

**Memorandum of the National Committee for International
Humanitarian Law on the adoption of a political declaration to
strengthen the protection of civilians from the use of explosive weapons
in populated areas**

Introduction:

The diplomatic process was formally launched in October 2019 at the Vienna Conference on protecting civilians in urban warfare (where about 130 countries, including Qatar, participated). The objective of such process is to adopt a political declaration with a view to enhancing the protection of civilians from the use of explosive weapons in populated areas. Ireland chairs the process and has held two rounds of informal consultations in Geneva in November 2019 and February 2020. A third round was scheduled for March 2020, but was postponed due to the pandemic of COVID -19. Ireland has proposed a draft political declaration (attached), and has called for comments to be submitted by May 1, and the date for direct consultations on the project has not yet been announced. Although there are some differences of views on the content, there is, however, broad support for the preparation of a political declaration between states, international organizations and civil society. The large number of countries, international organizations, and civil society organizations participating in the process indicate a recognition of the urgent need for this issue and a strong will from the international community to achieve tangible progress.

The political declaration revolves around the countries that lead efforts to adapt policy and military practice in ways that significantly increase the protection of civilians when fighting takes place in populated areas. To this end, the goal is to ensure that states maintain a high level and consensus over strong and unambiguous political obligations that will make a difference on the ground by adequately reducing the risks to which civilians are exposed through using explosive weapons of large-scale impact in populated areas. This includes the obligation to avoid the use of explosive weapons of large-scale impact in populated areas due to the high potential for indiscriminate effects, as called for by the International Committee of the Red Cross and the international movement since 2011 and 2013 respectively, and the UN Secretary-General as well.

What lies behind the “avoidance” of the use of heavy explosive weapons in populated areas is the relationship between the wide-ranging effects of explosive weapons and the significant risk of major civilian harm (that is, such weapons will have significant effects - whether directly or indirectly) - on civilians far greater than the military target advantage. unless adequate mitigation measures are undertaken to reduce the effects of such weapons and their risk of harming civilians.

Given the difficulty of concluding an agreement or protocol at this time, which lies in acceding to or ratifying them by the states, the alternative is to have such a declaration.

With regard to the aforesaid adoption of the political draft, the National Committee for International Humanitarian Law proposes the support and adoption of such declaration as it contributes to strengthening the protection of civilians against the use of explosive weapons in populated areas, and limiting the effects arising from using these weapons. Kindly take into account the following comments and observations on the political draft adoption when adopting the aforementioned committee’s proposal:

1. Focus must be made on the issue of explosive weapons in populated areas (as opposed to urban wars or the protection of civilians in general).
2. Recognizing the relationship between the large-scale effects of explosive weapons and the risk of harm to civilians.
3. Highlighting the indirect effects of explosive weapons in populated areas, while recognizing that damage to vital infrastructure may disrupt basic services and ultimately affect a large portion of the civilian population.
4. It should contain a clear and express commitment to avoid the use of explosive weapons of large-scale effects in populated areas.
5. Establishing a mechanism to monitor its implementation, as is the case in the Safe Schools Declaration, which obliges states to meet regularly to review its implementation.
6. Obliging states to take measures through political obligations and good practices in a number of areas to enhance the protection of civilians against the use of explosive weapons in populated areas regardless of whether international humanitarian law considers these policies and

good practices required (i.e. reaffirmation of the obligation to comply with International Humanitarian Law in relation to the use of explosive weapons in populated areas). In any case, these political obligations and practical measures will undoubtedly facilitate compliance with International Humanitarian Law.