



Implementing the political declaration on explosive weapons in populated areas: questions and answers

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Firefighters try to extinguish fire at the community hall where Saudi-led warplanes struck a funeral in Sanaa, the capital of Yemen, October 9, 2016.



HUMANITARIAN CONSEQUENCES OF THE USE OF EXPLOSIVE WEAPONS IN POPULATED AREAS

Each year, tens of thousands of civilians are killed and injured by explosive weapons. Data shows that when explosive weapons are used in populated areas, 90% of victims are civilians. They suffer complex and life-changing injuries and long-term psychological distress. The bombing and shelling of towns and cities also destroys critical civilian infrastructure such as hospitals, schools and power and water systems which impacts the provision of essential services to the civilian population, further compounding their situation. Ongoing attacks involving explosive weapons, the destruction of housing and loss of access to essential services, as well as the presence of explosive remnants of war forces civilians to flee or leave their homes towards an uncertain fate. The destruction caused by explosive weapons has a dramatic impact on post-conflict reconstruction requirements which can escalate dramatically with protracted use of explosive weapons while also delaying if not reversing progress in the achievement of the Sustainable Development Goals.

This briefing paper outlines key questions and answers relating to the implementation of the 2022 *Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas*. It is aimed primarily at states that have endorsed the declaration or that are considering doing so.

WHAT IS THE DECLARATION?

The declaration is an international political commitment to address the devastating humanitarian consequences resulting from the use of explosive weapons in populated areas and to strengthen the protection of civilians in armed conflict. It aims to address both immediate and longer-term impacts of explosive weapons, during and after conflict. The declaration is the first formal international recognition that the use of explosive weapons in populated areas has severe humanitarian consequences (see text box) that must be addressed by states.

The declaration is the outcome of almost three years of consultations, led by the Republic of Ireland, involving states, the United Nations (UN), the International Committee of the Red Cross (ICRC) and civil-society organisations, including the International Network on Explosive Weapons (INEW). The consultations took place in November 2019, February 2020, March 2021 and April and June 2022.¹ The text of the *Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas*² was formally adopted and endorsed by 83 states (hereinafter, endorser states) on 18 November 2022.

HOW IS THE DECLARATION STRUCTURED?

The declaration begins with a preamble which describes the increased risk to civilians as armed conflicts have become more urbanised and outlines the humanitarian consequences resulting from the use of explosive weapons in populated areas, including their various direct and indirect or reverberating effects such as civilian deaths and injury, destruction of essential infrastructure, and forced displacement. The preamble is followed by an operative section with 14 commitments that endorser states and their armed forces have agreed to implement in order to strengthen the protection of civilians and civilian objects. Key among these is a commitment to avoid civilian harm by restricting or refraining from the use of explosive weapons in populated areas.

WHAT HAVE ENDORSER STATES AGREED TO DO?

States that endorse the declaration are committing to work together, along with the UN, ICRC, and civil society, to strengthen the protection of civilians from the use of explosive weapons in populated areas. Implementing the declaration will require action in a number of key areas, including:

- x Developing national policy and practice to restrict or refrain from the use of explosive weapons in populated areas when such use may be expected to cause harm to civilians or civilian objects.
- x Developing national policy and practice to protect civilians and civilian objects, including infrastructure critical to the survival of the civilian population, from the foreseeable direct and indirect or reverberating effects of military operations.
- x Establishing capacities to gather and share data to better understand the humanitarian consequences of military operations, including data on civilian harm and damage to civilian infrastructure, and on the use of explosive weapons.
- x Assisting victims, their families and affected communities, and facilitating humanitarian access to civilians in need.

Endorser states and other stakeholders also commit to meet regularly on an ongoing basis to review the declaration's implementation; identify any additional measures that may need to be taken; exchange good policy and practice to prevent or mitigate civilian harm; and exchange views on concepts and terminology. The first formal review meeting will be hosted by Norway in April 2024.

The declaration is not a treaty giving rise to legal obligations for the endorser states. However, endorser states are expected to act in good faith and implement, through changes to policy and practice, the commitments which they have voluntarily assumed through their endorsement of the declaration. Moreover, the declaration can be seen as a vehicle for improving the practical implementation of international humanitarian law (IHL) which is binding on state and non-state parties to conflict.

