

AVOIDING CIVILIAN HARM BY RESTRICTING OR REFRAINING FROM USE OF EXPLOSIVE WEAPONS IN POPULATED AREAS

Article36

WWW.ARTICLE36.ORG
INFO@ARTICLE36.ORG
@ARTICLE36

Article 36 is a specialist non-profit organisation, focused on reducing harm from weapons.

KEY MESSAGES

- x The civilian death toll of bombing and shelling is unacceptably high and remains a major source of devastation and suffering. Increased numbers of armed conflicts globally over the past three years have brought about higher rates of explosive weapon use - and in more countries - resulting in record numbers of civilian casualties from explosive weapons in recent times.¹ Beyond deaths and injuries, civilians experience psychological harm, and damage and destruction to critical infrastructure, such as housing and access to power, water, and healthcare facilities causes extensive knock-on effects that extend far beyond the vicinity of the attack.
- x The severity of ongoing suffering is to some degree the result of disregard shown by parties to conflict for civilian life and their obligations to protect them. The widespread use of heavy explosive weapons in densely populated areas is one manifestation of this. While some actors may reject norms that safeguard civilians, this only underscores the need for the broader international community to uphold and demonstrate these standards in practice.
- x The extensive and wide-ranging humanitarian impacts demand changes in military policies and practices. *The Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas*² provides an opportunity to prioritise the protection of civilians and to build new international standards against the use of heavy explosive weapons in populated areas. The declaration identifies the area effects of explosive weapons as central to concerns when used in populated areas, it promotes the development of stronger standards against their use in populated areas, and it highlights the need to better understand and factor in both the direct and indirect effects.
- x States should adopt a clear position against the use of explosive weapons with wide area effects in populated areas (also referred to as heavy explosive weapons). These weapons are defined by inaccuracy, large blast and fragmentation radius, and/or use of multiple munitions across an area, which are consistent drivers of high amounts of civilian harm when used in towns and cities. Endorsing and adopting such a position can help to establish stronger international standards for the protection of civilians. It would build a clearer expectation of how responsible actors should behave in conflict and provide a practical approach that would reduce civilian suffering on the ground.

- ✗ A political position against use of heavy explosive weapons in populated areas should be coupled with the development of national military doctrine and operational guidance that could:

 - Identify types of weapons and munitions that should not be used against targets in populated areas – or those where use should be avoided unless special circumstances demand it.
 - Identify other restrictions on use of explosive weapons in populated areas and/or measures to strengthen protection of civilians.
 - Strengthen, and further resource, mechanisms used to identify and define civilian infrastructure prior to a strike.
 - Build better mechanisms to understand the direct and indirect consequences of attacks on civilians and civilian infrastructure post-strike.
 - Use data gathered through civilian casualty tracking mechanisms to understand actual civilian harm in practice. and adjust military policy and practice accordingly – including by looking at data on civilian harm in relation to different weapon systems.
- ✗ Building national level engagement requires a commitment to strengthen the protection of civilians at the highest level, including at the political level of government, at the strategic level, and among commanders within militaries. This can help ensure that the commitments are translated into the array of operational directives and orders at the tactical level, and overall help to facilitate wider buy-in nationally.
- ✗ The choice of weapons in armed conflict and protection of civilians are issues that concern all responsible military actors. All states can and should take steps on a regular basis to improve their policies and practice in this area to better protect civilians.

INTRODUCTION

When used in populated areas, explosive weapons often have disastrous and far-reaching consequences for civilians. They can cause widespread civilian casualties, psychological trauma, destruction of critical public service infrastructure including housing, hospitals, power and water supplies, and the displacement of entire communities. This pattern of severe harm has been consistently documented across various conflicts and highlights the urgent need to address the humanitarian impact of such practice.

As armed conflict has shifted to urban environments, weapons originally designed for open battlefields are now being deployed in cities and towns with devastating effects. Anyone within that wider area of impact is at serious risk of death or injury, and buildings and public infrastructure risks damaged and destroyed. Whilst some civilian casualties are the result of intentional and illegal targeting of civilians, any targeting of a military objective in a populated area brings substantial risks of harm to the civilian population.

