



Protecting Civilians in Urban Warfare: Towards a political declaration to address the humanitarian harm from explosive weapons in populated areas

Informal consultations, 6th– 8th April 2022

MAG Written Submission

The Mines Advisory Group (MAG) is one of the world's leading humanitarian mine action organisations and a member of the International Network on Explosive Weapons (INEW). MAG welcomes the revised draft text of the Political Declaration shared by the delegation of Ireland on 3 March 2022, which includes several improvements on the previous version.

Clearance of explosive ordnance is a pre-requisite for reconstruction and safe returns and often one of the first activities to be conducted once hostilities have ceased. Having witnessed both the immediate destruction resulting from the use of EWIPA and the long-term barriers to reconstruction and development due to contamination, MAG would like to share the following reflections and recommendations in each section based on our experience and expertise.

Section 1:

MAG welcomes stronger articulation of the impact of EWIPA in the preambular sections, including the removal of descriptions throughout the text that use of explosive weapons in populated areas “can cause harm”.

What is missing from this section is an explanation of “wide area effects”. Weapons with wide area effects pose a particularly high threat to civilians and civilian infrastructure. They continue to pose a danger even when they do not detonate, so they should be avoided in populated areas. While we welcome the removal of repeated and unnecessary references to “wide area effects” throughout the text, an explanation of these types of weapons should be included in the preamble and a reference to them should be retained in paragraph 3.3. Therefore, we support the addition of paragraph 1.4 bis as proposed by INEW:

1.4 bis “The use in populated areas of explosive weapons with wide area effects presents a particularly high risk of harm to civilians and damage to civilian objects, that is when the effects extend beyond or occur outside the military objective. Wide area effects result from the wide blast and fragmentation radius of the weapon, inaccuracy of delivery, the delivery of multiple munitions across an area, or a combination thereof.”

MAG would also like to recommend more consistent use of language. Paragraph 1.4. references “unexploded ordnance” and paragraph 3.5 references “explosive remnants of war”, which have different meanings. MAG recommends using the term “**explosive ordnance**” in both cases as a catch-all term that is used in the International Mine Action Standards (IMAS).

Section 3:

Paragraph 3.3. should be at the start of the operative section as the core commitment of the Declaration. A commitment to **avoid** use of explosive weapons with wide area effects in populated areas would provide the greatest protection to civilians and would reduce the potential contamination with explosive ordnance and the subsequent risks associated with it. The reference to explosive weapons “with wide area effects” should be added back into this paragraph:

3.3. ~~“Ensure that our armed forces [A]dopt and implement a range of policies and practices to avoid civilian harm, including by restricting or refraining from~~ **avoiding** the use of explosive weapons **with wide area effects** in populated areas, **that is** when the effects may be expected to extend beyond **or occur outside of a the** military objective, in accordance with International Humanitarian Law.”

Explosive ordnance is a secondary effect of the use of EWIPA, with onward reverberating effects, including accidents, impeding safe movement of IDPs and refugees, and blocking rubble removal, reconstruction, and restoration of key services. MAG welcomes the commitment to address reverberating effects. It should be further strengthened by stating that armed forces should specifically assess and take steps to mitigate the different foreseeable effects rather than simply taking them into account. MAG also supports the removal of the reference to battle damage assessments and including instead a separate commitment on tracking and learning from civilian harm.

3.4. ~~“Ensure that our armed forces~~ **Assess and take steps to mitigate** ~~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 in populated areas, ~~and conduct battle damage assessments, to the degree feasible, to identify lessons learned.”~~

MAG supports the inclusion of an additional commitment for armed forces to establish the necessary capacity to track civilian harm including casualties and damage to civilian objects. In addition to the learning opportunities for tactical, operational and policy responses, civilian harm data can inform the prioritisation and response of mine action organisations, especially in the immediate aftermath of conflict, before communities have returned, when information of the potential location of explosive ordnance is limited.

3.4. bis “Establish capabilities to track, analyse, respond to and learn from incidents of civilian harm, including damage to civilian objects”.

We welcome paragraph 3.5 which calls for clearance of explosive ordnance. The pace of clearance is slower and more resource intensive in populated areas as it often requires mechanical assets to process unsafe rubble and clearance has to be conducted in three-dimensions, in multi-storey buildings. MAG’s experience in Iraq shows that clearance of explosive ordnance in urban settings is six times more expensive than similar work done in rural areas. Until clearance is complete, risk education is the only activity that can protect civilians from the explosive threat; therefore MAG calls for the provision of risk education to affected populations to be included in paragraph 3.5. While humanitarian clearance should begin as soon as possible after the end of active hostilities, risk education can and should be delivered as soon as the use of explosive weapons is confirmed, including through remote means such as radio, and social media that allow safety messages to reach communities even when conflict prevents direct access. Therefore, we propose removing the phrase “as soon as possible after the end of active hostilities”.

In addition to the provisions on clearance (and risk education), we also call on states to record and share the location, number and type of explosive weapons used in populated areas. This would facilitate the planning and efficiency of the mine action response and save lives. Considering the direct relevance of this commitment to clearance of explosive ordnance, this can be added in paragraph 3.5.

3.5 Ensure the marking, clearance, and removal or destruction of ~~[explosive remnants of war explosive ordnance along with the provision of risk education to affected populations]~~ **as**

~~soon as possible after the end of active hostilities; [to facilitate the rapid delivery of these activities, ensure the recording and sharing of information on the location, number and type of explosive weapons used with national mine action authorities (or other responsible agencies), the United Nations, and non-governmental organisations, in accordance with our obligations under applicable international law.~~

Section 4

MAG welcomes the positive changes to the commitment on victim assistance in paragraph 4.4 which should be retained. MAG would like to see an additional paragraph included in this section that ensures safe, rapid and unimpeded humanitarian access.

4.4 bis “Provide and facilitate safe, rapid and unimpeded access for principled humanitarian relief in line with international norms and standards for providing principled and inclusive humanitarian assistance.”

Commitment 4.6 is key to the review of the implementation of the Political Declaration and it should be less prescriptive and limiting:

4.6 “Meet on a regular basis ~~with states, the United Nations, the ICRC, and other international and civil society organisations~~ 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 armed conflict involving the use of explosive weapons in populated areas. ~~As a starting point, a group of interested States, with the participation of the United Nations, the ICRC, other qualified relevant international organisations and civil society organisations, could agree develop a compilation of good practice, which could form the basis for structured military to military and other exchanges, workshops, and seminars.”~~

ENDS.