

COUNTERING **5** MISCONCEPTIONS ABOUT A POLITICAL DECLARATION ON **EWIPA**

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The use of explosive weapons in populated areas (EWIPA), by both state and non-state actors, has become a top humanitarian concern, given the devastating impact it has on civilian lives and livelihoods.

When explosive weapons are detonated in populated areas, a staggering proportion of casualties are civilians. Critical civilian infrastructure is damaged and essential services are impacted. Such a degraded environment results in psychological trauma, hampers relief efforts, and forces people from their homes—among several other manifestations of long-term harm.

In October 2019, the Government of Austria hosted the multilateral conference “Protecting Civilians in Urban Warfare.” The key outcome was the announced continuation of a process to develop a political declaration on the use of EWIPA. The Government of Ireland later convened a series of multilateral consultations on the possible contents of such a declaration.

The last round of consultations was to be held in March 2020, but was postponed due to the COVID-19 pandemic. This postponement, in turn, disrupted the initial plan to adopt the final text of the political declaration in Dublin in May 2020. Given the ongoing uncertainty around the pandemic, Ireland has yet to set new dates for final in-person consultations and has indicated that they will be held as soon as is feasible, with a view to finalizing the text of the declaration to be adopted, at a date to be determined.

Some stakeholders still have misconceptions about the rationale for, and intent of, the political declaration. **Here are responses to FIVE of them.**

MISCONCEPTION #1: BETTER COMPLIANCE WITH INTERNATIONAL HUMANITARIAN LAW (IHL) CAN FULLY ADDRESS THE USE *AND* CONSEQUENCES OF EWIPA.

REALITY: That there is an urgent need for better implementation of International Humanitarian Law—including adherence to key precepts of distinction, precaution, and proportionality—is beyond dispute. More than 70 years after the Geneva Conventions, the rate of compliance remains disconcertingly poor.

However, better compliance with IHL is an insufficient response to EWIPA. Armed conflict is increasingly waged in urban settings, where civilian populations and infrastructure are especially vulnerable, and the damage done by explosive weapons to critical infrastructure and essential services persists long after hostilities have ended and IHL no longer applies.

The development of robust new standards that protect civilian populations and infrastructure, and provide for victim assistance and remedy must be both a policy priority and a humanitarian imperative. The realities of 21st-Century armed conflict require strict adherence to IHL, coupled with policy measures that enhance its effectiveness during conflict and address harm to civilians and civilian infrastructure after conflict has ended.

MISCONCEPTION #2: A COMMITMENT THAT IS NOT LEGALLY BINDING WILL HAVE LITTLE IMPACT.

REALITY: While political orthodoxy seems to favour legal treaties, both declarations and treaties are high-level, political commitments that rely on good-faith implementation. Neither guarantees compliance. Indeed, the effectiveness of certain legal regimes is routinely questioned, with some states acting in ways that are blatantly contrary to the obligations of the treaties that they are party to.

At the same time, recent history has shown us that political commitments can result in real and rapid progress. Consider the politically binding Safe Schools Declaration, which aims to reduce threats to education during conflict, including the military targeting of pupils, teachers, and their schools. Since its launch in 2015, it has been endorsed by more than 100 states and global attacks on sites and transit relating to education have been reduced by half.

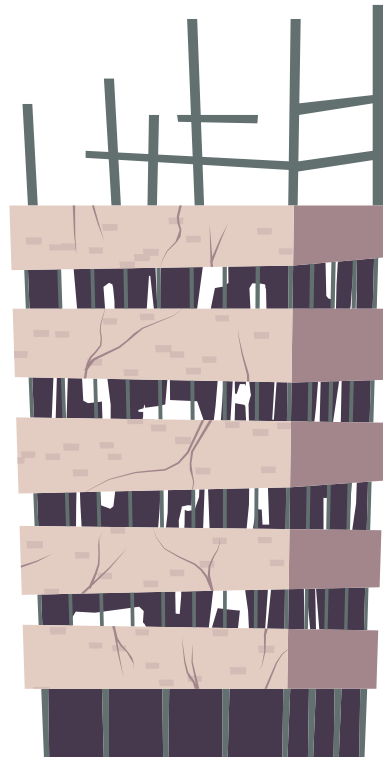
Political declarations can have measurable effects on the behaviour of belligerents during conflict and help to clarify and refine the interpretation of existing normative regimes.

