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State Expert Meeting on International Humanitarian Law: Implementing the Principle of Precaution in Armed Conflicts

Background document

This document provides background information to facilitate an exchange among States on ways to overcome challenges in implementing the principle of precaution in armed conflicts. The expert meeting, held in four sessions (online/hybrid format), is jointly organized by Switzerland and the International Committee of the Red Cross (ICRC). It outlines the relevance of the topic, the objectives and methodology of the meeting and provides details on participation.

Relevance of the topic

The principle of precaution lies at the heart of international humanitarian law (IHL) and its rules governing the conduct of hostilities. It is one of the cornerstones of the protection of civilians from the effects of hostilities in armed conflict. Its purpose is to reduce, to the maximum extent possible, risks to civilians and civilian objects from the conduct of military operations. It requires parties to an armed conflict to take constant care in the planning and conduct of military operations to spare civilians and civilian objects. It further requires them to take all feasible precautions to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects (active precautions). All feasible precautions must also be taken against the effects of attacks (passive precautions). The principle of precaution complements the principles of distinction and proportionality by guiding the parties' assessment in the planning and conduct of military operations.

Despite the centrality of the principle of precaution, its effective implementation in practice remains a persistent challenge. This may be due, in part, to complex operational environments, the use of new technologies, the increasing proximity of civilians or civilian objects to military objectives, and the evolving nature of contemporary armed conflicts. While sustained attention has been given to the principles of distinction and proportionality, the principle of precaution has not been examined in comparable depth. This observation underscores the importance of the present meeting.

This is all the more necessary as insufficient precautions inevitably lead to extensive or avoidable civilian harm and suffering, damage to civilian objects, including objects indispensable to the survival of the civilian population and sustained disruption of essential services, resulting in serious and often lasting humanitarian consequences. Strengthening compliance with the principle of precaution therefore constitutes both an obligation and a humanitarian necessity.

Yet challenges to effective implementation are still often underestimated and precautionary considerations are not always prioritized during the planning and execution of military operations. Nor are they systematically informed by the specific risks faced by certain groups of civilians, such as children, persons with disabilities and older persons, or by gendered

patterns of behavior. Against this background, renewed momentum has emerged within the international community to address these issues in a constructive and pragmatic manner. This expert meeting forms part of these efforts and seeks to identify challenges faced by States and to highlight good practices by offering a platform for discussion on the implementation of the principle of precaution in both international armed conflicts (IACs) and non-international armed conflicts (NIACs).

Objective

The objective of this expert meeting is to contribute to realistic and pragmatic progress in the national implementation of the principle of precaution during armed conflict. To this end, the meeting aim to identify challenges and practices related to the continuous obligation to take precautions. It will facilitate an exchange on domestic laws, regulations, procedures, policies and good practices that States have developed, or that could be considered, to address these challenges.

The experts will focus on ways and means for States to strengthen the practical implementation of the principle of precaution in three core areas and practical issues:

1. **Implementing the principle of precaution in the planning of military operations**

2. **Implementing the principle of precaution in the conduct of military operations**

3. **Implementing the principle of precaution to protect all civilians in the planning and conduct of military operations, including civilians facing specific risks such as children, persons with disabilities, and older persons, as well as by taking into account gendered patterns of behavior**

Methodology

To facilitate substantive discussions and exchange of practices on concrete challenges related to the implementation of the principle of precaution in armed conflicts, this background document presents decontextualized scenarios, and a set of guiding questions related to the three core areas and practical issues identified above. Based on these questions, States are invited to reflect on and discuss the practical challenges they have encountered, or could encounter, when implementing precautionary measures in armed conflicts. States are also invited to share good practices they have developed, or would consider useful, to implement their obligations and overcome related challenges.

Switzerland and the ICRC seek to encourage active and open discussions. Participants must focus on practical and technical matters, and refrain from criticizing the practice of individual States. The meeting will focus on the exchange of practices and is not intended to discuss the legal interpretation of the applicable IHL rules on the principle of precaution, nor to develop a set of standards or an outcome agreed among participants. Switzerland and the ICRC would like to emphasize that participation does not imply endorsement by experts or their respective States of any particular interpretation of IHL.

Discussions will take place in plenary, with each of the three core areas and practical issues addressed in a separate session (see invitation). Independent experts will participate as resource persons for States to support and guide their exchanges on good practices.