The Political Declaration acknowledges the severe risks that explosive weapons pose to civilians when used in cities, towns and other populated areas. To mitigate this harm, the Declaration

outlines measures to enhance civilian protection, including a key commitment (3.3) to restrict or refrain from using explosive weapons in populated areas. This preventative measure is central to the Declaration and has the potential to significantly improve humanitarian outcomes for many civilians.

The Declaration does not prohibit the use of explosive weapons, nor does it assert that all civilian harm must be avoided in all circumstances. While international humanitarian law remains the legal framework, the deteriorating humanitarian situation - whereby an estimated 50 million people now suffer the devastating consequences of urban warfare - demands a change in policies and military practice that prioritises the protection of civilians. The Declaration has been developed to provide clearer guidance to parties to conflict as a response, including by putting in place clear national restrictions to help avoid civilian harm and consider when refraining from use is necessary. By encouraging these considerations and focusing on reducing humanitarian consequences, the Declaration serves as a tool to promote discussions on limiting the use of explosive weapons and reducing civilian harm.

There is a need to identify and share practical policies, operational measures, and approaches for implementing the commitment to restrict or refrain from use. This is especially important in the early years of the Declaration as a means to set both a culture of implementation and identifying examples that can help to promote action among endorsing states. By exchanging national policies, operational experiences, and best practices through dialogue among states and organisations, all stakeholders can help to develop a shared understanding of how to effectively operationalise the Declaration to enhance civilian protection

Key among the Declaration's commitments are those in paragraphs 1.2, 1.7, 3.3, and 3.4, which provide guidance on how - and why - states should avoid civilian harm by restricting and refraining from use of explosive weapons in populated areas.³

Paragraph 1.2 identifies factors that increase the risk of harm to civilians.

*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.***

Paragraph 1.7 recognises that policies and practices help armed forces to understand the effects of explosive weapons and help to avoid civilian harm.

*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.*

Commitment 3.3 commits states to avoid civilian harm by restricting or refraining from use of explosive weapons in populated areas.

*Ensure that 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 (3.3).***

Commitment 3.4 commits states to take into account the direct and indirect effects on civilians.

*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.

WHY RESTRICT USE OF EXPLOSIVE WEAPONS IN POPULATED AREAS?

The use of explosive weapons in populated areas is one of the primary causes of civilian harm in armed conflicts today.

Contemporary armed conflicts are often fought with explosive weapons such as bombs, rockets, mortars, missiles and artillery projectiles. These weapons function by projecting blast and fragmentation across an area, often with considerable explosive force. In a populated area where civilians can find themselves in the proximity of armed conflict, and where it can be difficult to separate the civilian population (and buildings and infrastructure) from a military objective, it places civilians at likely risk of harm. The choice of weapon has a significant bearing on humanitarian outcomes.

The wide area effects of explosive weapons present a foreseeable, and significant risk of harm when used in populated areas.

Factors that contribute to wide area effects include a large blast and fragmentation radius, inaccuracy of delivery, and / or the firing of multiple warheads, and as a result the effects of the weapon may significantly extend beyond the intended target of the attack. Most explosive weapons are designed and employed as area effect weapons, bringing challenges to achieving accuracy and precision. Often dropped from aircraft or fired at some distance from the target, this can further extend the impact area of the weapon and increase uncertainty about where the actual detonation may take place.⁴ Weapons that have an inaccurate delivery system tend to be unguided munitions, such as unguided bombs and rockets, and indirect fire weapons, such as artillery projectiles, rockets, and mortars, where the target is not visible within a direct line of sight. These weapons are often designed to deliver multiple munitions over a wide area, fired en masse or in salvos. As such, unguided and indirect fire weapons tend to have a wide area of impact, meaning they risk striking unintended targets.

The bombing of populated areas creates elevated humanitarian risks which can have long-lasting effects far away from the vicinity of the attack.

It is a distinctive feature of explosive weapons that they, by contrast with firearms, can cause very severe damage to the built environment.⁵ Use of heavy explosive weapons collapse buildings that are targeted, but can also collapse other nearby structures, and can result in unintended targets being struck within that area. The concentration of public service infrastructure in towns and cities presents an elevated risk to healthcare, water and sanitation, shelter, power, transportation, communication and education facilities being damaged or destroyed. The knock-on effects are exacerbated through the interconnectedness of infrastructure that widely disrupt services essential for the survival of civilians and even extending to areas far away from fighting. These effects can far outweigh the immediate civilian death toll from an attack and can be experienced by people for weeks, months, or even years afterwards.

