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POLITICAL DECLARATION ON THE USE OF EXPLOSIVE WEAPONS IN POPULATED AREAS: IMPLEMENTATION FRAMEWORK



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ABOUT THE INTERNATIONAL NETWORK ON EXPLOSIVE WEAPONS

INEW is an international network of non-governmental organizations (NGOs), established in 2011, that calls for immediate action to prevent human suffering from the use of explosive weapons in populated areas.

INEW members engage in research, policy and advocacy to promote greater understanding of the issues that arise from the use of explosive weapons in populated areas, and concrete steps that can be taken to address it. INEW member organisations develop partnerships calling for improved government policy and operational practice at a national level, and work together to develop stronger standards internationally.

Many INEW member organisations work in countries affected by explosive violence – providing development assistance, documenting the impact of violence, assisting the victims of explosive weapons and clearing landmines, unexploded ordnance and improvised explosive devices.

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CONTENTS

INTRODUCTION	04
1. DISSEMINATE AND PROMOTE THE DECLARATION AT THE NATIONAL LEVEL	06
2. REVIEW AND DEVELOP NATIONAL POLICY AND PRACTICE	08
3. ADOPT POLICIES AND PRACTICES TO LIMIT EXPLOSIVE WEAPONS USE IN POPULATED AREAS	09
4. LIMIT THE EFFECTS OF EXPLOSIVE WEAPONS ON CIVILIANS AND CIVILIAN OBJECTS, INCLUDING ESSENTIAL INFRASTRUCTURE, IN THE PLANNING AND CONDUCT OF MILITARY OPERATIONS	12
5. COLLECT AND SHARE DATA	15
6. ASSIST VICTIMS AND COMMUNITIES AFFECTED BY ARMED	17
7. PROMOTING THE DECLARATION, ITS ADOPTION AND IMPLEMENTATION BY OTHER STATES AND ADHERENCE BY ALL PARTIES TO ARMED CONFLICT	20
ANNEX: POLITICAL DECLARATION ON STRENGTHENING THE PROTECTION OF CIVILIANS FROM THE HUMANITARIAN CONSEQUENCES ARISING FROM THE USE OF EXPLOSIVE WEAPONS IN POPULATED AREAS	22

INTRODUCTION

In November 2022, 83 states endorsed the ***Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas***.¹ The Declaration is an international political commitment to address the devastating humanitarian consequences resulting from the use of explosive weapons in populated areas and to strengthen the protection of civilians in armed conflict. It aims to address both immediate and longer-term impacts of explosive weapons, during and after conflict. The declaration is the first formal international recognition that the use of explosive weapons in populated areas has severe humanitarian consequences that must be addressed by states.

Each year, tens of thousands of civilians are killed and injured by explosive weapons. Data shows that when explosive weapons are used in populated areas, 90% of victims are civilians.² They suffer complex and life-changing injuries and long-term psychological distress. The bombing and shelling of towns and cities also destroys critical civilian infrastructure such as hospitals, schools and power and water systems which impacts the provision of essential services to the civilian population, further compounding their situation. Ongoing attacks involving explosive weapons, the destruction of housing and loss of access to essential services, as well as the presence of explosive remnants of war forces civilians to flee or leave their homes towards an uncertain fate. The destruction caused by explosive weapons has a dramatic impact on post-conflict reconstruction requirements which can escalate dramatically with protracted use of explosive weapons while also delaying, if not reversing, progress towards achieving the Sustainable Development Goals.

The Declaration is the outcome of more than a decade of advocacy and almost three years of consultations involving states, the United Nations (UN), the International Committee of the Red Cross (ICRC) and civil society, predominantly through the International Network on Explosive Weapons (INEW). It has the potential to significantly strengthen the protection of civilians from the use of explosive weapons in populated areas, the realisation of which will depend on the Declaration's full and effective implementation by endorser states. Implementation is an ongoing process and endorser states will move through that process at different speeds and with different approaches, depending on their national context and capacity. However, the direction of travel is clear. **The Declaration sets an agenda for the progressive realisation of strengthened protection of civilians from the use of explosive weapons in populated areas and endorser states are encouraged to carefully review, consider and implement all aspects of the Declaration.**

This *Implementation Framework*, developed by INEW, seeks to provide governments and their armed forces with a non-exhaustive series of guiding questions and recommendations to assist them in determining the most appropriate way to implement the Declaration. It can also assist other interested parties, such as international and civil society organizations, that may be involved in advocating for, and supporting implementation of, the Declaration. It is not intended as an exhaustive list of steps to implement the Declaration but focuses on those aspects that speak directly to protecting civilians from the use of explosive weapons in populated areas and its aftermath. Their implementation at an early stage would have an immediate impact in protecting civilians.