Following the meeting, Switzerland and the ICRC will circulate to all participants a summary with a brief account of the discussions. Views contained therein will not be attributed to individual participants, nor will the summary purport to reflect any consensus. The summary will be the sole responsibility of Switzerland and the ICRC. While the meeting does not form part of the *Global Initiative on International Humanitarian Law*, its outcomes may be complementary to (or reinforce) the discussions and recommendations of that initiative.[1]

Participation

All State Parties to the Geneva Conventions are invited to participate. In light of the technical nature of the discussions, Switzerland and the ICRC encourage participation by experts at technical level whose portfolio includes and/or who have practical experience in the implementation of the principle of precaution in armed conflicts across the three core areas and practical issues covered in the agenda. Ideally, participants are drawn from relevant ministries, in particular ministries of defence and other ministries involved in civilian protection.

From ministries of defence, participants should include **IHL experts** engaged in legal or policy work related to the conduct of hostilities, as well as **experienced military officers** involved in operational planning and the integration of precautionary measures into decision-making.

Other relevant ministries may include those responsible for **urban planning**, **infrastructure**, and **social affairs**, particularly officials involved in addressing civilian risks, protecting infrastructure, and managing populations in crisis situations.

Ministries are also encouraged to consult with affected population groups and their representative organizations and networks in preparing for the meeting, especially for the third core area.

[1] Global Initiative on International Humanitarian Law, *Uphold Humanity in War*, https://www.upholdhumanityinwar.org/en.

1. Implementing the principle of precaution in the planning of military operations

1.1 Introduction

Military operations pose significant risks to civilians and civilian objects. In response, IHL imposes precautionary obligations on parties to an armed conflict. Those obligations are not limited to the moment an attack is launched. Rather, they extend to earlier stages of military decision-making and require parties to an armed conflict to anticipate and prevent or minimize harm to civilians and civilian objects already during the planning of military operations.

Decisions taken at the planning stage of military operations thus have far-reaching consequences for the protection of the civilian population and civilian objects once hostilities begin. Precautions taken at this stage determine, *inter alia*, the choice of objectives, means and methods of warfare, the timing and sequencing of attacks and other measures adopted to mitigate incidental civilian harm.

Such measures are particularly relevant in urban environments, where military objectives may be located in close proximity to civilians and civilian objects hence putting them at risk. As a result, attacks may produce incidental effects extending beyond the immediate target area, particularly when heavy explosive weapons are used. This entails grave reverberating effects that can be immediate or long-term, with severe consequences for the safety and well-being of the civilian population, including their access to essential services (for example, a general deterioration of the health of the population affecting resistance to diseases, long-term damage on the electricity supply, the deterioration of the quality and quantity of water supplies and other long-term environmental impact).

This section focuses on precautions taken in the planning or anticipation of military operations, including both **active precautions** by the attacking party and **passive precautions** by the defending forces. It aims to facilitate an exchange among States on the practical challenges they face and the practices they have developed, or would consider useful, to enhance the effective implementation of precautionary obligations into operational planning, including through the use of new technologies.

1.2 Overview of the relevant IHL rules

Under IHL, parties to the conflict must take **constant care** in the conduct of military operations to spare the civilian population, civilians and civilian objects.[2] All feasible precautions must be taken to avoid and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.[3] The precautionary obligations apply when parties act as attackers (precautions in attack) as well as when they act as defenders (precautions against the effects of attacks).[4] These obligations are reflected in treaty law and customary international law and apply in both IACs and NIACs.[5]

[2] Art. 57(1) AP I; CIHL Rule 15.
[3] Art. 57(2)(a)(ii) AP I; CIHL Rule 15.
[4] The concepts of attacker and defender refer to whether a party is conducting an attack or is subject to an attack. The extent to which a party exercises control over the civilian population and civilian objects is relevant to the precautions it is required to take against the effects of attacks.
[5] Art. 13 AP II; Common Art. 3 GC I–IV; CIHL Rules 15–22.

In attack, parties must take **all feasible precautions** in the choice of means and methods of warfare and in the selection of targets. This includes the obligation to do everything feasible to verify that objectives to be attacked are indeed military objectives. Particular care is required when attacking military objectives located in or near densely populated areas or objects that are simultaneously used for military and civilian purposes (so-called "dual-use" objects)". Each party to the conflict must do everything feasible to assess whether an attack may be expected to cause incidental civilian harm excessive in relation to the concrete and direct military advantage anticipated.[6] Parties must base their assessments on **the information available at the time of the attack** and must take into account changes in circumstances that may affect the legality of an attack. This entails maintaining continuous situational awareness, integrating updated information as it becomes available, and taking timely operational decisions in response to evolving conditions on the ground.[7] When a choice is possible between several military objectives providing similar military advantage, the attacker must select the objective that is expected to cause the **least danger to civilians and civilian objects**.[8] The obligation to take precautions also requires consideration of **alternative courses of action or tactics** that could reduce the risk of civilian harm, including adjustments to the timing of attacks, the choice of aim points, or the selection of weapons.[9] If it becomes apparent during the execution of an attack that the target is not a military objective, or that the attack would violate the principle of proportionality, the attack must be **cancelled or suspended**.[10]