Armed forces have obligations under international humanitarian law (IHL) to protect civilians and civilian infrastructure. Under IHL, armed forces must take constant care to minimise incidental harm to civilians, distinguish between civilian and military targets, and allow the provision of humanitarian aid. Indiscriminate and disproportionate attacks are explicitly prohibited. The ICRC has raised concerns over how parties using such weapons are interpreting and applying IHL, pointing to the devastating humanitarian consequences, and the divergent practice of militaries, contrasting views among experts, and case law of international criminal tribunals over what is and what is not lawful. Due to inaccuracy and lack of precision of explosive weapons, and due to their large destructive radius, when used in populated areas, heavy explosive weapons are likely to have indiscriminate effects.⁶ The ICRC has questioned whether existing rules sufficiently regulate the use of such weapons or whether there is a need to clarify or develop new rules. The ICRC recommends that despite the absence of an express legal prohibition, the use of explosive weapons with a wide area effect should be avoided in populated areas.⁷

Taking constant care to spare the civilian population from the effects of military operations and reduce harm also has strategic benefits for the operation itself. Beyond the moral and legal imperative to prevent harm to civilians from explosive weapons in populated areas where possible, there is significant military advantage to doing so. The population's support is almost always critical for operational success – as well as long-term stability – and civilian harm can undermine such support if civilians find that armed forces are threats or if they cannot provide security.⁸ In contemporary armed conflict, tactical decisions can have far-reaching strategic consequences, affecting long-term stability both within conflict-affected countries and across regions. The way a party conducts operations can shape conditions for the future, potentially leading to prolonged displacement, escalating violence, and strengthening non-state armed groups rather than fostering post-conflict recovery and stability.⁹ NATO also identifies the protection of the civilian population as a fundamental requirement to achieving long-lasting peace.¹⁰

PLACING IT IN CONTEXT

The importance of restricting use of explosive weapons in populated areas has already been widely recognised. For well over a decade there have been calls for explosive weapons that affect a wide area to be avoided in populated areas.¹¹ Organisations such as the ICRC and the UN, including successive UN Secretaries-General, have urged states to 'avoid' or 'refrain' from using explosive weapons with wide-area effects in populated areas, a call which has been echoed by civil society organisations too, including the International Network on Explosive Weapons (INEW). UN Security Council resolutions on Syria and Côte d'Ivoire have recognised that the use of artillery, airdropped munitions, and other heavy explosive weapons have been a source of civilian harm when used in populated areas and have called for such practice to cease.¹² NATO, in its operational handbook on the protection of civilians, also recommends that "military need to take into account the negative wide area effects of explosive weapons in populated and/or urban areas, including foreseeable second and third order effects."¹³ Preventing use of heavy

explosive weapons – such as large calibre mortars, artillery and tank shells, rockets and aircraft bombs have been widely recognised as the key driver of humanitarian concern and stopping such use identified as a necessary measure towards civilian protection in armed conflict.

Military forces have imposed stricter limitations than those mandated by law in some instances, and these efforts have contributed to reducing civilian harm in practice. These choices have often been the result of decisions driven by Commanders in response to ongoing harm. In Somalia, the African Union Mission in Somalia (AMISOM) developed an indirect fire policy limiting the use of mortars and other indirect fire weapons in populated areas. In Afghanistan, the International Security Assistance Force (ISAF) issued a number of tactical directives that restricted the use of certain air-delivered weapons in populated areas, even when such attacks could be lawful. In both cases, the policy changes were driven by recognition that civilian casualties resulting from even the lawful use of force can hamper the success of the mission.

