

HI's response to the 29 January 2021 draft text of the political declaration

Humanity & Inclusion, also known as Handicap International (HI), expresses its appreciation to the government of Ireland for providing leadership of the process, and its efforts in developing the political declaration text on explosive weapons. We understand the current health crisis shifted priorities on diplomatic agendas, and we highly appreciate Ireland's effort to put an end to human suffering caused by the use of explosive weapons in populated areas.

We still consider that this text, in its structure and focus, provides a good foundation for further negotiations and the strengthening of the protection of civilians. However, HI insists on additional changes needed to make sure this document serves as a strong and effective tool to protect civilians from the use of explosive weapons in populated areas. This is based on the evidence of the humanitarian impact of explosive weapons in populated areas that we continue to collect from our operations, and testimonies from victims.

To advance the humanitarian goal of the political declaration, the following parts should be strengthened:

A better description and recognition of the harm is paramount

- We highly encourage Ireland and states participating in drafting the text to ensure **strong and accurate** descriptions and clear acknowledgement of the civilian harm and suffering that result from the use of explosive weapons in populated areas. In our view this should be **strengthened throughout** the text, in particular in the preamble. This is evidenced by dozens of research projects that we have carried out in the countries where HI works, collecting data directly from impacted areas and the affected populations that we assist. These prove the use of explosive weapons in areas populated by civilians cause patterns of harm that inevitably result in humanitarian crises – civilian deaths and injuries, psychological trauma, damage to vital infrastructure and collapse of essential services.

The civilian harm is not a mere possibility: it is systematic

- The whole notion of the human suffering caused by the use of explosive weapons in populated areas is drastically downplayed by the repeated use of the word “**can**” that is present throughout the current draft. We strongly recommend that this should not be put as a statement of probability, but rather assertive affirmation of the correlation between predictable human suffering and explosive weapons, especially those with the wide-area effects. This change should be integrated, throughout the whole text **starting from the title**.
- When heavy explosive weapons are used in areas where civilians live, where hospitals and other health facilities are providing life-saving services, where children go to school and where civilians rely on the essential services, we have seen an unacceptable pattern of civilian harm. The suggestion that humanitarian consequences “**can arise**” from use of explosive weapons with wide-area effects in populated areas dangerously downgrades the **extent and severity of civilian harm** that has been widely documented by different actors. This kind of “**can**” language throughout the whole text of the political declaration questions the humanitarian consequences and diminishes human suffering caused by the use of explosive weapons in populated areas.

The frequent use of “wide-area effects” unnecessary narrows the declaration’s scope

- The current draft of the political declaration suffers from a narrowing down which only focusses on civilian harm caused **only by explosive weapons with wide-area effects**. The biggest civilian harm comes from explosive weapons creating a wide-area impact in populated areas, and a strong commitment centred on this is essential to the declaration. However, it is imperative that the focus of some elements of the declaration **be broadened** to the use of explosive weapons in populated areas, in particular when it comes to data collection and victim assistance. This should also be reflected in the title. In addition, the factors that produce “wide-area effects” need to be **better described in the preamble** to promote good understanding of this concept, which has already been defined by ICRC¹.

An unequivocal commitment against the use of EWIPA is crucial

- The key operative commitment aimed at addressing civilian harm from wide-area effects (**commitment 3.3**) is a central element for the protection of civilians. It must be strengthened to establish a much clearer **presumption against the use** of explosive weapons with wide-area effects in populated areas. In particular, the current wording fails to reflect the systematic correlation between this use of explosive weapons and the resultant civilian harm, which has been widely documented by civil society and humanitarian agencies.

Commitments on victim assistance and risk education should be stronger

- We expect the political declaration to establish an inclusive framework for implementation, with clear and **strong commitments to assist victims**. These should acknowledge the specific challenges attached to the contexts within which explosive weapons are used in populated areas. We strongly reiterate previous recommendations to guarantee victims’ rights and ensure their needs are adequately addressed.
 - a) We first suggest **correct wording on victim assistance**—it should be clear that victims include “those injured, survivors, family members of people killed and/or injured and affected communities”. Therefore, we suggest correcting “**victims and affected communities**” and reflecting the language mentioned above. This suggested language is already recognised by international treaties.
 - b) We recommend making victim assistance equally obligatory commitment, rather than voluntary. We therefore suggest replacing “make every effort” with “**provide, facilitate and support assistance to victims**”.
 - c) A commitment on victim assistance should clearly define what is considered under that terminology and the type of assistance needed. This includes ensuring that **basic needs** are met (safety, shelter, food, water, first aid and emergency medical care, hygiene, sanitation), as well as **longer-term medical care, rehabilitation, psychosocial support, socio-economic inclusion, education and data collection**. Therefore, we suggest the following commitment on victim assistance:

Provide, facilitate, and support assistance to victims—people critically injured, survivors, family members of people killed and/or injured, and affected communities—to ensure they receive adequate assistance based on their needs in a non-discriminatory manner, including in the form of emergency medical care, physical rehabilitation, psychosocial support and

¹ ICRC views on elements for a political declaration to address civilian harm from the use of explosive weapons in populated areas (EWIPA), November 2019

socio-economic inclusion, as well as support towards the full realisation of their rights and full participation in their societies.

- d) We also suggest moving the reference to “**post-conflict stabilization**” to a separate action point in order to maintain the focus of article 4.4 on victim assistance only.
- We are very concerned by the removal in this new draft of the need to **ensure access to humanitarian assistance**. This is a crucial for the protection of civilians in contexts where explosive weapons are used, and is increasingly challenged in complex conflicts and protracted crisis. Respect for the core principles of humanity, impartiality and independence are essential to ensure that all civilians affected by conflicts, including the most vulnerable have access to humanitarian aid. We recommend that this be **reintegrated in the declaration**.
 - Assistance to victims of armed conflict can be challenging, especially during the fighting, and humanitarian clearance of explosives is mostly happening only after the fighting has seized. However, with many conflicts lasting for years and years, and bombardment and complex contamination being a threat for extended periods of time, explosive ordnance risk education (EORE) cannot wait until the conflict is over. HI believes that doing EORE during and after conduct of hostilities is a necessary and lifesaving activity for all civilians living in and affected by the conflicts. We suggest to insert a reference to conducting principled EORE activities in **point 3.5**. This paragraph already speaks about the need for marking, removal and clearance of explosive remnants of war, which is welcome.

Data collection

- States should also commit to set up an appropriate mechanism to collect, analyse and share sex, age, and disability disaggregated data on explosive weapons victims. Such a mechanism will be crucial to understand the impact on individuals and communities, take their experiences into account and inform an adequate response that helps civilians to overcome barriers and seize different opportunities.

As a humanitarian operator responding to the needs of people and communities affected by the use of explosive weapons, we strongly encourage states developing the text to make sure that implementation is not undertaken exclusively or primarily by military actors. Rather, this should equally involve and include other actors, such as the UN, ICRC, INEW and other civil society organizations concerned with humanitarian protection. As a humanitarian operator, we and our many partners gather and provide important data and evidence on experiences and patterns of civilian harm, including through their humanitarian operations and programming.

Additional resources on humanitarian impact of explosive weapons from HI:

- **Causes and types of injuries** encountered by Handicap International while working with Internally Displaced Persons in Syria: a focus on the impact of explosive weapons, 2014, Factsheet (available on demand)
- **Use of Explosive Weapons with Wide Area Effect in Populated Areas** - Position Paper, April 2015 (available on demand)
- **The use of explosive weapons in Syria: A time bomb in the making**, 2015, Report (available on demand)
- **Victim assistance in the context of the use of explosive weapons in populated areas** - Recommendations for a future political declaration, 2016, Report (available on demand)
- **Qasef: Escaping the bombing**. The use of explosive weapons in populated areas and forced displacement: perspectives from Syrian refugees, 2016, Report (available on demand)
- **Syria, a mutilated future**: focus on persons injured by explosive weapons, 2016, Factsheet (available on demand)
- **Everywhere the bombing followed us**, 2017, Report (available on demand)
- [The use of explosive weapons in populated area: it is time to act, 2018, Briefing paper](#)
- [The Waiting List. Addressing the immediate and long-term needs of victims of explosive weapons in Syria, 2019, Report](#)
- [Explosive Weapons, Contamination, and Risk Education in Yemen, 2020, Issue brief](#).
- [The Long-Term Impact of Explosive Weapons in Populated Areas in Yemen, 2020, Study](#).
- [Explosive Weapons in Populated Areas in Yemen, 2020, Issue Brief/Arms/ EWIPA](#).
- [A Persistent Danger: Unexploded Ordnance in Populated Areas, 2020, Briefing Paper](#)