Addressing the civilian harm caused by the use of explosive weapons in populated areas:

Key points

Non-paper by the International Committee of the Red Cross (ICRC)

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Since 2011, the International Committee of the Red Cross (ICRC) has been calling on States and all parties to armed conflict to avoid the use of explosive weapons with a wide impact area in populated areas due to the significant likelihood of indiscriminate effects, a call reiterated in the Joint Appeal issued by ICRC President, Peter Maurer and United Nations Secretary-General, António Guterres on 18 September 2019.

An avoidance policy suggests a presumption of non-use of “heavy” explosive weapons in populated areas, unless sufficient mitigation measures are taken to limit the wide area effects of the weapon and the consequent risk of incidental civilian harm. These measures, in the form of guidance and “good practice”, should be put in place well in advance of military operations and faithfully implemented when hostilities are conducted in populated areas.

The ICRC submits that, in working towards the development of a political declaration, as well as appropriate limitations, common standards and operational policies in conformity with international humanitarian law (IHL) relating to the use of explosive weapons in populated areas, States should consider the following key points:

1. The use of explosive weapons with a wide impact area in populated areas is likely to have significant humanitarian consequences. These include not only the direct effects of such use (death or injury of civilians or destruction of civilian objects), but also the indirect or ‘reverberating’ effects (e.g. the disruption of essential services caused by damage or destruction of critical infrastructure).

2. In particular, the use against military objectives located in populated areas of explosive weapons that have wide area effects due to their high explosive yield, the inaccuracy of their delivery system and/or their delivery of multiple munitions simultaneously over a large area (e.g. large bombs and missiles, artillery, mortars and multi-barrel rocket launchers) entails a high risk of civilian harm. These weapons are therefore ill-adapted for use in populated areas.

3. Urgent action is needed to reduce the risks posed to civilians by the use of these weapons, including through strengthening compliance with IHL.

4. Respect for IHL, in particular the prohibitions of indiscriminate and disproportionate attacks and the obligation to take all feasible precautions in attack, is critical when hostilities are conducted in populated areas, where military objectives and civilian objects are comingled, and civilians are at great risk of harm.
5. However, it is challenging to employ explosive weapons with a wide impact area against military objectives located in populated areas in conformity with the IHL prohibitions of indiscriminate and disproportionate attacks.

6. There is a need for an unequivocal political commitment to avoid, as a matter of policy, the use of explosive weapons with a wide impact area in populated areas, unless sufficient mitigation measures are taken to limit their wide area effects and the consequent risk of incidental civilian harm.

7. There is a need for an unequivocal political commitment to put in place such mitigation measures and to review and adapt military policy and practice, including doctrine, training and equipment, so as to better prepare armed forces for urban warfare.

8. To better protect civilians in urban warfare, there is a need to identify, develop and exchange “good practices” in relation to weapon-target matching, targeting procedures, planning and training, as well as tracking of civilian casualties, battle damage assessments and lessons learned, exports of heavy explosive weapons and support to parties to armed conflict.

9. There is a need to strengthen data collection on the humanitarian impact of the use of explosive weapons with a wide impact area in populated areas.

10. Victims of explosive weapons have a need for adequate assistance, including in the form of physical rehabilitation, psychosocial support and socio-economic reintegration.