Existing military policies and practices already recognise the direct relationship between the area effects of explosive weapon and risk of harm to civilians and seek to restrict these. Collateral damage estimation methodologies (CDEs) provide a standardised, general tool for producing an estimate of civilian harm in planning a specific military attack and are often cited by states as a mechanism for mitigating harm from explosive weapons in populated areas. They draw heavily on the area effects of weapons, and reducing area effects is a primary mechanism for reducing the likelihood of civilian harm. The methodologies also use assumptions about the size of the civilian population in the area. However, in order for them to be accurate tools, there needs to be a strong understanding of the civilian pattern of life, which can be difficult to obtain in practice, when there is often high demand for a relatively small amount of intelligence and surveillance equipment. There are also limitations to the extent that CDEs can be accurately used for certain explosive weapons, as identified in US policy. This includes cluster munitions, rocket-assisted projectiles, extended range artillery, mortar and naval guns—because of limitations in the capacity to control their area effects. This is identified as a particular problem in urban areas.¹⁴ Military policy has also enforced restrictions on minimum distances ("minimum safe distances" and "risk estimate distances") around the use of explosive weapons – usually used as a means to protect own troops or other friendly forces in proximity to attacks. Existing CDE methodologies also do not directly take the risk of secondary explosions into account, relying instead on the experience of the individuals involved in the targeting process. This can lead – and has previously led – to significant civilian harm, including in joint operations when experiences of the wider coalition are not shared and taken into account.

The Political Declaration provides an opportunity for armed forces and governments to develop a stronger policy approach to protecting civilians from the use of explosive weapons. Already, close to 90 countries have endorsed the Declaration¹⁵ and by doing so have committed to work together to set new standards. The Declaration builds on states' existing obligations under IHL which represent the absolute minimum standards that parties

to conflict abide by even under the most desperate circumstances. The Declaration recognises that national policies and practices can go beyond these legal minimums and it commits states to develop these operational guidance and rules. The Declaration provides a tool to drive forward change at the operational level. It encourages the development of clearer rules of engagement, better training for military personnel, and the integration of civilian protection as a strategic objective in military doctrine and central to planning and conducting operations. Additionally, the Declaration fosters international cooperation, enabling states to share best practices and work towards minimising the devastating impact of explosive weapons on civilians. For this to happen, leadership at the highest level in government and the military is required to identify protection of civilians in armed conflict as a strategic objective, and for this objective to then filter down into operational directives. NATO, in its handbook on the protection of civilians in armed conflict has recognised that this approach requires a change in mindset within militaries¹⁶, something that has been reiterated by the ICRC¹⁷.

Establishing a presumption of non-use in populated areas of explosive weapons with wide area effects would provide the most effective humanitarian response. Such an orientation would draw on the recognised risk factors that harm from explosive weapons increases depending on the weapon's explosive power, its level of accuracy and the number of munitions used¹⁸. Setting a clear threshold against use in a populated area when the effects of the weapon are likely to extend beyond, or occur outside, the intended target, and when civilians are likely to be in this wider area – could significantly reduce harm to civilians in practice.

OPERATIONALISATION AT A NATIONAL LEVEL

The commitments in the Declaration provide the guidance to endorsing states on the areas and approaches needed to bring about changes at the national and operational level to bring the Declaration in line with domestic policy and practice. States will likely approach national implementation in different ways depending on their own national context including – which weapons they have in their inventories, whether and how a state tends to engage in military operations, and the type of national policies and laws that are in place or that is deemed necessary for the purpose of operationalising the Declaration in that context.

The following suggested steps and actions are therefore somewhat general in nature and focus on operationalising commitments 3.3 on avoiding civilian harm by **restricting or refraining from use of explosive weapons in populated areas** and 3.4 on taking into account the **direct and indirect effects on civilians** and civilian objects, which in many ways is at the core of the goal of the Declaration.

A policy commitment not to use explosive weapons with wide area effects (or heavy explosive weapons) in populated areas would align with an expectation set out by the Declaration that in certain circumstances refraining from use in a populated area to avoid civilian harm is necessary. Articulating such a policy commitment would help to align weapon choices with a strategic goal of minimising civilian harm, and can be clearly communicated, helping to bring about the intended change through clearer expectations and standards. This could be coupled with changes to military doctrine and operational guidance to Commanders and military personnel, and should be factored in to decision-making in both the planning and the conduct of military operations. It would encourage specific guidance on the circumstances under which forces may not use certain weapon systems, or where specific restrictions are placed on the choice or use of weapons at a general or a mission-specific level. It would also require prior understandings of the technical characteristics of weapons held in inventories including their area effects, as well as considerations of the contexts of use, both of which have a fundamental bearing on the likely harm to civilians.

At present, few endorsing states have shared examples of how they are considering placing limits on use of explosive weapons in populated areas. The Netherlands is the only country to have announced a general restriction to use in populated areas – namely non-use of unguided airdropped bombs in populated areas. All endorsing states should join the Declaration with an expectation to implement changes in policies and practices.