INEW will support states in their efforts to implement the Declaration and will work to promote and disseminate examples of progressive and positive changes to policy and practice that help to prevent and reduce harm to civilians. **INEW's research arm, the *Explosive Weapons Monitor*³, will compile positive examples of state policy and practice and make them available to other states and interested parties.**

STRUCTURE

This *Implementation Framework* is divided into seven parts:

- x Part 1 outlines guiding questions and recommendations on steps to disseminate and promote the Declaration domestically, within government and among armed forces personnel.
- x Part 2 outlines guiding questions and recommendations relating to the commitment to review and develop national policy and practice on the protection of civilians from the use of explosive weapons in populated areas.
- x Parts 3-6 outlines guiding questions and recommendations on steps to implement the Declaration's commitments to:
 - Avoid civilian harm by limiting the use of explosive weapons in populated areas.
 - Protect civilians from explosive weapons use in the planning and conduct of military operations.
 - Collect and share data on the impact on civilians of the use of explosive weapons in populated areas.
 - Provide assistance to the victims of explosive weapons, their families and communities affected by armed conflict.
- x Part 7 outlines guiding questions and recommendations relating to the promotion of the Declaration, its adoption and implementation by other states and adherence to its commitments by parties to conflict.

Each part begins with a text box which restates the relevant commitments in the Declaration.

1. DISSEMINATE AND PROMOTE THE DECLARATION AT THE NATIONAL LEVEL

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 implementation of international humanitarian law, we will:

4.8 Actively promote this Declaration, distribute it to all relevant stakeholders...

An essential first step towards implementation of the Declaration is its dissemination and promotion at the national level, in particular among relevant government ministries and departments and armed forces personnel who will be at the forefront of its practical implementation.

Promotion and dissemination can include a range of activities, such as convening of workshops and trainings on the Declaration as well as the incorporation of the Declaration, its provisions and implementation plans into training and other courses relating to the protection of civilians, international humanitarian law, and planning for military operations. Consideration could also be given to including certain of the Declaration's commitments, such as paragraph 3.3, into rules of engagement and establishing the protection of civilians, including from the use of explosive weapons, among mission objectives and as an indicator of mission success.

Governments may also find it useful to appoint a national focal point with responsibility to lead efforts to promote and implement the Declaration at the national level. In addition, the UN, ICRC and civil society organizations can play an important role in supporting efforts to promote and disseminate the Declaration at the national level.

GUIDING QUESTIONS AND RECOMMENDATIONS

- x** Has the government and/or armed forces taken steps to disseminate and raise-awareness of the Declaration, including identifying relevant ministries and departments and sharing the Declaration with them as well as among armed forces personnel?
- x** Has the government and/or armed forces appointed a focal point to lead implementation of the Declaration?

Recommendation: Experience from other contexts, such as the Safe Schools Declaration, have shown that ensuring a home or focal point for Declaration work – individuals willing to take ownership and leadership – and ensuring cooperation and agreement between ministries of foreign affairs and defence and within armed forces on the purpose and value of the Declaration are important factors for progress on implementation.

- x Has the government and/or armed forces conducted briefings, workshops or trainings on the content of the Declaration and plans for its domestic implementation?

Recommendation: Briefings, workshops and trainings should raise awareness of the humanitarian consequences resulting from the use of explosive weapons in populated areas, as well as the need to develop policies and practices to avoid civilian harm. The latter would include imposing limits on the use of explosive weapons in populated areas and employing strategies and tactics that take combat outside populated areas to reduce urban fighting.

- x Have the armed forces developed standalone, or otherwise incorporated the Declaration and its implementation into existing, trainings and courses on IHL and the protection of civilians aimed at armed forces personnel?

Recommendation: Scenario-based training and discussions can be a particularly effective for building understanding amongst armed forces personnel of the level of constraint required by the Declaration and how that relates to their current practice and legal and policy frameworks.



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2. REVIEW AND DEVELOP NATIONAL POLICY AND PRACTICE

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 implementation of international humanitarian law, we will:

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.