Unlike some international treaties, joining the declaration does not give rise to formal financial requirements, such as assessed contributions towards the cost of meetings and other institutional costs. However, funding from states will be necessary to support the convening of review meetings (see below) and other activities under the declaration.

DOES THE DECLARATION APPLY TO ALL TYPES OF MILITARY OPERATIONS IN ARMED CONFLICT?

States that endorse the declaration are agreeing to implement a comprehensive set of measures to strengthen the protection of civilians and civilian objects during and after armed conflict, address the humanitarian consequences arising from armed conflict involving the use of explosive weapons in populated areas, and strengthen compliance with and improve the implementation of IHL.³ The declaration does not refer to, or distinguish between, different types of military operations within the context of an armed conflict. It should be interpreted, therefore, to apply to all types of military operations in armed conflict,



Soldiers checking ammunition

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including counter-terrorism, counter-insurgency and large-scale combat operations. The threshold for inclusion within the scope of the declaration is not the type of operation but whether it involves the use of explosive weapons in populated areas against which strengthened protection of civilians is required, in line with the declaration.

WHAT DOES IMPLEMENTATION INVOLVE?

Implementation is an ongoing process and endorser states will move through that process at different speeds. However, the direction of travel is clear. The declaration sets an agenda for the progressive realisation of strengthened protection of civilians from the use of explosive weapons in populated areas with a focus on achieving this through changes to military policy and practice.

It is recommended that endorser states move expeditiously to begin the process of implementing the declaration so that a broad expectation and culture of implementation develops from the outset. Interpretation of some commitments in the declaration will require detailed discussion among states, the UN, ICRC, and civil society with a view to working towards common understandings. INEW will continue to work with states to build and, over time, refine common understandings of how to implement the declaration in order to produce the strongest protection outcomes for civilians.

As a first step, endorser states should disseminate the declaration within relevant government departments as well as the armed forces, internalise the declaration, understand what the commitments mean in practical terms and how they should be implemented, including the review and assessment of existing policies and practices. This could involve appointing national implementation focal points or task forces and convening national or sub-regional workshops, including trainings or briefings on the declaration for relevant government officials and armed forces members.

Ideally, states would undertake a review of their existing policies and practices relevant to the protection of civilians in armed conflict, including through dialogue with the UN, ICRC, and civil society. However confident endorser states are of their existing efforts to protect civilians in their military operations, they should not automatically consider those efforts sufficient for meeting their commitments under the declaration to avoid civilian harm from the use of explosive weapons. All states that endorse the declaration should do so with the expectation that they will be required to review and revise existing, or develop new, policies and practices to strengthen the protection of civilians in line with the declaration. This will be a continuous process, requiring ongoing review, assessment, and dialogue with a view to further strengthening the protection of civilians over time.

The revision of existing, or the development of new, policies and practices will be the principle means for implementation of the declaration's commitments. In some cases, it may be appropriate or desirable to develop a stand-alone protection of civilians policy

which incorporates the declaration's commitments and establishes the necessary processes and capacities for their implementation. It may also be necessary to revise existing military doctrine, such as that relating to targeting and to urban warfare; to update military manuals; to develop new or revise existing training syllabi and materials; and to ensure that the declaration's commitments are given effect at the operational and tactical levels, such as through their inclusion in rules of engagement developed for specific operations.

THE DECLARATION CONTAINS 14 OPERATIVE COMMITMENTS. WHERE IS THE BEST PLACE TO START?

It is recommended that states move expeditiously to begin to implement the commitments to:

- ✗ Restrict or refrain from the use of explosive weapons in populated areas.
- ✗ Protect civilians from explosive weapons use in the planning and conduct of military operations.
- ✗ Collect and share data on the impact on civilians of the use of explosive weapons in populated areas.
- ✗ Provide assistance to the victims of explosive weapons, their families and communities.

These commitments are particularly important. They speak directly to protecting civilians from the use of explosive weapons in populated areas and its aftermath. Their implementation at an early stage would have an immediate impact in protecting civilians.

CONSIDERATIONS FOR IMPLEMENTING THE COMMITMENT TO RESTRICT OR REFRAIN FROM THE USE OF EXPLOSIVE WEAPONS IN POPULATED AREAS⁴

Paragraph 3.3 of the declaration commits endorser states to ensure that their armed forces:

adopt and implement 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.