IHL further requires that **effective advance warning** be given of attacks which may affect the civilian population, unless circumstances do not permit. This entails considering whether warnings are feasible, how they can be effectively disseminated and how their timing and content impact civilian behavior and safety.[11]

In parallel, parties to an armed conflict are required to take **all feasible precautions against the effects of attacks** to protect civilians and civilian objects under their control. Measures that can be taken include the construction of shelters, digging trenches, distributing information and warnings and the mobilization of civil defence.[12] The obligation to take precautionary measures against the effects of attack also includes avoiding, to the extent feasible, locating military objectives within or near densely populated areas and removing civilians from the vicinity of military objectives where possible.[13] This obligation is limited by prohibitions of forcible transfers and should be read together with the prohibition of the use of human shields.[14]

1.3 Scenario

States A and B are engaged in an IAC. State A has taken control of a city of State B. State B is planning a military operation to retake control of the city. The operation will be carried out in two phases. Phase 1 will consist in airstrikes on key targets, including military assets such as troops, weapons and facilities, that are dispersed throughout the city and, at times, in proximity of schools, hospitals and markets. Airstrikes will also target critical infrastructure used for

[6] Art. 57(1) AP I; CIHL Rules 15, 17.
[7] Art. 57(2)(a) AP I; CIHL Rule 17-18.
[8] Art. 57(3) AP I; CIHL Rule 21.
[9] Art. 57(2)(a) AP I; CIHL Rule 17-18.
[10] Art. 57(2)(b) AP I; CIHL Rule 19.
[11] Art. 57(2)(c) AP I; CIHL Rule 20.
[12] Under IHL, *civil defence* is defined according to the humanitarian tasks it performs for the purpose of protecting the civilian population against the danger arising from hostilities or other disasters, helping it to recover from their immediate effects, and providing conditions necessary for its survival (Art. 61 AP I).
[13] Art. 58 AP I; CIHL Rule 22.
[14] Art. 23 GCIII, Arts. 28, 49, 147 GCIV; Arts. 51(7) and 58 API; Arta. 5(2)(c) and 13 APII, CIHL Rule 97.

military purposes, notably an electrical power plant located at the outskirts which provides electricity for civilian purposes but is partly used to power military operations. The airstrikes will be carried out using, inter alia, missiles, air-dropped bombs, and fixed-wing drones that are susceptible to jamming and other electronic warfare countermeasures. Phase 2 will consist of ground operations aimed at consolidating control over the urban area.

Prior to commencing airstrikes, State B issues a warning to the population of the city, advising civilians to keep away from military assets and to leave the city as soon as possible. The warning is disseminated through radio broadcasts and by dropping leaflets.

State A, meanwhile, is preparing for impending hostilities in the city. It is preparing shelters for the civilian population, making arrangements for the evacuations of civilians who wish to leave, and placing civil defence personnel and personnel responsible for ensuring the functioning of essential services on high alert.

1.4 Guiding questions related to active precautions

1.4.1 Questions on challenges

- Based on the above scenario, what practical challenges has your State experienced, or would it anticipate as State B, for implementing the obligation to take all feasible precautions to avoid or at least minimize civilian harm before launching the military operation?

- In particular: What are the challenges in planning for timely and effective warnings to civilians before attacks? What are the challenges in considering alternative courses of action or tactics to reduce civilian harm?

1.4.2 Questions on practices

- What practice has your State developed, or would your State consider useful for integrating the obligation to take all feasible precautions to avoid or at least minimize civilian harm in the planning of military operations? For instance, what are the practices in terms of advance warning, choice of the most appropriate means and methods of warfare, and choice of the aim point of attack, in the case of larger or composite targets (i.e. those comprising of multiple physically or functionally connected structures)? What specific practices are in place when essential infrastructure is used both for civilian and military purposes?

- What practice has your state considered useful for avoiding civilian harm when operations are taking place in densely populated areas? For instance, what restrictions are in place as regards the use of specific weapons in urban settings, peri-urban settings, or other areas where essential infrastructure are located? What procedures are in place to identify essential infrastructure and how far are reverberating effects included in precaution assessments?

- What practice has your State developed, or would your state consider useful, for implementing practical civil-military cooperation before military operations to ensure civilian protection (e.g., joint assessments, shared information, operational guidance)?

- What other good practices/further measures could you think of?

In your response, please highlight how new technologies are integrated in the above challenges and practices.

1.5 Guiding questions related to passive precautions

1.5.1 Questions on challenges

- Based on the above scenario, what practical challenges has your state experienced, or would it anticipate as State A, for implementing the principle of precaution against the effects of attacks in planning for defensive military operations?