All states that endorse the Declaration should do so with the expectation that they will be required to review and revise existing, or develop new, military policy and practice. This may include revisions to military doctrine, such as in relation to targeting and urban operations, as well as military manuals, standing and operation-specific rules of engagement, etc. Some commitments, such as in relation to victim assistance, may also require changes to government policy relating to the provision of, for example, humanitarian and development assistance.

GUIDING QUESTIONS AND RECOMMENDATIONS

- X** Have the government and/or armed forces reviewed their existing policies and practices relevant to the protection of civilians in order to identify areas where further policy development is necessary to meet the commitments under the Declaration and avoid civilian harm from the use of explosive weapons in populated areas?

Recommendation: *The review and revision of policy and practice should be seen as a continuous and ongoing process with a view to further strengthening the protection of civilians over time. Ideally, such a process would be fully transparent and include regular consultation with the UN, ICRC and civil society organizations.*



Group discussions and exercises at the Vienna Military Workshop on the Implementation of the Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas, 24-25 January.

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3. ADOPT POLICIES AND PRACTICES TO LIMIT EXPLOSIVE WEAPONS USE IN POPULATED AREAS

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 implementation of international humanitarian law, we will:

3.3 Ensure that our armed forces adopt and implement 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.

If properly implemented, paragraph 3.3 will make a significant contribution to preventing and mitigating the short- and long-term harm to civilians that has been widely documented to result from the use of explosive weapons in populated areas. Crucially, the implementation of this commitment should involve the establishment in policy of clear limits on the use of explosive weapons in populated areas in order to avoid civilian harm based on the understanding that there is a direct relationship between the area effects of explosive weapons – that is to say the extent of blast and fragmentation which depends on the explosive power of the weapon, the level of accuracy and the number of munition used – and the risk of harm posed to civilians and civilian objects.

GUIDING QUESTIONS AND RECOMMENDATIONS

- x Is there a national policy or operational framework which explicitly states that the armed forces must restrict or refrain from the use of explosive weapons in populated areas when such use may be expected to cause harm to civilians or civilian objects?

Recommendation: States and their armed forces should review their existing policies and practices in light of paragraph 3.3. It is recommended that they revise, or develop new, policy and practice which establishes clear limits on the use of explosive weapons in populated areas in order to avoid civilian harm and include a process for determining when it is appropriate to either restrict or refrain from use (see below). Consideration could also be given to giving effect to the commitment in paragraph 3.3 in rules of engagement and to establishing the protection of civilians, including from the use of explosive weapons, as a key mission objective and indicator of mission success.

- x How do the armed forces ensure that they have a technical understanding of the area effects of the explosive weapons in their inventories?
 - When are these effects assessed?
 - Who undertakes this assessment?
 - How are these effects assessed?
 - What metrics are used for measuring weapons effects – blast, fragmentation, level of accuracy, number of munitions used, interaction with the physical environment, others?
 - Does weapon testing simulate operational/combat conditions in built-up areas which could affect weapon performance, as compared to the results of testing under non-combat conditions?

Recommendation: A technical understanding of the area effects of explosive weapons is key to understanding and assessing the level of risk that they pose to civilians and civilian objects when used in populated areas. Generally speaking, the greater the area effects, the greater the risk of harm. This is recognized in the Declaration's preamble which notes that the risk of harm from explosive weapons increases depending on the weapon's explosive power, its level of accuracy and the number of munitions used.⁴ A proper understanding of the area effects could be facilitated through the establishment in policy of processes that provide for:

- Prior assessment of the technical characteristics of explosive weapons to ensure that commanders and other military personnel authorising their use understand the scale of area effects of specific weapons and the corresponding likelihood of harm.
- Prior assessment of the built environment to understand how it influences weapon effects and the potential for harm from direct and indirect or reverberating effects.

- x How is the understanding of area effects made available to commanders and other military personnel authorising the use of explosive weapons?
 - Is it included in training?
 - Is it included in guidance, policy or other documents?
- x How do commanders and other military personnel authorising the use of explosive weapons apply their understanding of area effects in practice, so that they can determine when such use may be expected to harm civilians or civilian objects?

Recommendation: Commanders and other military personnel authorising the use of explosive weapons in populated areas should have an adequate understanding of the area effects of their weapons which they can apply to the specific operational context in which those weapons will be used. Determining whether the use of explosive weapons may be expected to harm civilians and civilian objects could be facilitated by undertaking real-time assessment of the specific operational context in order to understand how this will influence weapon effects and the potential for harm (see further, Part 4).