To implement this commitment, it is recommended that the armed forces of endorser states develop new, or revise existing, policy that considers the following:

- ✗ First, how to assess and determine when the use of explosive weapons in populated areas may be expected to harm civilians or civilian objects.
- ✗ Second, how to determine whether to *restrict* or *refrain from* the use of explosive weapons in populated areas when such use is expected to cause harm to civilians or civilian objects.



A man is seen at the site of an airstrike that destroyed the Community College in Saada, Yemen April 12, 2018.

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Assessing and determining when the use of explosive weapons in populated areas may be expected to cause harm to civilians or civilian objects requires an understanding of the relationship that exists between the extent of area effects of explosive weapons and the risks they pose to civilians and civilian objects when used in populated areas. Generally speaking, the greater the area effects of the weapon, the greater the risk of harm. On this basis, determining whether the use of explosive weapons may be expected to harm civilians and civilian objects could be facilitated through the establishment in policy of processes and practice that provide for:

- x Prior assessment of the *technical characteristics of explosive weapons* to ensure that commanders and other military personnel authorising the use of explosive weapons understand the scale of area effects of specific weapons and the corresponding likelihood of harm.
- x 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 Real-time assessment of the *specific operational context* in which explosive weapons will be used in order to understand how this will influence weapon effects and the potential for harm from direct and indirect or reverberating effects.

When the use of explosive weapons in populated areas may be expected to cause harm, armed forces must determine whether to *restrict* or *refrain from* the use of explosive weapons. As a general rule, it is recommended that militaries *restrict* the use of explosive weapons in populated areas due to the actual or presumed presence of civilians and civilian objects in such areas. The use of a weapon that projects blast, heat, and fragmentation within a concentration of civilians and civilian objects inevitably has the potential to cause harm. Such use should, therefore, be limited to situations where it is *not* expected to cause harm to civilians or civilian objects.

Militaries should *refrain from* the use of explosive weapons in populated areas when the area effects are expected to extend beyond the military objective and, therefore, pose a risk to civilians and civilian objects within the vicinity of the strike. In a populated area, the greater the distance at which the blast and fragmentation effects extend beyond the military objective (due to the large explosive content of the weapon or its inaccuracy) and the greater the area covered by explosive weapons (in the case of the use of multiple munitions), the greater the likelihood of harm to civilians and civilian objects within the vicinity of the military objective – often referred to as “wide area effects”.

Again, these considerations could be usefully embedded in new or revised policy and practice, as appropriate.

CONSIDERATIONS FOR IMPLEMENTING THE COMMITMENT TO PROTECT CIVILIANS FROM THE DIRECT AND INDIRECT – OR REVERBERATING EFFECTS – OF EXPLOSIVE WEAPONS IN THE PLANNING AND CONDUCT OF MILITARY OPERATIONS

Paragraph 3.4 commits states to:

Ensure that [their] 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.

A key consideration in implementing this commitment is the need to understand the nature and composition of the populated area in which operations are to be conducted and the direct and indirect effects that can reasonably be foreseen to arise as a result of those operations. This is particularly the case with regard to operations in the built environment. When explosive weapons are used in built environments, there is an elevated risk of harm to civilians and civilian objects. Moreover, damage to or destruction of civilian objects can have important indirect or reverberating effects.

Paragraphs 1.3-1.6 of the preamble provide an overview of the direct and indirect or reverberating effects of the use of explosive weapons which have been documented in recent armed conflicts and may, therefore, be considered representative of the different effects that “can reasonably be foreseen” to result from operations in populated areas. Taking these effects into account in the planning of operations and the execution of attacks could be achieved through the development of new, or the revision of existing, policy which, *inter alia*, provides for the following:

- x Review and refinement of baseline assumptions about the presence and behaviour of civilians and the presence of civilian objects in populated areas, including following warnings and evacuation orders. They should err on the side of caution and always assume the presence of civilians unless confirmed otherwise.
- x Establishment of processes to:
 - Positively identify military objectives and to identify and monitor civilian presence, including pattern of life analyses, and the location of civilian objects, including essential infrastructure, in particular, within the vicinity of potential military objectives.
 - Facilitate an understanding of the value and significance of civilian objects, including critical infrastructure, for the civilian population.
 - Ensure that the presence of civilians and civilian objects, including those that have particular value and significance for the civilian population, is incorporated into the targeting process (including through the participation of subject-matter experts such as engineers, urban planners, etc.) in order

to avoid or mitigate harm to civilians and civilian objects in the context of both deliberate and dynamic attacks.