REVIEW CURRENT NATIONAL PRACTICE

In commitment 3.1, the Declaration urges endorsing states to “implement, and, where necessary, review, develop or improve national policy and practice with regards to the protection of civilians during armed conflict involving the use of explosive weapons in populated areas”. States should therefore:

- X Review the Declaration's commitments. The main areas of the Declaration where revisions will need to be made to military policy and practice to ensure the commitments and national policy align, include:

- Adopting policies and practices on restricting and refraining from the use of explosive weapons in populated areas
 - Adopting policies and practices on understanding and managing the direct and indirect effects of explosive weapons on civilians and civilian objects such as buildings and infrastructure
 - Collecting and sharing data on the direct and indirect effects on civilians and civilian objects of military operations involving the use explosive weapons in populated areas
 - Distributing the Declaration to own armed forces and to partnered military operations, and updating training programmes.
- x** Identify and review existing national policies that are relevant to the protection of civilians in armed conflict and the use of explosive weapons in populated areas, identify practices to carry forward and identify gaps that should be addressed to operationalise the Declaration. For example:
- Update or develop a national policy on the protection of civilians in armed conflict
 - Review national and/or joint/coalition military doctrine, such as military manuals on the laws of armed conflict, policies on the conduct of military operations in urban warfare / operations, and / or policies on the protection of civilians. Ensure that there is a strategic objective to protect civilians in armed conflict identified in military doctrine, and that this objective is integrated into all military orders.
 - Descriptions of the range of humanitarian consequences resulting from the use of explosive weapons in populated areas, including direct and indirect, in military doctrine and measures identified to prevent and mitigate civilian harm.
 - Operational instructions that provide guidance on the conduct of military operations and/or that provide guidance stipulating circumstances under which forces should avoid use of certain weapons and munitions in populated areas, and/or any other explicit restrictions and limits either at a general or mission specific level, such as commanders' intent, rules of engagement, operational orders, directives and instructions.
 - Training programmes for all military personnel engaged in the planning and execution of attacks to understand the humanitarian impacts, including identifying civilian infrastructure, and understanding the effects of weapons when used in urban and other populated areas.
- x** This needs to be effectively communicated within armed forces – key people, types of documents – a whole process
- Translate the Declaration into national language
 - Identify a national focal point(s) that can help to disseminate the Declaration to key stakeholders, coordinate between national stakeholders, oversee its operationalisation at a national level, as well as manage inputs and engagement to the international meetings and process of work.
- Distribute the Declaration and relevant national policies to Commanders and all relevant military personnel responsible for planning, decision-making and execution of attacks, and ensure it is prioritised both in commanders' intents and in the commanders' Critical Information Requirement.
 - Distribute the Declaration and highlight key provision to partners in joint military operations and training programmes.

CREATE A NATIONAL APPROACH

A. ASSESSING AND UNDERSTANDING THE EFFECTS OF EXPLOSIVE WEAPONS, INCLUDING AREA EFFECTS

Paragraph 1.7 recognises that policies and practices help armed forces to better understand the 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. Commitment 3.4 commits states to take into account the direct and indirect effects on civilians and civilian objects in the planning of military operations and the execution of attacks in populated areas.

- x** Undertake a review of own armed forces' weapons' inventories to identify types and quantities of explosive weapon systems held.
- x** Undertake an assessment of the technical characteristics of explosive weapons held in inventories including their area effects, to understand the scale of area effects of specific weapons and the corresponding likelihood of harm.
 - Identify types of weapons and munitions prone to wide area effects, due to high explosive content, accuracy of delivery, or that are designed to fire multiple munitions across an area, included unguided and indirect fire weapons.
- x** Understand an assessment of the effects of explosive weapons in different contexts, including how they interact with the built environment to create secondary / third order effects.

B. ASSESSING AND UNDERSTANDING THE CIVILIAN AND BUILT ENVIRONMENT

The Declaration identifies in section 1 the forms of harm, notably: death and injury including lifelong disability (1.3); damage or destruction to critical civilian infrastructure, disrupting the provision of basic needs and essential services which can extend well beyond a weapons impact area (1.4); the damage and destruction of housing, schools, hospitals, places of worship and cultural heritage sites, along with impact on the environment from the use of explosive weapons (1.5); and psychological and psychosocial harm, the displacement of the population and the impediment of humanitarian access due to unexploded ordnance (1.6). Commitment 3.4 commits states to take into account the direct and indirect effects on civilians and civilian objects in the planning of military operations and the execution of attacks in populated areas.