- What challenges has your State experienced or would it anticipate to avoid that civil defence personnel, essential service personnel and essential infrastructure are exposed to incidental harm?

1.5.2 Questions on practices

- What practice has your state developed, or would your state consider useful for protecting the civilian population and objects against the effects of attacks?

- What practices has your state developed, or would your state consider useful for avoiding or at least minimizing incidental harm to essential infrastructure? For instance, how does your State ensure that essential infrastructure is not used or misused for military purposes? In cases where essential infrastructure is used for military purposes, what precautionary measures can be taken to minimize civilian harm?

- In particular: What practices has your state developed to avoid or at least minimize incidental harm to essential service personnel and civil defense personnel?

- What practice has your State developed, or would your state consider useful, for implementing practical civil-military cooperation before military operations to ensure civilian protection (e.g., joint assessments, shared information, operational guidance)?

- What other good practices/further measures could you think of?

In your response, please highlight how new technologies are integrated in the above challenges and practices.

1.6 Examples of good practices

To inform responses to the questions above, experts are invited to reflect on the following examples of good practices:

- Identifying, mapping and prioritizing essential civilian infrastructure and services (including medical facilities, water, electricity, food supply and transport networks) to inform target verification and operational planning, including assessments of civilian presence, urban density, patterns of civilian life and interdependencies between civilian objects and services;

- Using technical analysis tools and involving multidisciplinary experts, such as engineers, urban planners, infrastructure, environmental, medical or public health experts, to inform consideration of the potential direct, indirect and cascading effects of

attacks, including effects resulting from damage to interconnected essential civilian infrastructure;

- Defining clear processes and decision-making thresholds integrating relevant technical expertise to ensure that attacks on military objectives located in or near specially protected objects and/or essential civilian infrastructure are planned and authorized only in exceptional circumstances and in accordance with IHL;

- Ensuring effective identification, marking and signaling of essential civilian infrastructure and specially protected objects, using appropriate physical or digital means compatible with operational requirements;

- Leveraging new technologies (such as geospatial analysis and modeling tools) to support precautionary planning and better anticipate civilian harm;Tailoring the type and degree of specificity of the warning to the target and the risk of incidental civilian harm expected, e.g. by providing, where possible, more specific warnings when essential infrastructure will be impacted, including to spare essential service workers;

- Incorporate in doctrine and planning, incl. operational orders and Rules of Engagement (ROEs), restrictions on the type of weapon used and parameters (timing, angle, etc.) of attack, when the target is located in a densely populated area and/or in proximity of a specially protected object or essential civilian infrastructure, to mitigate incidental civilian harm;

- Establishing preparedness and contingency measures, including protocols for temporary evacuations, shelters, and continuity of essential services, developed in coordination with specialized civilian personnel; Establishing clear coordination processes with civil defence and emergency personnel, including communication channels and points of contact;

- If necessary and lawful to use essential civilian infrastructure for military purposes, take measures to ensure, to the extent possible, dedicated lines for essential civilian services, segregation/segmentation of civilian/military parts of the infrastructure, and appropriate marking;

- Developing practical measures to increase the visibility of essential service personnel, vehicles and equipment, to enhance their protection;

- Avoiding the concentration of essential civilian infrastructure in ways that create single points of disruption, such as reliance on one facility, hub or network whose damage or malfunction could lead to widespread or cascading disruption of essential civilian services;

- Developing and using multiple means for civilian warnings, such as SMS messages, phone calls, loudspeakers and local radio, and adapting these means to the specific operational and civilian context.

Experts are invited to reflect on the abovementioned practices from the experience of their respective state:

- If your state has developed such practice: How is it carried out in your context? What has this practice resulted in so far?

- If your state has not developed such practice: What do you think of such practice? To what extent would it be relevant in your context? What, if any, would be challenges to putting these in place?

2. Implementing the principle of precaution in the conduct of military operations

2.1 Introduction

Once hostilities are underway, operational environments, particularly in urban warfare, may evolve rapidly. Frontlines can shift, civilian presence may fluctuate, and the location or use of objects may change, posing significant challenges for the implementation of precautionary obligations in the conduct of military operations.

While many precautions are considered during the planning phase, IHL requires that precautions be taken continuously throughout hostilities. Decisions taken in real time during the conduct of military operations, such as whether to proceed with, adapt or suspend planned actions, are critical for civilian protection, in particular in situations of ongoing fighting, civilian movements or evacuations, or where civilian objects are used for military purposes. This underscores the centrality of integrating updated information and adapting operational decisions in response to changing circumstances during the conduct of hostilities. Failure to do so undermines protection and exposes civilians to avoidable harm.