- x When the use of explosive weapons in populated areas may be expected to cause harm to civilians or civilian objects, how do the armed forces determine whether to restrict or refrain from use?

Recommendation: *If militaries determine that the use of explosive weapons in populated areas may be expected to cause harm to civilians and civilian objects, they are committed to either restrict or refrain from use.*

*As a general rule, it is recommended that militaries **restrict** the use of explosive weapons in populated areas due to the actual or presumed presence of civilians and civilian objects. Using a weapon that projects blast and fragmentation within a concentration of civilians and civilian objects can inevitably cause harm. Such use should be limited to situations where it is not expected to cause harm to civilians.*

*It is recommended that militaries **refrain** from using explosive weapons in populated areas when the area effects are expected to extend beyond the military objective and, therefore, risk harming civilians and civilian objects within the vicinity of the strike. In a populated area, the greater the distance at which the blast and fragmentation effects extend beyond the military objective – due to the explosive power of the weapon, its level of accuracy, and the greater the area covered by explosive weapons in the case of the use of multiple munitions – the greater the likelihood of harm to civilians and civilian objects within the vicinity of the military objective. This is often referred to as “wide area effects”.*



RAF Typhoons deployed on Op BILOXI at Mihail Kogalniceanu Air Base in Romania are seen here prior to the start of the day's flying. OPERATION BILOXI is the United Kingdom's contribution to NATO's Southern Air Policing. Based at Mihail Kogălniceanu Airbase, the RAF operate Typhoon aircraft for Quick Reaction Alert in support of the Romanian Air Force..

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4. LIMIT THE EFFECTS OF EXPLOSIVE WEAPONS ON CIVILIANS AND CIVILIAN OBJECTS, INCLUDING ESSENTIAL INFRASTRUCTURE, IN THE PLANNING AND CONDUCT OF MILITARY OPERATIONS

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 implementation of international humanitarian law, we will:

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.

Protecting civilians from the foreseeable direct and indirect effects of military operations is central to the Declaration's overall objective of strengthening the protection of civilians. It also responds to the long-standing concern of the UN, ICRC and civil society that the use of explosive weapons in populated areas not only gives rise to immediate or direct impacts, such as the death and injury of civilians, but also has severe cumulative and long-term consequences for civilians, including as a result of damage to and destruction of essential infrastructure, such as that which supports the provision to civilians of water and electricity, as well as environmental degradation.

GUIDING QUESTIONS AND RECOMMENDATIONS

- x What processes or techniques do the armed forces use to understand and estimate the direct and indirect effects resulting from the use of explosive weapons in populated areas?

Recommendation: Paragraphs 1.3-1.6 of the Declaration's preamble provide a comprehensive overview of the direct and indirect or reverberating effects of the use of explosive weapons which have been documented in recent armed conflicts. This overview should be considered representative of, and an important starting point for understanding, the different direct and indirect effects that can reasonably be foreseen to result from military operations in populated areas and which are to be taken into account in operations planning and the execution of attacks.

- x What processes or techniques do the armed forces use to identify and monitor the presence of civilians within the vicinity of potential military objectives?

Recommendation: As a general rule, it is recommended that armed forces assume that civilians are present in urban and other populated areas, including following warnings and evacuation orders, unless confirmed otherwise.

- x What processes or techniques do the armed forces use to identify the location of essential infrastructure within the vicinity of potential military objectives and to understand the impact on civilians stemming from its damage or destruction?

Recommendation: *The built environment contains a density of civilians and different types of civilian objects, including infrastructure essential for the survival of the civilian population. Planning and conducting military operations in such environments requires detailed information on the location of civilians and civilian objects, in particular essential infrastructure, which can be difficult to obtain. It is recommended that armed forces:*

- *Identify in advance of military operations the location of essential infrastructure.*
- *Determine the degree of inter-connectivity with other essential infrastructure.*
- *Estimate the impact on the civilian population that would result from its damage or destruction.*
- *Enlist the support of subject-matter experts, such as water and sanitation engineers, urban planners and others, who can assist armed forces to better understand the urban environment and the actions required to prevent or mitigate the direct and indirect effects of attacks.*

- x How do the armed forces ensure that the presence of civilians and civilian objects, including essential infrastructure, is incorporated into targeting decisions in order to avoid or mitigate harm in both deliberate (planned) and dynamic (unplanned) attacks?
- x What processes exist to support the understanding of, and actions to prevent or mitigate, the cumulative impact on civilians and civilian objects of multiple or repeated attacks affecting the same area, including attacks carried out by coalition or partner forces?