- x Undertake 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 Establish policies and processes for identifying public service infrastructure, including housing, hospitals, schools, power supplies, water and sanitation systems, transport and communications networks, define how those critical infrastructure are interconnected, and estimate the potential impact of an attack on civilians.¹⁹

C. RESTRICTING AND REFRAINING FROM USE OF EXPLOSIVE WEAPONS IN POPULATED AREAS TO HELP AVOID CIVILIAN HARM

Paragraph 1.2 identifies factors that increase the risk of harm to civilians including the weapon's explosive power, its level of accuracy, and the number of munitions used. Commitment 3.3 commits states to avoid civilian harm by restricting or refraining from use of explosive weapons in populated areas. The use of explosive weapons should only be considered in situations where it is not expected to cause harm to civilians or civilian objects, based on an understanding of the area effects of the weapon and the operational context in which they will be used.²⁰

Restrictions on the use of weapons can encompass a wide range of policies, directives and logistical choices that are being brought to bear ahead of a specific situation in which explosive weapons are being considered for use. This can include rules against use of certain types of munitions in populated areas, as well as decisions made by commanders during an operation to refrain to avoid civilian harm.

In general, the use of explosive weapons in populated areas should be restricted as it is likely to cause harm to civilians or civilian objects due to the projection of blast, heat and fragmentation within a concentration of civilians and civilian objects which inevitably has the potential to cause harm. If the effects are

Refraining from use

- x Rules or guidance against the use of specific systems in populated areas (refraining from use), such as: air-to-ground attacks or unguided air-dropped bombs and rockets, indirect-fire systems or specific types/categories of systems such multiple launch rocket, artillery projectiles, rockets, and mortars.
- x Rules or guidance to refrain from use in populated areas when the effects of the weapon risk extending beyond the target, including identifying weapons that present a significant risk due to their blast and fragmentation radius (munitions with high explosive content, such as large yield bombs / large calibre munitions, and unguided and indirect-fire weapon systems).
- x This could include choices not to deploy certain weapon systems or certain weapon system configurations to a particular operational context.

Restrictions on use

- x Requirements for particular additional practices to be adhered to in order to use certain weapons, such as:
 - A prohibition on unobserved indirect direct fire or all indirect fires, or a requirement for only using indirect fire weapons in the vicinity of populated areas if the target and fall of shot can be observed.
 - Establishing minimum safe distances and risk estimate distances from an explosive strike for own troops should be applied to civilians as a minimum.
 - Identifying weapons for which higher command authority is required.
- x Rules of guidance to limit the explosive effects or to improve accuracy of the munitions so that the explosive effect is focused more precisely on the target, including through technical adjustments.
 - Use of direct fire weapons, or indirect fire weapons in the direct fire role.
 - Adjusting the fusing of the shell to cause the required effect on the target but reducing the area of explosive effect, for example a delayed fuse to concentrate blast on penetrating the target.
 - Adjusting the angle of attack to reduce the explosive effect that is directed towards civilians and civilian objects by an explosive strike.
 - Using low collateral damage munitions, including those with no explosive effect but kinetic effect only (such as iron bombs).
 - Reducing the explosive effect of the munition, including by limiting the payload of the munition, including by using lower calibre artillery/mortar shells
 - Aircraft on call carrying a range of munitions rather than the largest payload that might be required.

Other measures to enhance protection of civilians

- x Guidance to undertake the use of certain weapons in populated areas only at times when civilian populations are at a minimum, or reducing the number of civilians that could be affected by an attack.
 - Assuming the presence of civilians and civilian objects in any populated area surrounding a military objective.
 - Pattern of life considerations, such as timing the attack to coincide with a reduced density of civilians in the target area (for example at night).
 - Encouraging civilians to leave the target area.
 - Issuing warnings to civilians in sufficient time to enable shelter to be sought.
- x Implementing civilian casualty tracking.
- x Battle damage assessments that include the impact on civilians and civilian objects post-strike.

