

¶ Text (2021 01 29)

Comments

Title Draft Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences ~~that can arise~~ from the use of Explosive Weapons ~~with Wide Area Effects~~ in Populated Areas

Suggest removing “that can arise”. There is a large body of evidence that the use of EWIPA including with wide area effects has systematically humanitarian consequences, direct or indirect, with physical or psychological trauma. Use of the words “can arise” implies that there are safe ways to use EWIPA.

Suggest removing “wide area effect”, as some issues go beyond “wide area effect” weapons (e.g. ERW; assistance to victims; data; etc.)

1.2~~4~~ Explosive weapons with wide area effects ~~can~~ have a devastating impact on civilians and civilian objects in populated areas. Blast and fragmentation effects cause immediate deaths and injuries. Beyond these direct effects, civilian populations can also be exposed to severe and long-lasting indirect effects – also referred to as ‘reverberating effects’. When critical civilian infrastructure is damaged or destroyed, such as energy networks, water and sanitation systems, the provision of essential services such as healthcare ~~and education are~~s 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 the weapon’s impact area.

Suggest removing “can” in line with comments on the title.

We welcome the inclusion of attacks on water and sanitation systems. It is critical to maintain this language to protect these systems and services during armed conflicts, as it could otherwise lead to mass spread of diarrheal disease, to which children are particularly vulnerable that could lead to death. It also causes displacement, hinders access to school/education and health.

Suggest adding “and education” after healthcare, as it is among the most essential services for children.

1.4 Together, these effects often result in the displacement of people within and across borders. When these effects occur they have a negative impact on progress towards the Sustainable Development Goals. Following urban armed conflict, unexploded ordnance can also impede the return of displaced persons and cause casualties long after hostilities have ended, in addition to posing major risks to all other civilians and impeding humanitarian access.

Explosive ordnance is also a major risk to civilians not displaced, particularly children (69% of all ERW civilian casualties are children) + impede humanitarian access

Need to add something on the gender dimension of EWIPA and we should also add something on access

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1.7 We recognise the importance of efforts to record civilian casualties, and the use of all practicable measures to ensure appropriate data collection, including, where possible, data disaggregated by sex ~~and~~, age **and cause, including in accordance with the Sustainable Development Goals and indicator 16.1.2.** Where possible and appropriate, this data should be shared and made publicly available **in a timely manner.** The data on civilian casualties can help inform policies designed to **prevent or minimize** ~~mitigate~~ civilian harm, aid efforts to investigate harm to civilians, support efforts to determine or establish accountability, **facilitate evidence-based humanitarian response** and enhance lessons learnt processes in armed forces. **We also recognize the importance of civilian casualty tracking mechanisms, implemented by armed forces to assess the impact of their operations on civilians and for identifying changes to military practice required to minimize harm to civilians.**

Sustainable Development Goal Indicator 16.1.2 envisages the collection of data on “conflict-related deaths disaggregated by sex, age and cause”. As defined in the related data collection methodology, “cause” refers, inter alia, to the weapon used. Recording information on cause is therefore critical in connection with understanding consequences from the use of explosive weapons in populated areas.

Added “timely manner” as the expectation is that this data is available as soon as feasible for humanitarian responses.

Suggest “prevent or minimize” instead of “mitigate” as the primary goal of these policies should be to prevent civilian harm.

Added “facilitate evidence-based humanitarian response” as casualty data is crucial for the design and prioritization of the response.

Added a sentence on civilian casualty tracking mechanism to distinguish this from casualty recording and data collected pursuant to the SDGs.