Recommendation: *The planning and execution of attacks in populated areas should take into account the impact on civilians and civilian objects of previous strikes in the same area or against the same target. Repeated attacks will have a cumulative impact on civilians and civilian objects that should be taken into account in the planning and conduct of further attacks. This includes in the context of coalition or partnered operations where it is essential to understand the impact of attacks carried out by other coalition or partner forces.*

- x After carrying out attacks, what processes or techniques are used to understand the impact of attacks on civilians and civilian objects, in particular essential infrastructure? How is this information used to inform decisions to conduct further attacks in the affected area and tactical and operational changes to strengthen the protection of civilians?

Recommendation: Armed forces should ensure that processes exist to assess and understand the impact that attacks have had on civilians and civilian objects and which can support decision-making concerning the conduct or cessation of further attacks and, more generally, the identification of tactical and operational changes and lessons-learned to strengthen the protection of civilians (see further, Part 5).

Some armed forces undertake battle damage assessments (BDAs) after an attack to assess the effect or degree of damage inflicted on the target and to make recommendations for additional strikes. In practice, BDAs are not always undertaken due to the lack of capacity. Nor do they always consider the impact of the attack on civilians and civilian objects. To the extent that they do, military analysts often rely on aerial video assessments of damage and civilian casualties which provide an incomplete picture of civilian harm. It is recommended that armed forces ensure that BDAs are undertaken and that they also consider the impact of an attack on civilians and civilian objects, including drawing on relevant information that may be available from civil society organizations the media, UN and ICRC. It is further recommended that armed forces establish specific capacities for tracking civilian harm resulting from their operations (see part 5, below).



5. COLLECT AND SHARE DATA

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 implementation of international humanitarian law, we will:

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.

3.4 Ensure that our armed forces ... conduct damage assessments to the degree feasible, and identify lessons learned.

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.

The collection and sharing of data on the direct and indirect effects on civilians and civilian objects of the use of explosive weapons in populated areas is a critical function. It is important for a number of reasons, some of which are also recognized in paragraph 1.8 of the Declaration, including that “improved data on civilian harm would help to inform policies designed to avoid, and in any event minimize, civilian harm; aid efforts to investigate harm to civilians; support efforts to determine or establish accountability, and enhance lessons learned processes in armed forces.”

GUIDING QUESTIONS AND RECOMMENDATIONS

- x** Does the government and/or armed forces collect data on their use of explosive weapons in populated areas and on civilian harm resulting therefrom?
 - Does this include data on civilian deaths and injuries? Is this data disaggregated by age, sex and disability?
 - Does this include data on indirect effects, in particular damage to or destruction of civilian objects, including essential infrastructure?
 - Does this include data on the types, quantities and locations of explosive weapons use, including locations of possible unexploded ordnance?
 - Is the data used to inform the conduct of further attacks as well as operational and tactical-level changes? How is this achieved? Does the data also feed into lessons-learned processes?

Recommendation: Meeting the data-collection commitments contained in paragraphs 4.2 and 3.4 could be achieved in part through the practice of civilian harm tracking. This is not a new practice and has been implemented by a range of armed forces in different contexts. It is as an internal process through which an armed actor (such as state armed forces or an armed group) systematically gathers data on civilian deaths and injuries, property damage or destruction, and other instances of harm to civilians caused by its operations.

- x Do the armed forces review, on an ongoing basis, their use of different types of explosive weapons (artillery, mortars, air launched munitions, etc.) and compare this to data on civilian harm in order to identify trends or patterns associated with the use of certain explosive weapons?
- x Is data shared with the UN, ICRC and civil society and made publicly available?

Recommendation: The UN, ICRC and civil society organizations collect data for a variety of reasons, including to better understand the impact of explosive weapons use on civilians, to assist the victims of explosive weapons, and to strengthen the protection of civilians from explosive remnants of war (ERW), including through risk education, and ERW marking and clearance. Sharing data on the impact on civilians of military operations involving the use of explosive weapons in populated areas would greatly facilitate their work in these respects.

- x Do the armed forces have mechanisms for actively seeking and receiving information about civilian harm incidents from third parties?
 - Are there established and transparent processes to support this?
 - Are these made known to the civilian population and third parties in areas of operation, including in local languages and through locally appropriate channels?