- x Tactical patience, stand off
 - x Eyes on the target - militaries should be encouraged only to deliver explosive munitions to a target when the target can be seen.
 - x No strike policy / identification of no strike entities in advance
- D. PROVIDING GUIDANCE AND TRAINING TO COMMANDERS AND OTHER MILITARY PERSONNEL
- x Ensure training of armed forces personnel involved in planning, decision-making and authorising use in execution of attacks to ensure that they have:
 - understandings of the humanitarian impacts when conducting operations in urban and other populated areas, including identification of public infrastructure.
 - a technical understanding of the area effects of the explosive weapons and restrictions.
 - x Undertake an assessment of the range of munitions available for certain missions and plan accordingly to ensure restrictions can be implemented.
- x Review military operations and the humanitarian impacts and feed findings into lessons learned processes and incorporated into policy.
 - x Develop institutional learning by centrally compiling information and reviewing and updating policies on: urban warfare and the conduct of operations in populated areas, including the humanitarian impacts, the effects of explosive weapons in populated areas, and identifying civilian infrastructure and defining and estimating the impacts if it was to be damaged or destroyed.
- E. PARTICIPATE IN A BUILDING A COMMUNITY OF PRACTICE
- x Participate in international and other meetings of the Declaration to share examples of policy and practice concerning the protection of civilians from the use of explosive weapons in populated areas.
 - x Collaborate with international and non-governmental organisations to review policies and practices.
 - x Promote the Declaration and the standards that it seeks to set, with other states and in other partnered military operations.

ENDNOTES

- 1 Explosive Weapons Monitor, 2024 Annual Report
- 2 'Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas'.3,18]]];"issued":{"date-parts":["2022",11]]]]];"schema":"https://github.com/citation-style-language/schema/raw/master/csl-citation.json"}
www.ewipa.org
- 3 'Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas'.3,18]]];"issued":{"date-parts":["2022",11]]]]];"schema":"https://github.com/citation-style-language/schema/raw/master/csl-citation.json"}]
- 4 Article 36 and PAX, Areas of Harm (2016)
- 5 Article 36, Damage to the built environment from the use of explosive weapons in populated areas (2013)
- 6 ICRC, Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas (2022)
- 7 ICRC, Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas (2022)
- 8 OCHA, Compilation of Military Policy and Practice: Reducing the humanitarian impact of the use of explosive weapons in populated areas (2017)
- 9 CIVIC, Urban Warfare Primer (2022)
- 10 NATO, The Protection of Civilians Allied Command Operations Handbook (2021)
- 11 ICRC, International humanitarian law and the challenges of contemporary armed conflicts (2011) concludes that despite the absence of an express legal prohibition and due to the significant likelihood of indiscriminate effects, explosive weapons with a wide impact area should be avoided in densely populated areas. The UN Secretary General's report on the protection of civilians in armed conflict (2012) also urged parties to conflict to refrain from using explosive weapons with a wide impact area in densely populated areas. The report also recalls that the Emergency Relief Coordinator called upon parties in Côte d'Ivoire, Libya, Sudan and the Syrian Arab Republic to refrain from using explosive weapons in densely populated areas.
- 12 UN Security Council Resolutions 2042 and 2043 call upon the Syrian government to cease all use of heavy weapons in population centres, resolution 2139 calls on parties to cease all attacks on civilians including the indiscriminate employment of weapons including shelling and aerial bombardment and similarly on Côte d'Ivoire resolution 1975 instructed troops to "prevent the use of heavy weapons against civilians", recognising the problematic relationship between area effect weapons and the proximity of civilians, see also Article 36 'Heavy Weapons and Civilian Protection' (2012)
- 13 NATO, The Protection of Civilians Allied Command Operations Handbook (2021)
- 14 Article 36 analysis publicised in "Areas of Harm" based on US policy as laid out in Chairman of the US Joint Chiefs of Staff, 2012, Instruction – No Strike Policy and Collateral Damage Estimation, 12 October 2012, online at <https://publicintelligence.net/cjcs-collateral-damage/>
- 15 <https://ewipa.org/endorsement>
- 16 NATO, The Protection of Civilians Allied Command Operations Handbook (2021)
- 17 ICRC, Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas (2022)
- 18 See paragraph 1.2 of the Declaration's preamble which states that: "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.". See also Article 36 and PAX "Areas of Harm" report, and the ICRC's "Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas".
- 19 ICRC, Urban services during protracted armed conflict (2015)
- 20 Article 36, Implementing the Political Declaration, November 2022