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1.8	<p>We welcome the on-going work of the United Nations, the International Committee of the Red Cross (ICRC) and civil society to raise awareness of the impacts and long-term humanitarian consequences that can arise<u>ing</u>e from the use of explosive weapons with wide area effects in populated areas. <u>We take note of the joint appeal by the Secretary-General of the United Nations and the President of the ICRC to States to adopt policies and practices that will enhance the protection of civilians when warfare takes place in populated areas, including policies and practices to avoid the use of explosive weapons with a wide impact area, due to the significant likelihood of indiscriminate effects.</u> We also welcome work to empower and amplify the voices of all those affected, including women and girls, and we encourage further research into the potential gendered impacts of the use of explosive weapons with wide area effects. We stress the imperative of addressing the short and long-term humanitarian consequences that can result from the use of explosive weapons with wide area effects arising from the conduct of hostilities, including in urban warfare.</p>	<p>In line with proposed changes in the title, suggest deleting the words ‘that can arise’. The joint UN/ICRC appeal does not use the language “can arise” and rather assumes that <u>there is systematic civilian suffering when EWIPA are used.</u></p> <p>Suggest adding a reference to the repeated calls of the SG to avoid the use of explosive weapons with wide area effect in populated areas and to develop policies based on a presumption against such use. Can also use the ICRC/UN SG joint appeal for wording. Also, Santiago and Maputo communique make such reference.</p>
2.4 bis	<p><u>International humanitarian law absolutely prohibits directing attacks against civilians or civilian objects, indiscriminate or disproportionate attacks, indiscriminate weapons, and using civilians as human shields. It requires conflict parties to take steps to minimize incidental civilian harm.</u></p>	<p>It would be good if the legal analysis could include language underlining that by their nature the use of EWIPA with wide area effect increase the risk of non-discrimination, i.e. the risk of violations of IHL This is excerpted from the Joint Appeal of the SG and ICRC President</p>
	<p>Part B: Operative Section Committed to strengthening the protection of civilians and civilian objects in armed conflict, improving compliance with applicable International Humanitarian Law, and addressing the civilian harm that can arise<u>ing</u>e from the use of explosive weapons with wide area effects in populated areas, we will:</p>	<p>Suggest removing “can” in line with comments on the title.</p>

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3.3	Ensure that our armed forces adopt and implement a range of policies and practices to avoid <u>mitigate</u> civilian harm, including by restricting <u>avoiding</u> the use of explosive weapons with wide area effects in populated areas, when the effects may be expected to extend beyond a military objective .	<p>Suggest replacing by "avoiding"; and also need to make reference to developing policies based on a presumption against the use.</p> <p>In light of the changes to this paragraph, which characterizes restrictions on non-use as one of “a range of policies and practices”, the phrase “avoid” is important to allow States to set a higher standard for themselves.</p>
3.4	Ensure that our armed forces take into account the direct and reverberating effects on civilians and civilian objects which can reasonably be foreseen in the planning of military operations and the execution of attacks <u>conduct of hostilities</u> in populated areas.	<p>Suggest replacing “execution of attacks” with “conduct of hostilities” as we see the former as encompassing a broader range of considerations, including the choice of weapon. If limited to execution of attack, this seems contrary to the focus of the declaration on certain types of weapons.</p>
	Set up after-action reviews of all conducts of hostilities related to attacks in populated areas to assess the multidimensional humanitarian impact.	<p>Suggest adding this as well, that follow up action/review is critical as well.</p>
	<u>3.5</u> Ensure the <u>provision of risk education</u> , marking, clearance, and removal or destruction of explosive remnants of war as soon as possible after the end of active hostilities in accordance with our obligations under applicable international law.	<p>“provision of risk education” added in line with disarmament treaties, for example CCW Protocol V, Article 5 on “Other precautions for the protection of the civilian population, individual civilians and civilian objects from the risks and effects of explosive remnants of war” has explicit language on risk education.</p>

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4.2	<p>Collect and, where possible and appropriate, share and make publicly available disaggregated data <u>in a timely manner</u>, on the direct and reverberating effects on civilians of our military operations involving the use of explosive weapons <u>in populated areas</u> with wide area effects.</p>	<p>Should also include data on the use of weapons per se, as data on casualty tracking, etc. why "as appropriate"?</p> <p>It is understood that this paragraph is in addition to the casualty recording referred in 1.7 and, if the explicit link to SDG 16.1.2 is included as suggested above, no further clarification is required here.</p> <p>Suggest replacing “with wide area effects” with “in populated areas” in line with proposed language in title and 1.7</p>
	<p>4.3 Support 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- <u>in populated areas</u> with wide area effects, as appropriate.</p>	<p>Suggest replacing “with wide area effects” with “in populated areas”</p>
	<p>4.5 Support the work of the United Nations, the ICRC, other qualified international organisations and relevant civil society organisations as appropriate aimed at protecting and assisting civilian populations and addressing the direct and indirect humanitarian impact that can arise <u>from</u> the use of explosive weapons with wide area effects in populated areas.</p>	<p>Suggest these changes in line with proposed changes in the title</p>
4.6	<p>Meet on a regular basis to review the implementation of this Declaration and identify any relevant additional measures that may need to be taken to improve compliance with International Humanitarian Law and strengthen the protection of civilians and civilian objects with regard to the use of explosive weapons with wide area effects in populated areas. As a starting point, a working group of interested States could agree a baseline compilation of good practice, which could form the basis for structured military-to-military exchanges, workshops, and seminars.</p>	<p>Would add the UN, ICRC and NGOs to that group</p> <p>Suggest deleting last part of the paragraph as to not limit future measures/activities that may be considered by Declaration signatories.</p>