Recommendation: Facilitating the receipt of information about civilian harm from third parties, which would include the civilian population, media organizations, civil society, the UN, etc., is an emerging good practice that has been instituted by the US Department of Defense among others.⁵ Third parties often have important and credible information relating to civilian harm incidents which can supplement and further inform the understanding of those incidents by armed forces, especially in situations where the armed forces are not present or are unable to visit the scene of the incident and interview victims and witnesses. A fuller understanding of an incident will facilitate the identification of appropriate follow-up and support for victims, their families and communities, as well as internal lessons-learned processes and operational and tactical changes to prevent the occurrence of similar incidents in future.

- x Are there established and appropriate mechanisms to inform the civilian population about civilian harm incidents and the state of investigations into these incidents?

6. ASSIST VICTIMS AND COMMUNITIES AFFECTED BY ARMED CONFLICT

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 implementation of international humanitarian law, we will:

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 [UN], 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.

Assisting the victims of explosive weapons, their families and communities affected by armed conflict, is crucial. As recognized in the Declaration's preamble, the use of explosive weapons in populated areas has a devastating impact on the civilian population in both the short- and long-term. The victims of explosive weapons often require access to immediate and long-term healthcare, psychological and psycho-social support and access to employment and economic assistance. Conflict-affected populations require access to food, water, shelter, healthcare and education, as well as legal and physical protection, including from further violence. Such assistance and protection is often provided by state entities, national and international humanitarian organizations, the UN and ICRC. In the long-term, reconstruction and development assistance are crucial for supporting conflict-affected populations to recover from conflict and to rebuild their lives and communities. It should be noted that the commitments relating to assistance to victims and conflict-affected populations do not distinguish between states that are, and states that are not, experiencing or engaged in armed conflict. While a states' proximity and role in relation to an armed conflict will affect the nature of the protection and assistance it is able, or legally obliged, to provide, all endorser states are committed to implement the relevant commitments to the extent possible in the circumstances.

GUIDING QUESTIONS AND RECOMMENDATIONS

- x Does the government collect data on:
 - The incidence and impact of explosive weapons use?
 - The numbers, needs and priorities of victims, including their access to emergency and long-term medical care, psychological and psycho-social support, rehabilitation and support for their economic and social inclusion?
 - The numbers, needs and priorities of the conflict-affected population, including those arising from the damage to or destruction of essential infrastructure and their degree of access to humanitarian assistance and protection?

Recommendation: *Gathering disaggregated data on the number, situation and quality of life of the victims of explosive weapons, as well as on the conflict-affected population more broadly, is a prerequisite for identifying effective policy responses, establishing a baseline to monitor progress, resource mobilisation and, more generally, plan and implement assistance.*

- x Does the government have specific legislation, policies, plans or frameworks for understanding and addressing the needs of the victims of explosive weapons and conflict-affected populations?
- x Does the government have a national focal point responsible for coordinating assistance to the victims of explosive weapons and the conflict-affected population?

Recommendation: *In 2008, High Contracting Parties to Protocol V of the Convention on Certain Conventional Weapons agreed a Plan of Action on Victim Assistance which laid out a number of measures for assisting the victims of ERW that would usefully inform efforts to assist the victims of explosive weapons in populated areas.⁶ Key among the identified measures are: assessing the needs of victims, developing a national plan and budget for victim assistance and designating a focal point within the government for coordination of matters relating to assistance to the victims of explosive weapons.*

- x Does the government have a policy or framework that identifies actions that it can take to support and/or facilitate rapid, safe, and unhindered humanitarian access to those in need in situations of armed conflict?

Recommendation: *Depending on the context, governments can implement a broad range of actions in support of, or to facilitate, humanitarian access to populations in need. These include the provision of timely financial support to humanitarian organizations; waiving duties and charges on humanitarian goods; allowing and facilitating cross-border access to populations in need; providing military assets to support logistics and/or provide security for humanitarian organizations, if requested, etc. It is recommended that governments have a national policy or framework that identifies the range of possible actions and the specific actors responsible for their implementation..*

- x What actions does the government take to facilitate the work of the UN, the ICRC, other international 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?

Recommendation: There are a range of actions states can take to facilitate the work of the UN, ICRC and other international and civil society organizations. These include providing such actors with data on the number, type and nature of explosive weapons used and the general location of known and probable unexploded ordnance; ensuring the protection of medical facilities and healthcare workers; facilitating rapid, safe and unimpeded humanitarian access; and providing timely and flexible funding to humanitarian and development actors.