- Ensure that the presence of civilians is accounted for up to the point at which the strike takes place; and when there is doubt, for delaying or aborting the strike.
- x Review and continuous refinement of the understanding of “reasonably foreseeable” indirect or reverberating effects, taking into account the expanding research base that has improved understanding of the likelihood, nature, and scope of such effects.
- x Refinement of the understanding of, and ability to anticipate, indirect or reverberating effects resulting from both individual and cumulative attacks.
- x Inclusion of consultation with subject-matter experts (urban planners, civil engineers, water and sanitation engineers, public health experts, etc.) in the targeting cycle to inform analysis of the role and significance of civilian infrastructure and anticipation of indirect or reverberating effects. This analysis should inform a civilian object’s protected status and inclusion on the no-strike list which, along with any subsequent changes, should be communicated to the civilian population.
- x Availability of weaponizing and other options to mitigate indirect or reverberating effects.

CONSIDERATIONS FOR IMPLEMENTING THE COMMITMENTS TO COLLECT AND SHARE DATA ON THE USE OF EXPLOSIVE WEAPONS AND THEIR IMPACT

Paragraph 4.2 commits states to:

Collect, share, and make publicly available disaggregated data on the direct and indirect effects on civilians and civilian objects of military operations involving the use of explosive weapons in populated areas, where feasible and appropriate.

It should be read in conjunction with paragraph 3.4 which commits states to:

Ensure that their armed forces ... conduct damage assessments to the degree feasible, and identify lessons learned.

In addition, paragraph 4.3 commits states to:

Facilitate the work of the [UN, ICRC, and civil society organizations] collecting data on the impact on civilians of military operations involving the use of explosive weapons in populated areas, as appropriate.

Implementation of the commitments in paragraphs 4.2 and 3.4 could be readily achieved through the practice of civilian harm tracking which has been implemented by a number of armed forces in different contexts. Civilian harm tracking is an internal

process through which an armed actor systematically gathers data on civilian deaths and injuries, property damage or destruction, and other instances of harm to civilians caused by its operations. It is more comprehensive than “damage assessments” or “battle damage assessments” (BDAs) as they are more commonly known. The principal function of BDAs is to assess the effect or degree of damage inflicted on a target and to make recommendations for additional strikes. They are not intended to assess civilian harm.

A concerted effort to understand the impact of military operations on civilians and civilian objects, including from the use of explosive weapons, is vital in order to ensure accountability and redress, learn lessons and continuously work to strengthen the protection of civilians over time. In order to implement the actions contained in paragraphs 4.2 and 3.4, it is recommended that militaries revise existing, or develop new, policy which provides for the establishment of:

- x Standing capabilities to track, receive, analyze, and learn from, incidents of harm to civilians and civilian objects that would also provide the basis for regular, public reporting.
- x Processes to ensure that analyses, findings and lessons-learned routinely inform operational changes and broader policy development in support of more effective protection of civilians.

The commitment in paragraph 4.3 to facilitate the work of the UN, ICRC and civil society organizations collecting data on the impact of explosive weapons should be understood broadly to include a range of possible actions which should be reflected in revised or new policy and practice. These include:

- x Collecting, sharing, and making publicly available to the UN, ICRC and civil society organizations disaggregated data on the direct and indirect effects on civilians and civilian objects of military operations involving the use of explosive weapons in populated areas (as provided for in paragraph 4.2)
- x Commissioning and/or funding research and studies by these actors into the short and long-term impact of the use of explosive weapons in populated areas to further understanding of those impacts, the nature and scope of what is “reasonably foreseeable”, and the steps required to prevent and mitigate them.
- x Supporting ERW risk education, marking and clearance activities by these actors by providing them with data on the use of explosive weapons, including the approximate number of explosive weapons used, the type and nature of explosive weapons used, and the general location of known and probably unexploded ordnance.