This section focuses on the implementation of precautionary obligations in the conduct of military operations, again addressing both active and passive precautions. It seeks to explore challenges and practices related to the implementation of measures of precautions in evolving operational environments, including through the use of new technologies.

2.2 Overview of the relevant IHL rules

The IHL rules governing precautions in the conduct of military operations are the same as those applicable during the planning phase of military operations.[15] These obligations apply throughout the course of hostilities and require parties to continuously assess and adapt their conduct in light of the prevailing circumstances. Although the principle of precaution applies throughout the cycle of an operation, certain rules are more relevant at the planning stage, while others are more relevant during the conduct stage of an operation. Accordingly, the applicable legal framework set out in paragraph 1.2 remains relevant.

2.3 Scenario

Ground fighting in the city controlled by State A has begun. State A combatants move quickly in various parts of the city which often leaves little time for advancing State B combatants to engage them.

State A combatants begin hiding in civilian buildings, using them as firing positions and munitions depots. Evacuation of civilians continues in the midst of active combat and civilians are often caught in crossfire, as frontlines shift constantly. Civil defence are regularly tasked to put out fires on damaged buildings and civilian engineers are requisitioned to restore electricity.

State B forces push their way through the urban area, often under fire. Their aim is to secure key military positions, such as military headquarters and other buildings that have been fortified

[15] Arts. 57 and 58 AP I; CIHL Rules 15-21.

by State A forces and are actively defended. Several of these are located at close distance from schools, markets and medical facilities. The airspace above the city is contested.

2.4 Guiding questions on active precautions

2.4.1 Questions on challenges

- Based on the above scenario, what challenges has your State experienced, or would it anticipate, for implementing the obligation to take all feasible precautions to avoid or at least minimize incidental civilian harm?

- In particular: What are the challenges generated by rapidly evolving conditions on the ground, i.e. as relates to dynamic targeting?

- What challenges has your State experienced, or would it anticipate, in documenting lessons learned and updating operational procedures to improve precautionary measures in future operations?

2.4.2 Questions on practices

- What practice has your state developed, or would your state consider useful for integrating precautions in dynamic targeting, including in densely populated areas? For instance, how do you ensure continuous target verification? How do you respond to unforeseen developments related to civilians, including sudden changes in civilian presence, movements, or behavior? How are restrictions in the use of specific weapons implemented in the case of dynamic (vs pre-planned) targeting?

- What practices has your State developed, or would your state consider useful, for avoiding or minimizing incidental harm to civilian infrastructure, essential service personnel or civil defence personnel?

- What other good practices/further measures could you think of?

In your response, please highlight how new technologies are integrated in the above challenges and practices.

2.5 Guiding questions on passive precautions

2.5.1 Questions on challenges

- Based on the above scenario 2, what challenges has your state experienced, or would it anticipate, for implementing the obligation to take all feasible precautions against the effects of attacks? For instance, how would you avoid the use of civilian objects for military purposes, especially during urban combat?

- What challenges has your State experienced, or would it anticipate, in conducting safe evacuations during urban fighting?

- What challenges has your State experienced, or would it anticipate, in documenting lessons learned and updating operational procedures to improve precautionary measures in future operations?

2.5.2 Questions on practices

- What practice has your State developed, or would your State consider useful for integrating the obligation to take constant care to spare civilians and civilian objects when defending against an attack? For instance, how do you avoid, to the maximum extent, exposing civilian infrastructure and civilians, including civil defence personnel and essential service workers, to the effects of attacks? How do you respond to unforeseen developments related to civilians, including sudden changes in civilian presence, movements, or behavior?

- What practice has your State developed, or would your State consider useful, for conducting safe evacuations during urban combat?

- What practice has your State developed, or would your State consider useful, for applying practical civil-military cooperation measures during an attack to protect civilians and civilian objects?

- What other good practices/further measures could you think of?

In your response, please highlight how new technologies are integrated in the above challenges and practices.

2.6 Examples of good practices

To inform responses to the questions above, experts are invited to reflect on the following examples of good practices:

- Using multidisciplinary targeting cells (including operations, intelligence, civilian advisers, and, where relevant, infrastructure or health experts) to support continuous adjustments to strikes;

- Using new technologies, such as Intelligence, Surveillance, and Reconnaissance capabilities, including via drones and ground reporting, to enable real-time observation and to detect unexpected civilian presence during operations;

- Applying elevated verification standards and procedures for infrastructure and other objects dedicated to civilian purposes or that are in fact being used for civilian purposes;

- Establishing “no fire zones” to protect essential civilian infrastructure and specially protected objects; Establishing clear coordination processes with civil defence and emergency personnel, including communication channels and points of contact;

- Insofar as possible, avoid tasking civil defence and emergency personnel with tasks that risk exposing them to direct or incidental effects of attacks;

- Establishing operational plans with essential services providers and providing the necessary support to facilitate their safe and sustained access to civilian infrastructure, including in instances where they must cross front lines.