HI volunteers conduct recreational activities for ID's children in collective shelters UNRWA (The United Nations Relief and Works Agency for Palestine Refugees). Date: November 2023, Location: Gaza Strip, Rafah



7. PROMOTING THE DECLARATION, ITS ADOPTION AND IMPLEMENTATION BY OTHER STATES AND ADHERENCE BY ALL PARTIES TO ARMED CONFLICT

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 implementation of international humanitarian law, we will:

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 [UN], the ICRC, other relevant international organisations and civil society organisations may participate in these meetings. We encourage further work, including structured inter-governmental 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.

A follow-up process to review and advance the implementation and further endorsement of the Declaration is vital to its future success in protecting civilians from the use of explosive weapons. The process includes a formal element, involving regular meetings of endorser and other interested states and key actors, such as the UN, ICRC and civil society aimed, primarily, at reviewing implementation. It also has an informal element, involving, for example, *ad hoc* meetings of endorser states and/or their armed forces; implementation workshops organized by states, the UN, ICRC and civil society to develop common understandings and share and exchange good practices in implementation or to promote endorsement of the Declaration by states. What is important is that a continuous and results oriented follow-up process exists and that it is part of a collective and collaborative effort between all relevant stakeholders, including, but not limited to, states and their armed forces, the UN, ICRC and international and civil society organizations, and representatives from affected communities, including victims of explosive weapons.

GUIDING QUESTIONS AND RECOMMENDATIONS

- x What implementation or universalisation activities has the government and/or armed forces organized or participated in to discuss implementation or exchange good practices?
- x Has the government and/or armed forces participated in specific discussions around the concepts and terminology included in the Declaration?
- x What steps has the government and/or armed forces taken, or planning to take, to promote universalisation of the Declaration, such as outreach to other states to encourage them to join?

Recommendation: Various opportunities exist for states to promote and call for endorsement and implementation of the Declaration by other states, including in the context of:

- Statements at the annual Security Council debates on the protection of civilians in armed conflict.
- Statements to the General Assembly's First and Third Committees.
- Statements to meetings of the Convention on Conventional Weapons.
- Public statements on specific conflict situations.
- Other relevant thematic discussions, such as children and armed conflict; protection of healthcare in armed conflict; protection of education in armed conflict/the Safe Schools Declaration, etc.
- Bilateral meetings with non-endorser states.
- Regional meetings involving non-endorser states.
- Military cooperation, partnerships and security assistance programmes involving the armed forces of non-endorser states (see below).

- x Has the government and/or armed forces taken steps to seek adherence to the Declaration's commitments by all parties to armed conflict, including non-state armed groups?
- x Has the government and/or armed forces included the Declaration and commitments therein in military partnership and security cooperation programmes?

Recommendation: States that have military partnerships or security cooperation programmes with the armed forces of non-endorser states and/or non-state armed groups have an important opportunity to influence the behaviour of, and support implementation of IHL and the protection of civilians by partner forces. Endorsement of the Declaration could be a condition for the conclusion of such arrangements. In addition, the Declaration's commitments, in particular those limiting the use of explosive weapons in populated areas, protecting civilians from direct and indirect or reverberating effects, and providing assistance to victims and conflict-affected populations, could be included within partnership and cooperation agreements. The Declaration and its commitments could also be included in codes of conduct and unilateral Declarations by non-state armed groups, as well as commitments to protection of civilians and similar documents agreed by parties to conflict.

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.

ENDNOTES

1. "Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas" Final Rev. Circulated by Ireland on 25 May 2022: <https://www.dfa.ie/media/dfa/ourrolepolicies/peaceandsecurity/ewipa/EWIPA-Political-Declaration-Final-Rev-25052022.pdf>
2. See, for example, Action on Armed Violence, *Explosive Violence Monitor 2022* (2023), at: <https://aoav.org.uk/2023/explosive-violence-monitor-2022/>
3. www.explosiveweaponsmonitor.org
4. Paragraph 1.2 of the Declaration.
5. See: <https://policy.defense.gov/OSD-Offices/Reporting-Civilian-Casualties/>
6. *Second Conference of the High Contracting Parties to Protocol V on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons, Report on Victim Assistance*, CCW/P/.V/CONF/2008/2 (2008)