CONSIDERATIONS FOR IMPLEMENTING THE COMMITMENT TO ASSIST VICTIMS, THEIR FAMILIES AND COMMUNITIES AFFECTED BY ARMED CONFLICT

Paragraph 4.5 commits states to:

Provide, facilitate, or support assistance to victims - people injured, survivors, families of people killed or injured - as well as communities affected by armed conflict. Adopt a holistic, integrated, gender-sensitive, and non-discriminatory approach to such assistance, taking into account the rights of persons with disabilities, and supporting post-conflict recovery and durable solutions.

Paragraph 4.5 refers to two types of assistance: assistance to victims of explosive weapons – people injured, survivors, and families of people killed and injured – and assistance to communities affected by armed conflict. While these types of assistance often overlap, they are not necessarily the same. Victim assistance refers to particular types of medical, psychological, and financial assistance that are required by people as a result of their being injured by an explosive weapon, or because members of their family were killed or injured in this way. Assistance to conflict-affected communities is broader and refers to life-saving and other humanitarian assistance required by the civilian population as a result of an armed conflict. It is often provided by the UN, ICRC, and other non-governmental humanitarian organizations. When considering the actions required to implement the commitment to assist the victims of explosive weapons, their families and communities affected by armed conflict, it is helpful to break those actions down into following categories:

- x Immediate actions in support of victims by the armed forces of endorser states.
- x Conflict-affected state actions in support of victims.
- x Conflict-affected state actions in support conflict-affected populations.
- x Broader state actions in support of victims and conflict-affected communities.

IMMEDIATE ACTIONS IN SUPPORT OF VICTIMS BY THE ARMED FORCES OF ENDORSER STATES

Injuries inflicted by explosive weapons require prompt and appropriate medical care. The responsibility for such care in the immediate aftermath of an attack will generally fall on local first responders. Parties to conflict also have obligations under IHL to care for the wounded and sick, including civilians, which are relevant to the implementation of paragraph 4.5.⁵ In particular, the armed forces of endorser states that are also parties to an armed conflict should implement the following actions in support of the victims of explosive weapons:

- x Take all possible measures to search for, collect, and evacuate the wounded and sick without adverse distinction, whenever

circumstances permit, and particularly after an engagement and without delay.

- X Provide, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition with no distinction on any grounds other than medical ones.
- X Take all possible measures to protect the wounded and sick against ill treatment and against pillage of their personal property.

CONFLICT-AFFECTED STATE ACTIONS IN SUPPORT OF VICTIMS

Endorser states that are affected by armed conflict should also take actions to support victim assistance. This includes neighbouring and other states hosting refugee populations that include victims of explosive weapons who require assistance. In implementing the commitment in paragraph 4.5 conflict-affected endorser states should:

- X Assess the needs of victims.
- X Develop, implement and enforce any necessary national laws and policies.
- X Develop a national plan and budget, including timeframes to carry out assistance activities, with a view to incorporating them within as well as supporting applicable national disability, development and human rights frameworks and mechanisms, while respecting the specific role and contribution of relevant actors.
- X Seek to mobilize national and international resources.
- X Ensure that differences in treatment are based only on medical, rehabilitative, psychological, or socio-economic needs.
- X Closely consult with, and actively involve, victims and their representative organizations.
- X Designate a focal point within the government for coordination of matters relating to assistance to the victims of explosive weapons.
- X Incorporate relevant guidelines and good practices including in the areas of medical care, rehabilitation, and psychological support, as well as social and economic inclusion.

CONFLICT-AFFECTED STATE ACTIONS IN SUPPORT OF CONFLICT-AFFECTED POPULATIONS

Endorser states have also committed to provide, facilitate, and support assistance to the conflict-affected population more broadly. For endorser states that are also parties to conflict, IHL provides that parties to conflict bear the primary responsibility for ensuring the basic needs of conflict-affected populations under their control. However, parties to conflict may be unable or unwilling to provide such assistance. In such situations, the

affected state should facilitate rapid, safe, and unhindered humanitarian access by the UN, ICRC, and other relevant international and civil society organizations, as also required by paragraph 4.4 of the declaration.⁶