- Ensuring civil–military cooperation during operations, such as real-time information sharing, coordination of civilian movements and deconfliction measures;

- Using operational coordination arrangements before/after the execution of attacks to support the temporary evacuation of civilians from areas affected by hostilities;

- Documenting every phase of the targeting decision making process, including decisions as to precautionary measures, to review these with post-strike assessments, evaluate the targeting process and swiftly adjust subsequent operational decisions.

3. Implementing the principle of precaution to protect all civilians in the planning and conduct of military operations, including civilians facing specific risks such as children, persons with disabilities, and older persons, as well as by taking into account gendered patterns of behavior

3.1 Introduction

Populations affected by armed conflict are never homogeneous. Civilians differ in age, gender, and disability, and experience the effects of hostilities in distinct ways. Understanding these differences is essential for implementing the principle of precaution in a manner that provides effective protection to all civilians. This session examines challenges, opportunities and practical measures for integrating the specific risks faced by certain groups of civilians into precautionary measures, with a view to avoiding or at least minimizing harm to all.

Children often make up nearly half of the population in conflict zones. Their age, physical and psychological immaturity, and dependence on adults require particular attention in precautionary planning and decision-making. Children's ability to access warnings, shelter and evacuations varies dramatically: infants and younger children may have no or extremely limited mobility without adult assistance, and varying literacy and cognitive maturity may impede the comprehension of instructions. Children also have distinct patterns of life centering around schools and home. They rely on specific essential services including maternity and pediatric health units, and education facilities, for their survival and development. Moreover, with their smaller size and distinct anatomy - lower weight, smaller abdominal walls, less blood, with torsos closer to the ground - weapons that wound an adult are more likely to kill a child. Injury is also more likely to become fatal: children tend to have greater health needs and require more surgical procedures than adults following blasts, and treatment can be hampered by inadequate pediatric medical expertise and equipment in conflict zones.

Persons with disabilities face discrimination and marginalization in all contexts and this is exacerbated in armed conflict, where they are at heightened risk of harm. According to the World Health Organization, about 1.3 billion people - or 16% of the global population worldwide - live with significant disabilities, with even higher numbers in conflict-affected areas.[16] These statistics reflect the barriers faced by such civilians to access warnings, shelters, or evacuations and who are therefore more likely to be injured during hostilities. Families and caregivers often confront difficult decisions, exposing them to risks while supporting a person with a physical, sensory or psychosocial impairment. Ensuring accessibility of shelters, evacuation routes and warning systems is a key aspect of operational planning to protect these civilians.

Older persons are similarly affected. Age-related physical or cognitive impairments can slow mobility, reduce the ability to respond quickly to warnings, or increase reliance on caregivers, and some may also be unwilling to leave. These factors heighten their exposure to attacks and complicate evacuation efforts, hence calling for specific consideration in military planning and precautionary measures.

[16] World Health Organization, *Global Report on Health Equity for Persons with Disabilities*, 2022, https://www.who.int/publications/i/item/9789240063600.

Gendered roles and responsibilities, such as caregiving, work, or movement patterns can reveal significant differences among civilian patterns of life and affect how civilians are exposed to risk in conflict settings. Precautions must be applied in a way that these gender specificities are taken into account. On the one hand, in every country worldwide, women and girls face some degree of gender inequalities. This can increase their exposure to harm during armed conflict, for example due to legal or other normative restrictions on their mobility, less access to digital technology and education or greater care responsibilities for family members or other persons in their community. Pregnant women, similarly, may face mobility barriers and amplified reliance on maternity wards for survival. Also, exclusion from military decision-making processes has an impact on how such inequalities will be considered. On the other hand, men and boys may be incorrectly presumed to be involved in hostilities, exposing them to targeting or exclusion from civilian harm assessments. Understanding and accounting for such gendered patterns is essential to ensure that precautionary measures address different risk profiles effectively.

Integrating disaggregated analysis into the planning and conduct of military operations enhances civilian protection. Such analysis is relevant for identifying potential risks, as well as for evaluating the effectiveness of precautions taken by parties to the conflict.

3.2 Overview of the relevant IHL rules

The legal framework pertaining to the principle of precaution as described above remains fully relevant for this section.

In situations of both IACs and NIACs, the protection afforded to civilians and persons *hors de combat* applies without any adverse distinction.[17] IHL also recognizes the particular risks and needs of certain population groups, such as children, older persons, persons with disabilities and women, by affording them specific protection.[18] Such specific protection is often encapsulated in the obligation to afford particular respect and protection to these civilians.

