Opportunities to strengthen military policies and practices to reduce civilian harm from explosive weapons

Food-for-Thought Paper

Executive Summary
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“We were told to reduce civilian casualties, but we have not been told how to achieve that.”
— An Iraqi officer on lessons from ISF operations against ISIS in urban areas.

More can be done to protect civilians from explosive weapons in urban and other civilian-concentrated areas. Exchange of good policy and practice among militaries to reduce risks to civilians and further strengthen mitigation measures play an essential role in achieving this objective.

Conflicts have become asymmetrical, fragmented and protracted. They can take place in urbanized environments, with hostilities often being conducted in or near populated areas, which include a concentration of civilians and civilian objects. The increased prevalence of non-international armed conflict, in which the parties to conflict include violent extremist groups, proxy forces, and groups with blurred political as well as criminal agendas, exacerbates the challenge of protecting civilians from the effects of urban warfare. Contemporary adversaries are often non-state armed groups, who may exploit proximity to civilians and critical infrastructure for their own ends and may not respect International Humanitarian Law. Civilians in such conflicts face a range of threats, including from use of explosive weapons with wide-area effects in urban and other civilian-concentrated areas.

Empirical evidence reveals that the use of explosive weapons can result in widespread patterns of harm to civilians when used in urban environments. In part because of the sustained air campaign, Yemen has been described as the worst humanitarian crisis since the Second World War, with Syria close behind. In Iraq, Mosul and other cities occupied and liberated from ISIS are largely uninhabitable. These conflicts have in common the extensive use of explosive weapons in urban and other civilian-concentrated areas. As a result, many civilians were killed or harmed, and essential services and medical care were compromised, famine and disease were at crisis levels, and local populations suffered massive displacement.

In some cases, such devastation is the result of armed actors, in particular non-state armed groups acting with impunity, or State actors who willfully ignore their international legal obligations. But other examples of civilian harm from explosive weapons occur even when professional militaries are committed to complying with their international legal obligations, including conducting operations with distinction, proportionality, and the employment of feasible precautions. This points to a difficult reality: many civilians can be harmed in conflict even when States seek to comply with International Humanitarian Law.

The last twenty years of military operations shows that more can be done to protect civilians. Notable examples include AMISOM’s development of indirect fire policy in Somalia; ISAF’s approach to center its strategy around protecting civilians; UN’s development and deployment of policy on protection of civilian in UN peacekeeping operations; as well as NATO’s use of precautionary measures in Libya. These examples illustrate that armed forces in multilateral operations can and have done more to protect civilians.

There is an opportunity to build on these measures and lessons learned to further strengthen military policy and practices to reduce harm to civilians in urban and other civilian-concentrated areas. Initial steps could include better documentation and collection of good policy and practices to reduce risks to civilians from explosive weapons. Such consolidation of good policy and practice can help States institutionalize the lessons learned from past operations into military doctrine and operational procedures, provide a basis for sharing them among different militaries, and carry lessons and practices over from one conflict to another. As a result, improvements may be made within the context of an operation, but it may also enable States and militaries to learn and adapt to better protect civilians over time.

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1 “Policies and practices to protect civilians: Lessons from ISF Operations against ISIS in Urban Areas”, CIVIC.
UNIDIR seeks to support the ongoing efforts of States and militaries through conducting policy research and encouraging dialogue among militaries on this topic.

UNIDIR’s research frames the issue of explosive weapons in the broader context of protection of civilians and civilian harm mitigation. The research takes a comprehensive approach to protection from a Risk perspective—i.e. seeking to understand where the risks and uncertainties lie in the entire civilian harm mitigation “life cycle”. This comprehensive life cycle approach reflects care in civilian protection being taken at all points in the planning and use of military force and includes learning loops so that militaries can adapt and improve to overcome risks and challenges.

This approach permits a broader number of options for potential implementation to be considered, whilst making it more relevant to different operational contexts as well as to different types of multilateral operations, such as those conducted by UN, AU, G5 Sahel, NATO or EU, for example. UNIDIR accepts that the type of urbanized environments and mandates under which multilateral organizations are very different, so that no one solution will fit all or be appropriate.

Key points raised in this Food-for-Thought paper

The Food-for-Thought paper seeks to stimulate thinking amongst military subject matter experts and selected representatives of IO/NGO and ICRC ahead of an informal expert workshop in Geneva on 24 September 2019.

First, the paper introduces the framework for this research, including its methodology. There are three key working assumptions for this research:

- The target audience are those armed forces who seek to comply with IHL/LOAC/IHRL and not those who consistently and repeatedly violate their obligations.
- Reducing risks to civilians from the use of explosive weapons in urbanized environments requires choices in military strategy and capability to be made available to a deployed force.
- Conduct of operations in urbanized environments is often context-specific. Nonetheless, the exchange of good military policy and practices among States and militaries can help inform efforts to reduce risks to civilians and further strengthen mitigation measures.