BROADER STATE ACTIONS IN SUPPORT OF VICTIMS AND CONFLICT-AFFECTED COMMUNITIES

Implementation of the commitment in paragraph 4.5 also has implications for the broader community of endorser states who are expected to *facilitate* and *support* assistance to victims and conflict-affected communities. This could involve a range of actions, including:

- X Financial support to victim assistance organizations as well as humanitarian appeals and development programmes in support of conflict-affected populations. This should include support to strengthen the capacity of conflict-affected and refugee-hosting states to respond to traumatic injuries and provide psychological, psychosocial and rehabilitation assistance.
- X For states neighbouring conflict-affected states, facilitating rapid, safe, and unhindered cross-border access by the UN, ICRC and other organizations providing victim assistance and humanitarian assistance more generally.

ARE ENDORSER STATES EXPECTED TO REPORT ON PROGRESS IN IMPLEMENTING THE DECLARATION?

Paragraph 4.7 commits states to:

Meet on a regular basis to review in a collaborative spirit the implementation of this Declaration and identify any relevant additional measures that may need to be taken. These meetings could include the exchange and compilation of good policies and practices and an exchange of views on emerging concepts and terminology.

It further provides that:

The [UN], the ICRC, other relevant international organisations and civil society organisations may participate in these meetings. We encourage further work, including structured intergovernmental and military-to-military exchanges, which may help to inform meetings on this Declaration.

Paragraph 4.7 essentially contains two commitments. First, to meet regularly to review implementation of the declaration and identify additional measures to support its implementation; and second, to undertake further work to help to inform such review meetings. Norway has announced that it will convene the first meeting to review implementation in April 2024.

Endorser states could use review meetings to reaffirm their commitment to the declaration, provide updates on their progress in implementation, specific steps taken and lessons-learned, and encourage endorsement and implementation by other states.

Participation at the review meetings should be open to all endorser states as well as the UN, ICRC, and other relevant international and civil society organizations. Interested non-endorser states could also participate in review meetings, in line with the commitment in paragraph 4.8 to actively promote the declaration and its adoption and implementation by the greatest possible number of states. Review meetings provide important points of focus for such states to announce their endorsement of the declaration. Their participation would also allow them to learn from the steps taken by endorser states to implement the declaration.

ASIDE FROM THE REVIEW MEETINGS, IN WHAT OTHER WAYS CAN STATES WORK COLLECTIVELY TO PROMOTE AND IMPLEMENT THE DECLARATION?

Paragraph 4.7 encourages further work to help inform the review meetings, including structured intergovernmental and military-to-military exchanges. Again, it is important to include the UN, ICRC, and civil society organizations, including through INEW, in such meetings. These actors have significant expertise and understanding of the nature and scope of civilian harm and how this can be addressed. They are also undertaking a range of activities to support implementation and universalisation of the declaration. Such actors play an important role in facilitating intergovernmental and military-to-military exchanges which have been useful in helping to inform state understandings of the problem and response options⁷, as well as undertaking research, data collection, developing policy recommendations, and undertaking outreach.

Regional and sub-regional workshops also offer a useful means of supporting implementation. They provide an opportunity to raise awareness, promote endorsement in the region, and build

relationships for implementation at the regional level. The workshops could be tailored thematically and concentrate on the aspects of the declaration most relevant to the states of the region.

Individual states could also convene national workshops, including trainings on the declaration for relevant government officials and members of the armed forces. This could include scenario-based discussion and training activities which can be a helpful tool for advancing conversations on implementation. Ensuring a home or focal point for declaration work, individuals willing to take ownership and leadership, and cooperation and agreement between ministries of foreign affairs and defence and within the armed forces on the purpose and value of the declaration are also important factors for progress on implementation.

HOW SHOULD ENDORSER STATES PROMOTE FURTHER ENDORSEMENTS AND UNIVERSALISATION OF THE DECLARATION?

Paragraph 4.8 commits states to actively promote the declaration, distribute it to all relevant stakeholders, and pursue its adoption by the greatest possible number of States. In addition to the above-mentioned role of both the review conferences as a focus for future endorsements and of the state-leadership-group, numerous opportunities exist for endorsing states to promote and call for endorsement of the declaration by other states. These include in the context of:

- ✗ Statements at the annual Security Council debates on the protection of civilians in armed conflict.
- ✗ Statements to the General Assembly's First Committee.