The specific risks faced by the above-mentioned groups of civilians should inform the way existing precautionary obligations are interpreted and implemented, including in informing the reliability of target verification or of the effectiveness of advance warnings. In precautions against the effects of attack as well, interpreting and implementing existing precautions with an awareness of the specific risks faced by those civilians would help for instance to make shelters or evacuations available and accessible to them. Finally, the general precautions in the conduct of hostilities are complemented by rules of specific protection including those relating to the creation of specially protected zones for the benefit of these groups or to agreements allowing for their evacuation from certain areas.[19] Furthermore, each of these categories of civilians benefits from specific protections which are addressed in other rules outside of the conduct of hostilities, some of which may need to be considered in order to render the implementation of precautions effective for these groups.

The following paragraphs focus on children and persons with disabilities as illustrative examples, while recognizing that similar issues may arise for older civilians. Inclusive approaches to precautions also apply to consideration of gender, as mentioned in the introduction.

[17] GCIV Art. 27; CIHL Rule 88.
[18] For example, GC I, Art. 12; GC II, Art. 12; GC III, Arts. 49, 51, 52; GC IV, Arts. 17, 24, 27; API, Arts. 76 and 77; CIHL, Rules 134, 135, 138.
[19] GC IV, Arts. 14, 16, 17.

In order for **children** to effectively benefit from precautionary measures as civilians, their physical and psychological immaturity, including limited mobility, literacy, and cognitive skills, with an effect on comprehending instruction and risk without adult assistance, must be considered. Careful consideration should also be given to whether incidental harm assessments adequately account for higher expected rates of child death and injury, capture children's patterns of life, and assign the appropriate value to maternity and pediatric health units and education facilities. Furthermore, IHL provides for specific additional safeguards to avoid that evacuations of children would violate prohibitions of unlawful transfers or deportations.[20] Protections afforded to children are reinforced by the 1989 Convention on the Rights of the Child, which has been almost universally ratified and establishes the best interests of the child as an overarching principle. It obliges States Parties to respect and ensure respect for rules of IHL applicable to them in armed conflicts and to take all feasible measures to ensure the protection and care of children affected by armed conflict, thereby reinforcing their protection in all contexts of armed conflict.[21]

In order for certain **civilians with disabilities**, notably persons with sensory, psychosocial or intellectual impairments not to be erroneously attacked, awareness among parties to armed conflict that such persons may not be able to understand or react to hostilities taking place around them as other civilians would, may help to render target verifications more effective. In order for advance warnings to be effective, the format in which they are communicated must be accessible and allow sufficient time to civilians to take protective measures in response to a warning. Temporary evacuations should ensure accessible transport or allow personal assistants to accompany civilians with disabilities, and assistive devices to be brought along. These protections are further reinforced by the Convention on the Rights of Persons with Disabilities (CRPD), almost universally ratified, which obliges States Parties to take all necessary measures to ensure their protection and safety.[22]

Similar issues may arise for **other categories of civilians**. More generally, **civilians who are unable or unwilling to leave remain protected**. Their presence does not relieve the parties to the conflict of their obligations under IHL, including the duty to take all feasible precautions.

3.3 Scenario

State A and organized non-state armed group B (NSAG B) are engaged in a NIAC. NSAG B has taken control of a city of State A. The city's population is comprised of approximately 40% children, 50% women and girls, and 16% persons with disabilities. State A is planning military operations to retake control of the city where members of the NSAG B are retrenched in residential buildings. Before commencing the operation, State A issues a warning to the population of the city to keep away from military assets and to leave the city as soon as possible, by broadcasting radio messages and dropping leaflets. However, many of the city's civilians could not heed the warning and are left behind, including persons with disabilities, older persons, or children separated from their families. In addition, many have left to fight, and parts of the remaining population may be unable to leave the area because of additional caregiving responsibilities for children or other family members.

[20] GCIV, Art. 24; API, Art 78; APII, Art. 4(3)(e).
[21] Convention on the Rights of the Child, Arts. 3, 38.
[22] Convention on the Rights of Persons with Disabilities, Art. 11.

Slowly, State A regains control over the city as well as the rest of its territory, including rural areas but there are still frequent armed confrontations with NSAG B throughout the country. Civilian communities are dispersed across rural areas, with certain families particularly isolated and comprising older family members and children out of school. Both functioning and abandoned schools are being used by the military as barracks as it regains territorial control.

