

Article36

Oslo follow up conference to the *Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas*

23 April 2024, Oslo, Norway

Laura Boillot, Article 36, Director
Speaker on the panel on military policies and practices

Article 36 has been one of the most vocal advocates for the EWIPA declaration. You have been engaging directly with military experts through workshops over the last years and have led assessments of states' military policies. Based on your engagement with armed forces, what are some of the challenges and opportunities you see?

Thank you for inviting me to participate in this discussion. I am going to start with the challenges and end on a more positive note.

In terms of challenges, one major challenge is the current scale of use of explosive weapons in populated areas in the world today, and as a consequence the alarmingly high levels of civilian harm and suffering. This makes addressing this issue an urgent humanitarian priority, but also a challenging issue to address.

It is challenging to build new norms and standards in the face of such extensive use and violations of international humanitarian law. We are seeing widespread use of explosive weapons in a range of current conflicts and contexts - including in Gaza, as well as in Ukraine, Sudan, Myanmar and elsewhere too.

An important part of setting new standards and expectations for good practices is to stigmatise harmful practice, so such use by any actor civilians needs to be sharply critiqued.

The Political Declaration can, and should, both provide a lens through which to understand the current use and harm, and drive action in response to it.

Any use of explosive weapons in populated areas places civilians at high risk, but as recognised in the Declaration, weapons choices, in particular the scale of blast and fragmentation effects, coupled with accuracy, have a significant bearing on risk of harm to civilians – so avoiding use of explosive weapons with wide area effects in populated areas is key here.

Furthermore, there needs to be better understandings of the indirect effects, and especially the impact that results from damage to critical infrastructure, which are also highlighted in the Declaration and which are lesser understood but cause high levels of harm, even point the point of impact, and reverberating for months, and sometimes years, after conflicts end.

Military policies and practices should work to both prevent and reduce civilian harm.

Another challenge is that there is currently limited awareness of the Declaration within a number of Ministries of Defence and armed forces, and sometimes also a disconnect between Ministries of Foreign Affairs that have been involved in the political process, and

other parts of government and armed forces that are responsible for operational implementation. So it is not always clear if there are measures being taken towards its implementation.

We need good coordination within governments, transparency over what is being done, and leadership from the political level and then also from the command level within armed forces

Whilst there have been some positive developments in relation to civilian harm mitigation, and existing policies are a helpful starting point, there are no states yet that have a holistic set of policies or tactical guidelines that fully reflect all aspects of the Declaration, and especially that place limits on use of explosive weapons in populated areas.

It is vital that states don't assume measures contained in the Declaration are already undertaken as part of efforts to implement IHL, or that existing policies and practice is adequate in this regard.

A process of policy review, development is an essential part of implementation – and specifically policies that engage substantively with the central commitment to help avoid civilian harm by restricting and refraining from use.

There need to be processes and criteria to recognise gaps in national measures, and then for determining when to restrict and refrain and how these measures can be employed.

There are some relevant policies, which is a good start, but implementation should be seen very much as a continuous process, using new information and data and sharpening responses to protection civilians. And many states, the process of implementation is yet to begin.

In terms of opportunities the commitments - these operative provisions - in the Declaration provide specific guidance and identify concrete actions states should take.

Most of the process and structure of work around it also provide opportunities to advance our shared goal of better protecting civilians.

These meetings, and other expert discussions, are an opportunity for thinking, and exchanging, and sharing experiences. The cross-sector dialogue around the Declaration, is really important, It brings a diversity of perspectives and approaches, it is important to include humanitarian organisations and other civil society and international organisations in that process, as it enables us to critically review and collectively problem solve

For example, this is important also in the context of undertaking civilian harm tracking in the context of military operations, and the role of third-party support from humanitarian organisations, first responders etc.

To improve our understanding and analysis of civilian harm, we need to be aware of limitations of existing approaches and see implementation of the Declaration as a process that benefits from transparency, seeking out new information – and especially consideration of reverberating effects, and ensuring continued review and sharpening of policies in response.

For more information, see Article 36, Military workshop report on explosive weapons in populated areas, April 2024, www.article36.org.