

Consultations on Political Declaration on EWIPA

April 6, 2022

Remarks by Sahr Muhammedally, CIVIC

Thank you, Ambassador Gaffey. On behalf of CIVIC, we commend Ireland's tireless leadership on the political declaration process.

The latest draft has been strengthened in a number of areas to more clearly describe the harm caused when explosive weapons are used in towns and cities and outlines commitments by states to strengthen POC when armed conflict takes place in urban areas.

We support recommendations made by INEW to strengthen the political declaration.

CIVIC has offered additional comments based on our operational work in Afghanistan, Iraq, Nigeria, Syria, Sahel, Somalia, Ukraine, and Yemen engaging with national militaries and coalitions on practices, policies, and training on civilian harm mitigation.

We have submitted comments on sections 1.1 to 1.7 bis. But at this time I would like to offer remarks on a couple of areas.

CIVIC recommends inserting language in para 1.1 acknowledging that explosive weapons with wide area effects be added in the preamble to highlight the particular correlation between wide area effects and risk of civilian harm. *The risks are increased when weapons have an impact that extend beyond the military objective due to the large destructive radius, inaccuracy, or because they are designed to fire multiple munitions simultaneously over a wide area.*

This amendment would better relate to language in 3.3. where there is recognition of weapons whose effects extend beyond military objective.

CIVIC welcomes paragraph 1.5. to highlight the scope of improvement in policies and practices. We recommend acknowledging that **some** militaries and not **many** have enacted policies and practices, but that much more is needed to implement and improve measures to strengthen protection norms. We also recommend adding language that good practices be shared as part of security assistance and partnered operations as many militaries are engaged in coalitions or provide security assistance to a party to conflict.

CIVIC recommends additional language on para 1.6 on tracking of civilian harm by militaries to reflect on the utility of this tool and its effectiveness. Based on our experience having created such mechanisms for militaries in Afghanistan and Ukraine and with multinational forces such as AMISOM and G5 Sahel, such a tracking tool works more effectively when a military or multinational force's tracking is supplemented by information recorded from outside the military by NGOs or the UN. This allows for more comprehensive analysis of all possible incidents and remedial measures to mitigate civilian harm and to avoid challenges we see with self-reporting by the military.

April 7, 2022

Thank you Chair.

CIVIC would like to echo concerns raised this morning by delegations on suggestions that that only indiscriminate use of explosive weapons is problematic. Narrowing the focus to indiscriminate use would undermine the value of this declaration which not only reflects the humanitarian impact on civilian and civilian objects, but critically commitments to identity, implement and share good practices to address risks associated with explosive weapons with wide area effects. CIVIC also support recommendations by Germany to include language on nonstate armed groups in section 4 and follow-on discussion on indirect effects of weapons.

On para 4.1, CIVIC welcomes language committing to strengthening international cooperation on good practices to enhance the protection of civilians including with relevant stakeholders. Given the growing practice of military coalitions and security assistance to parties to a conflict, CIVIC re-iterates our call that good practices and policies enacted pursuant to this Political Declaration be shared in security assistance and partnered operations. We have seen that some militaries who have enacted good policies and practices to mitigate civilian harm fail to share with partner forces thereby missing a critical opportunity, to minimize civilian harm by such forces. We recommend adding sentence, including as part of security assistance and during partnered operation to a party to armed conflict, in the first sentence.

On para 4.2 CIVIC recommends adding language collecting data of **civilian objects** to have a comprehensive analysis on civilian harm to improve military tactics, techniques, procedures, and support for follow on measures such as restoration of essential services and reconstruction initiatives. We also recommend adding language to record the location of use of explosive weapons to better support the work of organizations involved in mine clearance and risk awareness activities. We propose adding, "Record location of area, type and sizes of explosive weapons used to support unexploded ordnance clearance activities after hostilities end."

On para. 4.4, CIVIC welcomes the improvement of this paragraph and are encouraged by the more comprehensive understanding of victim. We however, recommend adding **age** as a consideration, along with gender and disabilities, in victims assistance programs. CIVIC re-iterates its recommendation to add types of victims assistance as recognized in landmines and cluster munitions frameworks.

CIVIC supports the language proposed by INEW on recommending states to provide safe, rapid, and unimpeded access to humanitarian relief by inserting new paragraph 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.

Mr Chair:

On para 3.1. CIVIC recommends extending protection to times both during and **after** armed conflict because harm caused by explosive weapons in populated areas lasts beyond the duration of armed conflict.

On para 3.2. CIVIC recommends adding language to strengthen training contextualized to urban areas, which is the most challenging given density of population, terrain, and infrastructure. Based on our on-the-ground engagement with armed actors, significant gaps exist in factoring in risk to civilians and civilian objects during urban operations. Specifically, to add Ensure comprehensive scenario-based training of our armed forces on International Humanitarian Law, and on the measures and good practices, adapted to the challenges of urban areas, including means and methods, to minimize risk to civilians and civilian objects ~~harm, including means be applied during the conduct of hostilities. in populated areas to~~

On para 3.3. CIVIC supports language in the declaration for states to commit to adopt policies and practices that will protect civilians from the effects of explosive weapons. The language refraining or restricting use of explosive weapons however, falls short of the action needed to protect civilians as it gives parties to conflict options of choosing to refrain or restrict the use of weapons. CIVIC supports the call of the ICRC and the Secretary General of the United Nations, as well as a number of states urging commitments to avoid the use of explosive weapons with wide area effects in populated areas. We therefore recommend using language to **avoid** using explosive weapons and add **with wide area effects in populated areas** unless sufficient mitigation measures can be taken to limit their wide area effects and risk of civilian harm. We also recommend removing qualifiers such as “*in accordance with IHL*” as it creates confusion on existing legal obligations and policy commitments.

Para 3.4. on planning and assessment of civilian harm can be strengthened to better reflect the goal of this political declaration. Based on our engaged with militaries through training and development of civilian harm mitigation tools and policies, CIVIC recommends including the more comprehensive post strike assessment and tracking of civilian harm, and not just battle damage assessment. The purpose of initial BDA is assess targeting of military objective and not discovering civilian harm and has been known to miss civilian deaths based on our analysis of examining military investigation reports. We also recommend linking such a tool as a way to support the commitments mentioned in the declaration on policies, lessons learned, and accountability mechanisms and correlate to paragraph 1.6. We have submitted language for consideration. We have seen the effectiveness of civilian harm tracking tools to inform mitigation measures and reduction of civilian harm.

On para 3.5 CIVIC welcomes commitments on the general duty to take precautions in attack under Additional Protocol I and customary IHL to protect civilians from the dangers of military operations, such as explosive ordnance. However, as formulated the paragraph refers to obligations of States party to the Convention on Certain Weapons (CCW) Protocol V. We, therefore, recommend distinguishing between legal obligations under IHL and policy commitments. We also recommend using explosive ordnance as it's a broader term and includes landmines and IEDs.