In these areas, numerous military checkpoints have been erected and areas created where access is prohibited to civilians. Persons with intellectual, hearing, psychosocial or visual impairments some of whom are also older persons may unintentionally approach restricted areas without realizing the nature of these zones even if orders are shouted at them to stop. In addition, some persons with visual or physical impairments use white canes, prosthetics or crutches which are mistaken for concealed weapons. The checkpoints are also erected in areas where certain civilians, including women, children and older persons would frequently go to collect firewood, compelling them to choose alternative routes that include areas contaminated with explosive remnants of war.

3.4 Guiding questions

3.4.1 Questions on challenges

- Based on the above scenario, what practical challenge has your state experienced, or would it anticipate, for **protecting civilians facing specific risks and minimizing harm to them**? *(active and passive precautions)*

- What practical challenges has your state experienced, or would it anticipate, for taking into account **the human factor** in implementing the principle of precaution, including in analyzing the patterns of life of the people living within a specific area? In particular, what are the challenges in **assessing the presence of civilians facing specific risks**, such as children, persons with disabilities and older persons **and the effects of military operations on them**? *(active and passive precautions)*

- What practical challenge has your state experienced, or would it anticipate, for **integrating the protection of civilians facing specific risks** into the doctrine, standard operation procedures, education and training of the armed forces, as well as in national legal and policy frameworks? Also, what are the challenges in involving persons facing specific risks in shaping doctrine, education, training, exercises of armed forces and dissemination of IHL? *(active and passive precautions)*

3.4.2 Questions on practices

- What practices has your state developed, or would it consider useful, for **collecting and taking into account information on civilians facing specific risks during the planning and conduct of military operations** to prevent and reduce civilian harm during armed conflict? In particular, how do you analyze the pattern of life of the people living within a specific area? How are these measures operationalized and monitored during military decision-making and targeting processes? For instance, what are the existing or envisaged practices in terms of effective advance warnings for civilians facing specific risks? *(active precautions)*

- What practices has your state developed, or would it consider useful, for **integrating the protection of civilians with disabilities and older persons** into precautionary measures? More specifically, how are the specific barriers and risks faced by these persons integrated into the doctrine, education, training and exercises of the armed forces? What specific steps are being taken to protect them from attack or the effects of attacks? How may persons with disabilities and their representative organizations be involved in shaping doctrine, education, training, exercises of armed forces and dissemination of IHL? *(active and passive precautions)*

- What practices has your state developed, or would it consider useful, for **integrating the protection of children** into precautionary measures? More specifically, how are their specific vulnerabilities integrated into the doctrine, education, training and exercises of the armed forces? What specific steps are being taken to protect children from attack or the effects of attacks? *(active and passive precautions)*

- What practices has your state developed, or would it consider useful, for **integrating gender considerations** into precautionary measures, in particular how is your state considering differences in societal roles, locations, activities and levels of education, according to gender? *(active and passive precautions)*

- What practices has your state developed, or would it consider useful, for raising specific awareness among armed forces about the specific challenges/needs encountered by civilians facing specific risks during armed conflict? *(passive precautions)*

- What other good practices/further measures could you think of?

In your response, please highlight how new technologies are integrated in the above challenges and practices.

3.5 Examples of good practices

To inform responses to the questions above, experts are invited to reflect on the following examples of good practices:

- Work with representative organizations and relevant professionals, such as organizations of persons with disabilities, women's networks and other specialized actors, to inform greater awareness by armed forces of the specific barriers and risks faced by certain groups of civilians (incl. children, persons with disabilities, older persons or of gendered patterns of harm) to reflect these risks in military training, education, doctrine, planning, conduct of military operations and after-action reviews;

- Integrating the specific risks faced by certain groups of civilians and of gender-sensitive analysis of civilian harm from military operations into IHL dissemination and training of armed forces, or the revision of military manuals, while involving affected civilians and their representative organizations/networks, and relevant professionals;

- Developing and using advance warning practices that take into account accessibility and timing, including factors affecting the ability of different groups to receive, understand and act upon warnings;

- Integrating accessibility considerations into the design, location and use of shelters;

- Applying risk-sensitive analysis to the collection and use of information during operational planning, including within assessments of patterns of life and behavior, to better understand how different groups facing specific risks may be differently exposed to the effects of hostilities (e.g. presence in homes, medical access, proximity to troop);

- Using gender-sensitive analysis to assess the ability of civilians to move away from areas affected by hostilities, including factors such as caregiving responsibilities, access to transportation, and freedom of movement;

- Putting in place or using existing civilian-military coordination arrangements, for devising and implementing practical procedures/SOPs for informing precautions for groups of civilians specifically at risk, and engage with representative organizations and networks in these processes;

- Collect civilian casualty data disaggregated by disability, age, gender and other attributes, to inform an analysis in after action reviews of how specific risks faced by certain civilians and gendered patterns of harm were considered in past military operations.