A soldier moves through an urban training facility and uses simulated rounds to enhance the training's realism on Fort Hood, Texas, March 10, 2016.

Mike Whitehurst, UK MOD © Crown copyright 2016

- X Public statements on specific conflict situations.
- X Other, relevant, thematic issues and discussions, such as children and armed conflict; the protection of healthcare in armed conflict; protection of education/Safe Schools Declaration.
- X Relevant bilateral meetings with non-endorser states.
- X Relevant regional meetings involving non-endorser states.
- X In the context of military-military cooperation, partnerships and security assistance programmes with the armed forces of non-endorser states (see below).

HOW SHOULD ENDORSER STATES SEEK ADHERENCE TO THE DECLARATION BY PARTIES TO CONFLICT, INCLUDING NON-STATE ARMED GROUPS?

Paragraph 4.8 also commits endorser states to seek adherence to the declaration's commitments by all parties to armed conflict, including non-state armed groups. This effectively extends the reach of the declaration's commitments to the armed forces of non-endorser states and non-state armed groups that are also parties to armed conflict.

It is particularly relevant to endorser states that have established military partnerships or security cooperation programmes with the armed forces of non-endorser states and/or non-state armed groups. Such partnerships and programmes offer significant opportunities to influence the behaviour of, and support implementation of IHL and the protection of civilians by, partner forces.⁸ Endorsement could be a condition for concluding such partnerships and programmes between the armed forces of endorser and non-endorser states. Specific commitments, in particular those limiting the use of explosive weapons in populated areas, protecting civilians from direct and indirect effects, and assisting victims and conflict-affected populations, could also be included within partnership and cooperation agreements.

ENDNOTES

- 1 For further information on the consultation process, see the website of the Department of Foreign Affairs of Ireland: <https://www.dfa.ie/our-role-policies/international-priorities/peace-and-security/ewipa-consultations/> and INEW, at: <https://www.inew.org/declaration-negotiations/>
- 2 See: <https://www.dfa.ie/media/dfa/ourrolepolicies/peaceandsecurity/ewipa/EWIPA-Political-Declaration-Final-Rev-25052022.pdf>
- 3 As outlined in the chapeau paragraph to "Part B: Operative Section" of the declaration.
- 4 For more detailed information on the actions that can be taken to implement these key commitments see: Simon Bagshaw, *Implementing the Political Declaration on the Use of Explosive Weapons in Populated Areas: Key Areas and Implementing Actions*, Article 36 Policy Briefing (November 2022), at: <https://article36.org/updates/publication/implementing-the-political-declaration-on-the-use-of-explosive-weapons-in-populated-areas-key-areas-and-implementing-actions/>
- 5 See Rules 109-111, ICRC, Customary IHL Database: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule109
- 6 Paragraph 4.4: Facilitate rapid, safe, and unhindered humanitarian access to those in need in situations of armed conflict in accordance with applicable international law, including International Humanitarian Law.
- 7 See, for example, OCHA and Chatham House, *Expert Meeting on the Reducing the Humanitarian Impact of the Use of Explosive Weapons in Populated Areas, London, 23-24 September 2013 – Summary Report*; OCHA and Ministry of Foreign Affairs of Norway, *Informal Expert Meeting on Strengthening the Protection of Civilians from the Use of Explosive Weapons in Populated Areas Oslo, Norway, 17-18 June 2014 Summary Report by OCHA* (2014); ICRC, *Expert Meeting: Explosive Weapons in Populated Areas: Humanitarian, Legal, Technical and Military Aspects, Chavannes de Bogis, Switzerland 24-25 February 2015* (2015); Article 36 and CIVIC, *Report on a Workshop Examining Military Policies and Practices on the Use of Explosive Weapons in Populated Areas 2-3 May 2018* (2018).
- 8 See, for example, Cordula Droege and David Tuck, "Fighting Together: Obligations and Opportunities in Partnered Warfare", *ICRC Humanitarian Law and Policy* (28 March 2017), at: <https://blogs.icrc.org/law-and-policy/2017/03/28/fighting-together-obligations-opportunities-partnered-warfare/>