



6 April 2022 Geneva Consultations INEW Daily Summary

State representatives and international and civil society organizations met in Geneva on 6 April to resume negotiations on the political declaration aimed at strengthening the protection of civilians arising from the use of explosive weapons in towns, cities and other populated areas.

This fourth round of consultations marked a return to the process after plans to conclude negotiations were put on hold by the COVID-19 pandemic more than two years ago. Over 200 participants attended the first day of meetings – including more than 65 governments – suggesting an eager return to work to conclude negotiations on the declaration. States recognized the urgency with which an international agreement is needed to address the humanitarian consequences of the use of explosive weapons in populated areas.

Negotiations resumed as the world is witnessing horrifying images of civilian suffering from bombing and shelling in towns and cities throughout Ukraine. Many participants specifically condemned the use of explosive weapons by Russia in populated areas, which has resulted in widespread death, injuries and destruction in Ukrainian towns and cities. The Ukrainian delegate shared this experience, including military shelling that turned cities to ashes, as giving new relevance and urgency to the adoption of the declaration.

The pattern of harm associated with the use of explosive weapons in populated areas is clear not only in Ukraine, however, but also in Yemen, Syria, Ethiopia and other states experiencing similar devastation. It is a global issue that needs a global solution.

Powerful testimony provided by Nujeen Mustafa, who described living through the bombing and shelling of Aleppo, Syria, as a person with disability, made this clear. Ultimately the use of explosive weapons forced her and her family to flee their home. Mustafa's address provided an important call to action to produce a political declaration that offers the chance to increase the protection of civilians in armed conflict through commitments that drive genuine change. This plea for delegates to use their power to create solutions, along with a minute of silence for victims of war, set a serious tone for the work ahead.

In a joint statement, three Parliamentarians from France, Belgium and the United Kingdom, called on states to avoid the use of explosive weapons in populated areas as the only realistic way to better protect civilians. Speaking directly to states charged with drafting these commitments, the United Kingdom MP urged that, “At a time when the international order, designed to keep all of us free and at peace, is under unprecedented assault, and unprecedented strain, those of us who believe in that order, must give it new life to succeed. Accountability matters.”

Many states began their interventions on Sections 1 and 2 of the declaration with acknowledgements of the direct and indirect or reverberating effects of the use of explosive weapons in populated areas. Mexico and Chile, for example, in drew attention to the “humanitarian catastrophe” occurring in Ukraine, and cited information from the [2021 Explosive Violence Monitor](#) from Action on Armed Violence to emphasize that when explosive weapons are used in populated areas, 89 percent of victims are civilians.

Some states also recognized the heightened risks of harm experienced by groups of people more susceptible to harm. To more accurately describe the harm caused to civilians when explosive weapons are used in populated areas, suggestions were made to improve the declaration’s preamble text by including, for example, specific references to women, children, the elderly and persons with disabilities, who are more susceptible to the impacts of their effects, or experience them differently, and are at risk of dying as a result.

While welcoming the removal of the qualifying phrase ‘wide area effects’ in most areas of the text, several states called for the preamble to explicitly acknowledge the particular risk of harm when explosive weapons have such effects. There is currently no reference in the draft text to wide area effects and as such the text does not sufficiently underline that they present a significant and heightened likelihood and risk of harms to civilians, nor describe the factors that produce ‘wide area effects’. The preamble should promote a common understanding of ‘wide area effects’ based on blast and fragmentation effects, inaccuracy of delivery, and/or the use of multiple warheads or multiple firings across an area. It should also make clear that where explosive weapons have ‘wide area effects’ the likelihood of harm to civilians is significantly and inevitably increased. Explaining the concept of ‘wide area effects’ in the preamble is important because it lays the groundwork for the commitment in paragraph 3.3. Where an explosive weapon has ‘wide area effects’, this marks a critical threshold at which additional caution must be applied, including a presumption against the use of the weapon in those circumstances.

Less constructively, some states continued to suggest ways in which the political declaration should be limited in its scope to indiscriminate and unlawful use of explosive weapons. Such an approach would undermine the humanitarian value of the declaration by reducing it to a political reaffirmation of states’ obligation to follow international humanitarian law. Determinations and assertions of violations of international law may occur selectively, and as such may be based not on detailed evidence or formal legal judgements, but rather on political judgments that do not support the enhancement of civilian protection. Further, harm from explosive weapons with wide area effects does not only result from indiscriminate and illegal

use, but instead from any use within populated areas. This pattern of harm to civilians has been well documented.

Despite this documentation, a few states also continued to call for qualifiers about the harm caused by the use of explosive weapons in populated areas to be reinserted in the text that were removed from previous drafts. Such qualifiers included saying that harm “could” or “can” arise rather than acknowledging it does arise. In contrast, other delegations and civil society groups argued that all such qualifiers remaining the document should be removed.

Other states continued to argue that terminology found in the current declaration text – including ‘reverberating effects’ and ‘critical civilian infrastructure’ – should be removed as they are terms that have not been clearly defined and established within international law. This terminology, however, has been used widely and for many years in the context of the explosive weapons in populated areas debate, and it clearly describes the types of impacts of explosive weapon use on civilians when used in populated areas. Beyond direct effects, civilian populations are exposed to severe and long-lasting indirect effects – which the declaration says are also referred to as ‘reverberating effects’. Whether these terms exist in international law is irrelevant for a non-binding political commitment, but they are crucial in setting new standards and finding new ways to better address this well-documented pattern of harm, including the development of policy to change practice in this regard. As the ICRC noted, Section 1 is not about law, but about describing human suffering, which exists outside of legal definitions.

Civil society continued to play an active role in calling for declaration text that accurately and fully describes and acknowledges civilian harm from the use of explosive weapons in populated areas, as well as strengthened commitments to drive genuine change. This work will continue throughout the week as discussion moves into the operative sections of the declaration text.

[Documents](#) and [statements](#) are being made available on the Reaching Critical Will website as they are published. You can also watch the full [morning](#) and [afternoon](#) sessions on the Irish Foreign Ministry’s YouTube channel and find more information on the Irish [homepage](#) for the declaration.