



The use of explosive weapons¹ in populated areas and the protection of civilians August 2017

Briefing paper by the International Network on Explosive Weapons (INEW) ahead of the meeting on “The use of explosive weapons in populated areas: humanitarian, technical, legal and military considerations” 10.00-15.00 on 30 August 2017, UN Palais des Nations Geneva, conference room VII

The International Network on Explosive Weapons (INEW)² calls for immediate action to prevent human suffering from the use of explosive weapons in populated areas (EWIPA).

At the upcoming briefing for states, INEW calls on states to:

- *Acknowledge* that the use of explosive weapons in populated areas frequently causes severe harm to individuals and communities and furthers suffering by damaging vital infrastructure.
- *Endorse* the UN Secretary-General’s and ICRC’s recommendation that states should avoid the use of explosive weapons with wide area effects in populated areas.³
- *Indicate support* for the development of an international political instrument on explosive weapons to reduce harm from the use of explosive weapons by stopping the use of explosive weapons with wide area effects in populated areas, and by providing a framework for assistance to victims including affected communities.

Humanitarian harm from the use of explosive weapons in populated areas

Civilian harm from the use of explosive weapons in populated areas has been highlighted as a top humanitarian priority⁴ following the increase in recent years to conflicts taking place in urban settings resulting in high levels of civilian casualties. Data shows that when explosive weapons are used in populated areas, approximately 91% of those reported killed and injured are civilians.⁵ In 2016, over 32,000 civilians were recorded killed or injured by explosive weapons, with Syria, Iraq, Yemen, Afghanistan, and Turkey having the highest numbers of civilian deaths and injuries.⁶

Long-term harm and suffering

Beyond those killed and injured, an even greater number of civilians are affected as a result of damage to essential infrastructure and services. The bombing and bombardment of towns and cities destroys homes leaving people without shelter. Hospital buildings are damaged hampering the provision and quality of medical care to civilian populations in desperate need of it, making it additionally difficult to manage treatable injuries

¹ Explosive weapons are conventional weapons that detonate to affect an area with blast and fragmentation. There are many types of explosive weapons, including grenades, mortar bombs, artillery shells, aircraft bombs and missiles, as well as improvised explosive devices (IEDs). These weapons explode – killing and injuring people, or damaging vehicles and buildings, through the blast and fragmentation that an explosion creates around the point of detonation. Different types of explosive weapons may be delivered in different ways (some are thrown, others are launched from the ground or dropped from the air, others emplaced and detonated), and they may vary in the scale of effects that they create.

² The International Network on Explosive Weapons (INEW) is a global network of civil society organisations that calls for immediate action to prevent human suffering from the use of explosive weapons in populated areas. It was founded in 2009 and is governed by a Steering Committee whose members are Action on Armed Violence, Article 36, Handicap International, Human Rights Watch, Norwegian People’s Aid, Oxfam, PAX, Save the Children and the Women’s International League for Peace and Freedom.

³ The UN Secretary General has repeatedly called on all state and non-state parties since 2009 to “avoid the use of explosive weapons with wide-area effects in populated areas”, including most recently in the ‘Report of the Secretary-General on the protection of civilians in armed conflict’ (S/2017/414). Since 2011, the ICRC has stated that “due to the significant likelihood of indiscriminate effects and despite the absence of an express legal prohibition for specific types of weapons, the ICRC considers that explosive weapons with a wide impact area should be avoided in densely populated areas”, see <http://bit.ly/2uLSSjM>

⁴ See for example UN Office in Geneva, ‘World at a turning point: Heads of UN and Red Cross issue joint warning,’ October 2015, <http://bit.ly/2vI6jOc>

⁵ Action on Armed Violence, ‘Patterns of Harm: Five years of explosive violence 2011 – 2015’, June 2016 <http://www.inew.org/site/wp-content/uploads/2016/08/Patterns-of-Harm.pdf>

⁶ Action on Armed Violence, ‘Explosive Truths: Monitoring Explosive Violence in 2016, April 2017, <http://bit.ly/2waipCV>

and diseases.⁷ Damage to sanitation systems create additional problems around maintaining basic levels of hygiene, which can cause further onset of illness and diseases. In Yemen, the conflict has resulted in a severe cholera epidemic.⁸ The destruction of commercial buildings and transport infrastructure impedes access to, and availability of, vital provisions including food.⁹ Humanitarian access can be hampered, or stopped entirely, as humanitarian and relief organisations struggle to access particularly violent areas.¹⁰ Damage to electricity, energy, power further compound such problems, and in some instances prevents the civilian population from fleeing the area.¹¹ The use of explosive weapons in populated areas represents one of the main causes of forced displacement. Countless civilians are driven from their homes and displaced, and suffer from psychological distress and trauma.¹²