Second, the paper focuses on planning and formulating a mandate. It examines risks associated with, and challenges to, protecting civilians in urban environments in relation to the following issues:

- The multiplicity of actors in a chaotic urban and civilian-concentrated settings;
- Differing levels of compliance by armed actors with International Humanitarian Law and what it informs militaries about risks to the civilian population;
- The risks and challenges that Non-State Armed Groups (NSAG) present when conducting operations, sometimes as a Partner to a State;
- The challenges posed by the obligations of cultural property protection and the attack on cultural property through explosive weapons to intimidate and coerce a civilian population; and
- The dynamic nature of urban warfare and evolution of military campaigns over time as warring Parties seek an advantage over their opponents and the implications for formulating a mandate, planning and resourcing capabilities.

Third, the paper examines the issue of Intelligence and the central role it plays in military decision-making and risk management. It stresses the importance of accurate, high quality and timely data collection and sharing to avoid unnecessary harm to the civilian population and humanitarian actors, acknowledging the challenges this presents. In particular, the paper emphasizes that:

- The level of detail required in urban environments to minimize civilian casualties as well as collateral damage to structures requires adequate resources to support States’ intelligence
capabilities, including over time, thus **prioritization of data collection at the planning stage** is essential;

- Reducing civilian harm requires investment by militaries to understand the operational environment better, and this requires **accurate and timely information to be gathered from a wide range of credible sources**; and
- There are **institutional and systemic barriers to effective information exchange** between multiple stakeholders in theatre. Civilians and civilian objects are at greater risk from military operations where the available information is poor.

Fourth, the paper focuses on **target development and weaponeering**, which covers issues relevant to policy direction, target vetting, choices of explosive weapons to be employed, Collateral Damage Estimate methodologies, as well as close combat challenges. The paper highlights several key points:

- There is an opportunity to consider what more might be done to **enhance confidence and reliability of targeting information, especially when there are no ground forces deployed**;
- Targeteers are responsible to constantly ask of themselves whether there are other options available that might deliver the same effect with less risk to civilian harm. The dynamic and changing nature of urban environments may pose unique challenges to the guiding principles of **proportionality, necessity, unnecessary suffering and distinction** to determine whether to strike, wait until the situation changes (i.e. tactical patience), consider other methods of achieving the objectives (i.e. tactical alternative) or not to take action;
- **Collateral damage estimation methodologies are essential in enabling decisions to be made on whether to strike a target**—however, it has its limitations, such as: a) the methodology may not be widely available; b) its use requires sufficient training for targeteers; and c) some items (e.g. non-lethal materiel that may be incendiary in nature) and risks (e.g. unexpected movement of civilians, changes in delivery tactics at the time of operations or close combat scenarios) are not covered by the methodology. Moreover, there are challenges in estimating the secondary and tertiary effects.

Fifth, the paper focuses on the issue of **target engagement**—the process of physically attacking a target—and examines challenges and opportunities relating to pre-deployment training; delivering precautionary warnings; and artillery procedures among other topics. The paper elaborates on several key points:

- Pre-deployment training is a vital component for reducing civilian harm, and the culmination of **training should capture targeting requirements and restrictions** to allow for weapons effects to be fully understood;
- Providing **feasible precautions is a requirement and further dialogue and exchange of good practices relating to precautionary warnings among militaries can help reduce risk to civilians**. Such exchange will help understand and address implementation challenges, including on the one hand, the need to preserve operational security to maintain a military advantage in order to reduce the risk to own forces; and on the other hand, being mindful of the strategic and operational risks that accidental civilian casualties would cause in terms of political and population support.
- **Maintaining positive identification in an urbanized environment is challenging**, including when an adversary may be mobile, using camouflage and deception or simple obscuration drills in civilian-concentrated areas, and **there is a risk that re-acquiring the target may result in mis-identification**.

Finally, the paper loops back in the ‘life cycle’ approach by examining issues pertaining to **assessment, response and lessons identified**, which provides an informed understanding of the effects military actions have had on civilians, consists of measures to mitigate those effects when possible, and informs in-operations learning, where assessments of causes and trends directly informs the improvement of operational practices and policies within the context of an ongoing operation. That same process should
also aim to promote institutional learning over time. The paper focuses on issues pertaining to accessibility to the damaged sites for assessment purposes; capacity to investigate and respond to incidents; as well as amends and victim assistance. Key points addressed in the paper include:

- **Battle Damage Assessment**—which provides feedback on the performance of the mission (Measure of Performance) as well as the effectiveness of the mission (Measure of Effectiveness)—and its limitations, including how restrictions posed by time and access affect its effectiveness. The paper also poses important questions about how indirect and reverberating effects of explosives are considered (or not) as part of the assessment process.
  - Challenges relating to capacity of militaries to cover the spectrum of media platforms and other external sources that could provide information to support its own assessment, including how to gain on-the-ground information when there are no Boots-on-the-Ground (BOOG);
  - The need for **timely processes for learning** by militaries to correct potential errors in the planning and conduct of strikes, as well as to manage the consequences; and
  - The need to consider **amends and victim assistance at the planning stage and to ensure that appropriate processes and resourcing are put in place.**