RAQQA, SYRIA—More artillery shells have reportedly been launched at Raqqa than at any other city since the end of the war in Vietnam. Between 2011 and 2018, explosive violence in the city killed and injured 3,326 civilians. Sixty-five percent of civilian buildings have been destroyed, including 88 percent of healthcare facilities, with disproportionately negative outcomes for women and girls. United Nations experts say that it will take between 40 and 50 years to completely remove all unexploded remnants of war from Raqqa.

MISCONCEPTION #3: ADVOCATES FOR A POLITICAL DECLARATION ON EWIPA ARE PUSHING FOR A BAN ON EXPLOSIVE WEAPONS.

REALITY: No, they are not. A political declaration on EWIPA does not aim to ban explosives—or any category of weapons. The process leading to the political declaration is not one of disarmament, but essentially humanitarian, rooted in the prevention of human suffering. It is more about conduct than it is about hardware.

The framework, guidelines, and regime established by the declaration are intended to limit the context in which explosives are employed during urban conflict, inform military doctrine and rules of engagement, advance humanitarian objectives, and codify parameters of acceptable behaviour.



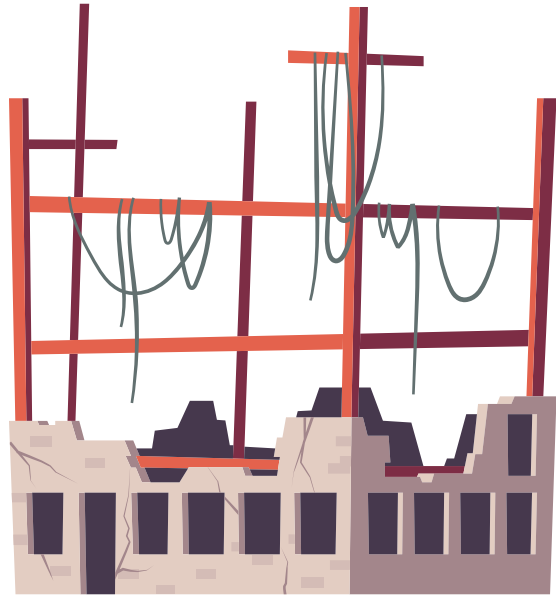
GAZA, PALESTINE—During the 2014 bombardment of Gaza, 1,523 civilians were killed, including 519 children. One-third of the strip's 1.8 million inhabitants suffered damage to their homes; an estimated 20,000 housing units were totally destroyed. In the aftermath of overt hostilities, UNICEF estimated that at least 373,000 children were in need of psychosocial support as a result of the offensive.

EASTERN UKRAINE—In 2014 and 2015, multi-barreled rocket launchers killed an average of 14 civilians per use. By the end of 2015, 145 healthcare facilities had been damaged or destroyed; 164 schools had been damaged or destroyed in the Donetsk region alone. Between 2014 and 2016, ground-launched explosive weapons caused 2,127 civilian casualties in the Donbass region.

MISCONCEPTION #4: A POLITICAL DECLARATION WILL BE INEFFECTIVE BECAUSE IT WILL NOT INCLUDE NON-STATE ACTORS.

REALITY: There is no precedent for states to allow non-state parties to set the standards of acceptable behaviour. Moreover, the absence of non-state actors would not be unique to a political declaration on EWIPA. All treaties are among states.