Explosive weapons with wide area effects

Most types of explosive weapons are designed for use in open battlefields, not towns and cities where there are high numbers of civilians. Whilst there is a pattern of harm associated with explosive weapons in populated areas in general, the risk to civilians is most severe when the weapons have wide area effects. Wide area effects may result where an individual weapon has a large blast or fragmentation radius (for example heavy aircraft bombs), where multiple explosive munitions are launched at an area (for example multi-barrel rocket systems), where a weapon is not delivered accurately to the target (such as indirect fire mortars), or a combination of these factors. Use of such weapons puts civilians at a heightened risk of harm and is likely to result in the destruction of, or damage to buildings and infrastructure.

Military policy and practice

The area effects of certain explosive weapons are already recognised in some military policy and practice as having a direct link to the risk presented to civilians.¹³ However, this recognition is often dispersed across various policy and operational frameworks and differs amongst states. Such a recognition could be consolidated and addressed through the development of an international political declaration containing clear commitments to reduce harm from the use of explosive weapons in populated areas. This would include enacting a commitment against the use in populated areas of explosive weapons with wide area effects through national level operational policy, including military procedures and rules of engagement.

Developing clear standards: an international political declaration on explosive weapons

The UN Secretary-General has called on states to engage constructively in efforts to develop a political declaration to address the harm caused by EWIPA.¹⁴ Discussions towards developing an international political instrument to address this humanitarian problem are ongoing, and already 70 states have spoken out on the issue of EWIPA.¹⁵ A political declaration would build on the basis provided by existing international law, including human rights and international humanitarian law (IHL), and provide practical commitments to reduce the impact of explosive weapons on civilians.

An international political declaration must promote actions that will reduce humanitarian harm from the use of explosive weapons in populated areas, and increase the protection of civilians living through conflict. A commitment that will stop the use of explosive weapons with wide area effects in populated areas should be central to a declaration and would provide the best practical mechanism for reducing civilian harm. Whilst not a legally-binding commitment, a political declaration should seek to influence the behaviour of states by promoting a clear international standard of practice. A political declaration signed by a group of states would provide a tool that promotes operational policy and practice to better protect civilians, and a framework for states to work together to achieve that purpose.

A clear collective commitment on this vital humanitarian question is urgently needed.

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⁷ See for example ICRC, 'Explosive weapons in populated areas: The consequences for civilians,' June 2015 <http://bit.ly/2weUp0u>, and Harvard Law School and PAX, 'Operating under fire: The effects of explosive weapons on healthcare in the East of Ukraine', May 2017, <http://bit.ly/2i4Is8d>

⁸ ICRC, 'Yemen: Health system at breaking point as cholera epidemic spreads at unprecedented rate', June 2017, <http://bit.ly/2uLZWfx>

⁹ Landmine Action, 'Explosive violence: The problem of explosive weapons,' August 2009, <http://bit.ly/2vLJSrC>, and Handicap International, 'The use of explosive weapons in populated areas – it's time to act', 2016, <http://bit.ly/2x7WLvq>

¹⁰ See Insecurity Insight, 'Aid in Danger' <http://www.insecurityinsight.org/aidindanger/explosives/>

¹¹ See for example ICRC, 'Explosive weapons in populated areas: The consequences for civilians,' June 2015 <http://bit.ly/2weUp0u> and Landmine Action, 'Explosive violence: The problem of explosive weapons,' August 2009, <http://bit.ly/2vLJSrC>

¹² Article 36, 'The impact of explosive weapons on mental health and psycho-social wellbeing', September 2013, <http://bit.ly/1ATCBSO>

¹³ Article 36 and PAX, 'Areas of harm: Understanding explosive weapons with wide area effects', October 2016, <http://bit.ly/2dGaVLx>

¹⁴ Report of the Secretary-General on the protection of civilians in armed conflict' (S/2017/414).

¹⁵ See: <http://www.inew.org/acknowledgements>