

**Protecting Civilians in Urban Warfare:
Towards a Political Declaration to Address the Humanitarian Harm Arising from the use of
Explosive Weapons in Populated Areas**

**Geneva Consultations chaired by Ireland
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Statement of the International Committee of the Red Cross (ICRC)

Thank you Ambassador Gaffey.

The ICRC thanks Ireland for convening these consultations on a political declaration on the use of explosive weapons in populated areas (EWIPA), as well as Austria for hosting the Vienna Conference on Protecting Civilians in Urban Warfare in early October. We thank both for their tireless efforts and leadership on this critical humanitarian issue.

At the outset we recall the ICRC's position since 2011, reiterated in the Joint Appeal of the ICRC President and UN Secretary-General of 18 September, that States and all parties to armed conflict should avoid the use of explosive weapons with a wide impact area in populated areas, due to the significant likelihood of indiscriminate effects. (I will return to the meaning of this call to "avoid" in a moment.)

We have made available a paper *ICRC views on elements for a political declaration to address civilian harm from the use of explosive weapons in populated areas (EWIPA)* outlining our views on key elements of a political declaration, of which I will highlight the main points here.

Mr. Chair,

With reference to the many States that have spoken before us, the ICRC is pleased at the widespread acknowledgement of the unique challenges of urban warfare and of the need to fully comply with and strengthen respect for international humanitarian law (IHL) when hostilities are conducted in populated areas.

The political declaration should reaffirm the obligation of parties to armed conflicts to fully comply with IHL, and spell out in particular the key rules of IHL of direct relevance to the use of explosive weapons in populated areas, namely the principle of distinction, the prohibition of indiscriminate attacks, the prohibition of disproportionate attacks, and the requirement to take all feasible precautions in attack.

Yet clearly the pattern of grave civilian harm when explosive weapons with a wide impact area are used in populated areas points to serious questions about how key rules of IHL are being interpreted and applied, and indeed about how IHL is being complied with.

Clearly there are challenges in employing explosive weapons with a wide impact area against military objectives located in populated areas in conformity with the above-mentioned key rules of IHL, notably the prohibitions of indiscriminate and disproportionate attacks.

The political declaration should recognize these challenges and the need to take precautions to limit the wide area effects of explosive weapons. This is essentially what is at the core of the ICRC's call to avoid the use of these weapons in populated areas.

Indeed, we again heard at the Vienna Conference compelling evidence of the significant humanitarian consequences, both direct and indirect (reverberating) of the use of explosive weapons with a wide impact area in populated areas.

There is now a large body of evidence demonstrating that the wide area effects that are characteristic of these weapons are a major cause of harm to civilians – both direct harm, meaning civilian casualties and damage to civilian objects directly caused by the explosion, and indirect and reverberating effects, notably when essential services such as water, sanitation, electricity and health care are disrupted due to critical civilian infrastructure being damaged or destroyed.

A political declaration should recognize this correlation between the use of explosive weapons with a wide impact area in populated areas and significant direct and indirect harm to civilians.

Existing policies and practices that impose restrictions and limitations on the use of explosive weapons prone to wide-area impacts in populated areas have been documented to significantly reduce civilian casualties, without negatively impacting the achievement of the military mission.

Moreover, there is clear evidence that the technical characteristics of the types of explosive weapons of concern – namely, those that have wide area effects due to their wide blast and fragmentation range (high explosive yield), the inaccuracy of their delivery system and/or their delivery of multiple munitions simultaneously over a wide area -- entail a high risk of indiscriminate effects when used against military objectives located in populated areas.

The political declaration should recognize that restrictions and limitations on the use of explosive weapons with a wide impact area in populated areas, coupled with a range of good practices, are needed if any meaningful reduction of civilian casualties is to be achieved.

In this respect, in the view of the ICRC, the political declaration should contain an unequivocal commitment of States to avoid the use of explosive weapons with a wide impact area in populated areas, as a matter of policy and good practice, and to operationalize this commitment through mitigation measures to limit the wide area effects of these weapons and the consequent risk of civilian harm.

Avoiding the use of explosive weapons with a wide impact area in populated areas -- as a matter of policy and good practice -- is, in the ICRC's view, the most realistic, practical and effective way to reduce the unacceptable levels of civilian harm we witness in urban warfare today. It will also facilitate respect for IHL.

An "avoidance policy" means:

- That explosive weapons with a wide impact area should not be used in populated areas unless sufficient mitigation measures are taken to limit their wide area effects and the consequent risk of civilian harm.
- That States should review and adapt their policy and practice, including their doctrine and training, and put in place specific mitigation measures and good practices to enhance the protection of civilians when warfare is conducted in populated areas.
- Such good practices include:
 - adequately preparing, training and equipping armed forces specifically for urban warfare;
 - making the protection of civilians a strategic priority in the planning and conduct of military operations;
 - committing to exercise influence over partners and other supported conflict parties, including as regards a policy to avoid the use of EWIPA;
 - ensuring that foreseeable reverberating effects on essential urban services are considered in planning of military operations and the execution of attacks;
 - developing tools to strengthen data collection on the types of weapons used in populated areas and their effects on civilians, and to establish mechanisms to mitigate and investigate harm to civilians, ensure accountability and draw lessons for future operations.
- These good practices are identified as a matter of policy, but mindful that they will facilitate respect for key IHL rules such as distinction, proportionality and precautions.
 - States should also commit to take all appropriate measures to provide victims of EWIPA with adequate assistance.

Many of these good practices are also highlighted in the above-mentioned Joint Appeal of UN Secretary General Guterres and ICRC President Maurer.

Thank you.