The rationale for multilateral commitments remains valid, whatever the position of outlier states and non-state actors. Concerted, meaningful action—political or legal—by states stigmatizes the targeted behaviour and can bring about change. For example, since the passing of the Mine Ban Treaty, the number of countries in which landmines are used and non-state armed groups are active decreased from a peak of 19 in 2001 to six in 2019. This decline has occurred even though the treaty has not been signed by more than 30 states or by any non-state actors.



A political declaration on EWIPA advances and redefines expectations concerning the conduct of armed conflict. Even if non-state armed groups are not parties to it, they will ultimately be held to similar benchmarks.

MOSUL, IRAQ—During anti-ISIS coalition efforts in Mosul, thousands of civilians were killed and injured; the western half of the city was effectively destroyed. A single airstrike on a residential building killed at least 105 civilians and injured hundreds more. Explosive weapons have been a chief driver of displacement, with half-a-million residents of Mosul currently in camps. Unexploded remnants of war present an obstacle to their return.

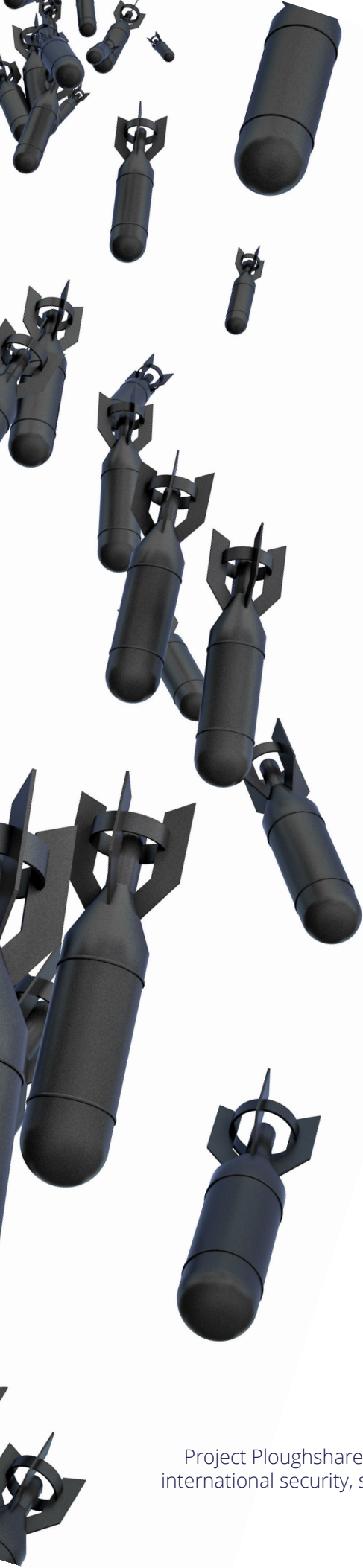
SANA'A, YEMEN—Air-launched munitions have been used frequently against cultural sites and have destroyed Sana'a's Old City, a UNESCO heritage site. Airstrikes on water infrastructure, in conjunction with the blockade of the port of Hodeidah, were largely responsible for the cholera epidemic that now affects more than 1.2 million Yemenis. When explosive weapons are used in populated areas in Yemen, more than 95 percent of casualties are civilians.

MISCONCEPTION #5: THE PRECISION OF MODERN WEAPONS SYSTEMS MAKES POLITICAL ACTION UNNECESSARY.

REALITY: Precision weapons do not constitute an adequate response to the devastating humanitarian consequences of the use of EWIPA, or to the collective inability of the international community to protect civilians. Today's guided weapons systems are more advanced than ever before, yet their use continues to present a clear threat to civilians and the built environment. Airstrikes—which utilize some of the most sophisticated munitions and targeting methods—were the leading cause of EWIPA-related civilian casualty events in 2017.

Increasingly precise weaponry is being used in addition to, not in place of, conventional weapons such as heavy artillery. They add to, not subtract from, the total number of casualties. Civilians account for more than nine in 10 EWIPA casualties, and the overall number of casualties remains alarmingly and consistently high.





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