Sahr Muhammedally, senior legal advisor at the Center, spoke at the informal expert meeting on protecting civilians from the use of explosive weapons, in Oslo, Norway, June 17-18.

Thank you to OCHA, the government of Norway, and Article 36 for inviting me.

These past two days, we have been discussing the devastating effects of explosive weapons in populated areas, and colleagues have discussed the progressive steps undertaken by ISAF, NATO and AMISOM to reduce harm from such weapons. My organization, Center for Civilians in Conflict (CIVIC), has worked closely with each of these institutions on many of the policy issues discussed. A partnership between civil society and militaries has in these cases created a synergistic approach, bringing together information from both sides to create well-informed and progressive policies.

Civil society, as we have heard from the other panelists, plays an important role in drawing attention to and highlighting the impact of conflict on civilians. Various organizations have different approaches to advocating for changes to actions of military actors. My organization works directly with warring parties, seeking change from the inside in both policy and practice. We find pragmatic solutions by talking with civilians to identify protection gaps and then working with the military forces to adjust existing policies, doctrine, training and tactics, or to adopt new approaches—particularly with a mind toward better understanding the impact of military operations, so that warring parties can better prevent and respond to harm.

These past two days we have also discussed importance of adherence to international law, but recognized that the laws of war provide a baseline standard: what we ask warring parties is to take further steps to protect civilians during armed conflict by operationalizing key principles of precautions under IHL. We at CIVIC call this “Civilian Harm Mitigation.” We argue that harm mitigation policies should take place throughout the lifecycle of a conflict—before, during and after operations. It can include: pre-deployment planning and training, creation of mechanisms to better understand and respond to civilian harm, and inculcation of lessons learned and creation of standing policies to avoid and respond to civilian harm in future operations.

We take a dual-angled approach to our work. We talk with governments and militaries about practical solutions that take into account their priorities, for example mission achievement or force protection. But we also bring to them the concerns of civilians living in the conflict, to help armed forces understand the impact of their policies and practices on the civilians themselves—and even to see when their policies have harmed civilians, even within their rules of engagement creating anger and resentment. We have found this approach can lead to the adoption of policies and practices that both better protect civilians and make strategic sense for the warring party.
An important element of our work is the willingness of the warring parties themselves to make an effort to do more to protect civilians. We have sometimes faced challenges when engaging with some armed forces and non-state armed groups, but we have found that convincing them from a strategic angle works. The law does not provide guidance for all situations so we don’t shy from arguing that its also in their strategic interest to enact certain civilian protection policies. Of course changing mindsets, as we all know, does not happen overnight.

There are several positive examples discussed by my colleagues on this panel—including an indirect fire policy and various forms of civilian harm tracking and analysis cells to assess the impact of military operations and change tactics. As discussed here by ISAF, mistakes have been made by the most sophisticated militaries. And civilians have been killed, injured, their homes destroyed. Civil society played a role, highlighting civilian harm by the militaries in these theaters and advocating for progressive policies. But it also took leadership from within these military institutions to recognize and make the tactical changes in policy and practice. This leadership has now created new best practices from which others can learn.

It’s critical that the hard lessons learned from the recent conflicts in Iraq, Afghanistan, Libya, and Somalia don’t sit on a shelf collecting dust, but should be promoted by the AU, NATO, and by militaries in bilateral security assistance training. It’s also important that harm mitigation practices and policies should be conveyed to non-state armed groups that care about civilian protection. This is difficult work, but its incumbent on all of us to promote good practices as civilians in current and future conflicts deserve no less.

Thank you.