Education from Attack, "Meet on a Regular Basis to Review implementation of the Declaration and the Guidelines."



## **Annex**

### **Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons 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. These risks are a source of major concern and they must be addressed. The causes of these risks involve a range of factors, including the use of explosive weapons in populated areas, and pose complex challenges for the protection of civilians.
- 1.2 The use of explosive weapons in populated areas can have a devastating impact on civilians and civilian objects. The risks increase depending on a range of factors, including the weapon's explosive power, its level of accuracy, and the number of munitions used.
- 1.3 Blast and fragmentation effects, and resulting debris, cause deaths and injuries, including lifelong disabilities. Beyond these direct effects, civilian populations, particularly children, are exposed to severe and long-lasting indirect effects – often referred to as reverberating effects. Many of these effects stem from damage to or destruction of critical civilian infrastructure.
- 1.4 When critical civilian infrastructure, such as energy, food, water and sanitation systems, 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 that can extend far beyond a weapon's impact area.
- 1.5 The damage and destruction of housing, schools, hospitals, places of worship and cultural heritage sites further aggravates civilian suffering. The environment can also be impacted by the use of explosive weapons, through the contamination of air, soil, water, and other resources.
- 1.6 The use of explosive weapons in populated areas can also result in psychological and psychosocial harm to civilians. The direct and indirect effects often result in the displacement of people within and across borders, and have a severe impact on progress towards the

Sustainable Development Goals. Unexploded ordnance impedes humanitarian access, the return of displaced persons and reconstruction efforts, and causes casualties long after hostilities have ended.

- 1.7 Many armed forces already implement policies and practices designed to avoid, and in any event minimise, civilian harm during hostilities. These can help armed forces to better understand the anticipated effects of explosive weapons on a military target and its surrounding areas, as well as the associated risk to civilians in populated areas. However, there is scope for practical improvements to achieve the full and universal implementation of, and compliance with, obligations under International Humanitarian Law, and the application and sharing of good policies and practices. Broadening and strengthening initiatives designed to share policies and practices on protecting civilians can support the promotion and better implementation of International Humanitarian Law.
- 1.8 We recognise the importance of efforts to record and track civilian casualties, and the use of all practicable measures to ensure appropriate data collection. This includes, where feasible, data disaggregated by sex and age. When possible, this data should be shared and made publicly available. Improved data on civilian harm would help to inform policies designed to avoid, and in any event minimise, civilian harm; aid efforts to investigate harm to civilians; support efforts to determine or establish accountability, and enhance lessons learned processes in armed forces.
- 1.9 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 humanitarian consequences arising from the use of explosive weapons in populated areas.
- 1.10 We also welcome work to empower, amplify, and integrate the voices of all those affected, including women and girls, and we encourage further research into the gendered impacts of the use of explosive weapons.

## Section 2

- 2.1 We reaffirm our obligations under applicable international law, including International

Humanitarian Law and International Human Rights Law, and related commitments. These include our obligations to hold accountable those responsible for violations, and our commitment to end impunity.

- 2.2 Existing International Humanitarian Law provides the legal framework to regulate the conduct of armed conflict. It is applicable to the use of explosive weapons in all situations of armed conflict, 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 avoid, and in any event minimise, civilian harm when conducting military operations, in particular within populated areas.
- 2.3 We recall the obligations on all parties to armed conflict to comply with International Humanitarian Law under all circumstances, including when conducting military operations in populated areas. We recall in particular the obligation to distinguish between combatants and civilians as well as between civilian objects and military objectives at all times in the conduct of military operations, and to direct attacks only against military objectives. We recall further the prohibitions against indiscriminate and disproportionate attacks, and the obligation to take all feasible precautions in attack and against the effects of attacks. We also recall the obligations under International Humanitarian Law related to the general protection of civilians against dangers arising from military operations, and allowing and facilitating rapid and unimpeded passage of humanitarian relief for civilians in need.
- 2.4 We condemn tactics designed to exploit the proximity of civilians or civilian objects to military objectives in populated areas, as well as the use of improvised explosive devices directed against civilians or civilian objects, and other violations of International Humanitarian Law, including by non-State armed groups, which further exacerbate the risks to civilians and are of grave concern.
- 2.5 While there is no general prohibition against the use of explosive weapons, any use of explosive weapons must comply with International Humanitarian Law.
- 2.6 We strongly condemn any attacks directed against civilians, other protected persons and civilian objects, including civilian evacuation convoys, as well as indiscriminate shelling and the indiscriminate use of explosive weapons.
- 2.7 We welcome the work of the United Nations Security Council and the General Assembly to

strengthen the protection of civilians during armed conflict and to strengthen compliance with International Humanitarian Law. In this regard, we recall UNSC and UNGA Resolutions dealing with the protection of civilians in armed conflicts.

## **Part B: Operative Section**

Committed to strengthening the protection of civilians and civilian objects during and after armed conflict, addressing the humanitarian consequences arising from armed conflict involving the use of explosive weapons in populated areas, and strengthening compliance with and improving the implementation of applicable International Humanitarian Law, we will:

### Section 3

- 3.1 Implement, and, where necessary, review, develop or improve national policy and practice with regard to the protection of civilians during armed conflict involving the use of explosive weapons in populated areas.
- 3.2 Ensure comprehensive training of our armed forces on the application of International Humanitarian Law and on the policies 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 adopt and implement a range of policies and practices to help avoid civilian harm, including by restricting or refraining as appropriate from the use of explosive weapons in populated areas, when their use may be expected to cause harm to civilians or civilian objects.
- 3.4 Ensure that our armed forces, including in their policies and practices, take into account the direct and indirect 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, and conduct damage assessments, to the degree feasible, and identify lessons learned.
- 3.5 Ensure the marking, clearance, and removal or destruction of explosive remnants of war as soon as feasible after the end of active hostilities in accordance with our obligations under applicable international law, and support the provision of risk education.
- 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, including in the context of partnered military operations, with respect to exchanges of technical and tactical expertise, and humanitarian impact assessments, in order to develop good policies and practices to enhance the protection of civilians, particularly with regard to the use of explosive weapons in populated areas.
- 4.2 Collect, share, and make publicly available disaggregated data on the direct and indirect effects on civilians and civilian objects of military operations involving the use of explosive weapons in populated areas, where feasible and appropriate.
- 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.
- 4.4 Facilitate rapid, safe, and unhindered humanitarian access to those in need in situations of armed conflict in accordance with applicable international law, including International Humanitarian Law.
- 4.5 Provide, facilitate, or support assistance to victims - people injured, survivors, families of people killed or injured - as well as communities affected by armed conflict. Adopt a holistic, integrated, gender-sensitive, and non-discriminatory approach to such assistance, taking into account the rights of persons with disabilities, and supporting post-conflict recovery and durable solutions.
- 4.6 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 in populated areas, as appropriate.
- 4.7 Meet on a regular basis to review in a collaborative spirit the implementation of this Declaration and identify any relevant additional measures that may need to be taken. These meetings could include the exchange and compilation of good policies and practices and an exchange of views on emerging concepts and terminology. The United Nations, the ICRC, other relevant international organisations and civil society organisations may participate in these

meetings. We encourage further work, including structured intergovernmental and military-to-military exchanges, which may help to inform meetings on this Declaration.

- 4.8 Actively promote this Declaration, distribute it to all relevant stakeholders, pursue its adoption and effective implementation by the greatest possible number of States, and seek adherence to its commitments by all parties to armed conflict, including non-State armed groups.

**ENDS**