## **Article**36

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# Fleeing the bombs: Approaching explosive weapons in the policy framework of displacement

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Article 36 is a UK-based not-for-profit organisation working to promote public scrutiny over the development and use of weapons.

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The use of explosive weapons in populated areas has been identified as a key driver of population displacement. Curbing the use of explosive weapons in populated areas is not only essential to provide greater protection to civilians experiencing armed conflict and to reduce the increase of displaced people, but it is also a useful policy concept for agencies working to prevent protracted population displacement caused by conflict.

### An operational challenge

Faced with an escalation in the number of refugees and internally displaced persons (IDP) in areas of armed conflict, population displacement agencies, states and NGOs have in recent years placed increased emphasis on the need to address the root causes of forced displacement. The underlying premise driving policy development in this area is that through providing greater protection to civilians in areas of armed conflict, it can help to prevent the need to flee.

Whilst the concept of preventing forced displacement is not new, since the UN Special Rapporteur for Human Rights and Mass Exoduses in 1981 confirmed the link between human rights violations and massive refugee flows, prevention of forced displacement has had limitations as a policy concept for displacement agencies. This is partly due to the inherent ambiguity in the concept of prevention itself: Whilst preventive approaches to forced displacement are designed to address the causes of displacement, the concept of prevention carries with it the risk of being misconstrued as encompassing or even encouraging policies designed to deny vulnerable populations the opportunity to flee situations of violence.

The challenges of prevention as a policy concept for displacement agencies is also related to the complexity of situations of forced displacement. A decision to flee is in most cases the result of a wide range of interrelated factors (often with complex political, social and economic roots), and formulating policies to remove or mitigate some or all of these factors is a challenging conceptual task. As noted by the UN Refugee Agency (UNHCR), limited progress has been made to "operationalize" preventive approaches to forced displacement.<sup>2</sup> The task of isolating and distinguishing factors that lead to *conflict-induced* displacement is considered to be particularly challenging, as the causes of armed conflict are often multifaceted and overlapping.<sup>3</sup>

People living as IDPs spend on average 17 years in displacement, and 80 per cent of the world's IDPs have been displaced for more than five years. In light of such protracted displacement situations, there is growing recognition that an effective humanitarian response to forced displacement is essential on humanitarian grounds. It is also accepted that this response must be complemented by strategies to address the factors that force people to flee in the first place.

Recognising the need for nuanced approaches to the prevention of displacement, in 2015 UNHCR organised its annual High Commissioner's Dialogue on Protection Challenges on the theme understanding and addressing root causes of displacement.<sup>4</sup> The event brought together delegations from 90 countries, 68 nongovernmental organisations (NGOs) and 28 intergovernmental organisations (IGOs), signalling a growing interest in the international community in addressing the drivers and triggers of displacement. In the run-up to and during the event, several displacement agencies and NGOs called for renewed action to address the root causes of forced displacement. "A bold review of the solutions architecture is needed to determine which actors should drive forward the displacement solutions agenda, and what protection frameworks and tools are appropriate to address the

root causes of protracted displacement", stated the International Director of Danish Refugee Council, Ann Mary Olsen.<sup>5</sup>

This agenda was taken forward through the work leading up to the 2016 UN Summit for Refugees and Migrants. In the *New York Declaration* adopted at the summit, states expressed their determination to "address the root causes of large movements of refugees and migrants, including through increased efforts aimed at early prevention of crisis situations based on preventive diplomacy", and, to this end, renewed their "commitment to uphold humanitarian principles and international humanitarian law." Whilst the *Declaration* fell short of stipulating any concrete measures that could be taken to strengthen implementation of the "rules that safeguard civilians in conflict", it seems reasonable to expect that such measures will be further discussed in efforts to implement the *Declaration*'s commitments.

This policy paper aims to contribute to a review of the "solutions architecture" and the implementation of the New York Declaration by suggesting that consideration of the use of explosive weapons in populated areas can provide a useful concept for agencies working to develop policies to address the root-causes of conflict-induced displacement.

Acknowledging the utility in distinguishing between drivers and triggers of forced displacement, the paper further suggests that it is useful to distinguish between different conflict modalities when seeking to respond to protracted situations of forced displacement. In short, armed conflict puts people at risk of displacement, but some aspects of armed conflict are more likely to lead to displacement than others. The rapid increase in refugees and IDPs worldwide makes identifying and addressing the means and methods of warfare that are especially inducing of displacement an urgent priority for policy makers.

#### The mechanisms

The use of explosive weapons in populated area is recognised as a major contributor to forced population displacement in areas of armed conflict. Numerous states, the UN Secretary-General, the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the International Committee of the Red Cross (ICRC) have all highlighted the link between increasing refugee flows, on the one hand, and the bombing and shelling of populated areas, on the other. Several organisations working to address the issue of displacement have also pointed to the use of explosive weapons as a specific area of concern, had the Co-Chair's Summary of the 2015 High Commissioner's Dialogue on Protection Challenges explicitly recognised that "modern conduct of hostilities, including the use of explosive weapons in densely populated areas, is a significant driver of civilian displacement".

Identifying the mechanisms by which the use of explosive weapons leads to displacement is an important first step in enabling states and displacement agencies to develop policies to address explosive weapons.

To structure discussions during the 2015 High Commissioner's Dialogue on Protection Challenges, the Internal Displacement Monitoring Centre (IDMC) suggested distinguishing between *drivers* and *triggers* of population displacement. Based on the IDMC analysis:

- x drivers are "distant underlying structural factors that combine to enable a crisis to erupt";
- triggers are "proximate precipitating events that leave people with little choice but to flee their homes".

The use of explosive weapons can conceivably be both a direct trigger and a slower working driver of forced displacement.

## Explosive weapons as a trigger of displacement

Direct proximity to bombing and shelling can be a primary factor that forces people to flee their homes. Being present in an area that is being bombed or shelled is a terrifying and traumatising experience - producing a high level of fear that oneself or one's family members will be killed or injured. When one's home has been badly damaged or destroyed as a result of bombing, staying might not be possible. When explosive weapons are used in one's neighbourhood causing damage to sanitation facilities, disrupting the electricity supply and destroying other essential services in the immediate surroundings, such events might reasonably lead to a consideration that fleeing is necessary or prudent. All such effects are accompanied by a recognition that further use of explosive weapons will make the situation worse, and that there are limited mechanisms for mitigating future risks. Numerous victim statements collected by civil society organisations and humanitarian agencies indicate that for some people, the use of explosive weapons is the main event resulting in the decision to flee.

In interviews conducted by Human Rights Watch in refugee camps in Turkey, Jordan and Lebanon, most people would cite the use of explosive weapons as a reason for fleeing. <sup>14</sup> Save the Children in Yemen collected this statement from a five-year old victim of an explosive weapons attack:

Sa'ada was burning, I saw it. It was in the night and I was sleeping in my bed. We were woken up by very strong bombing everywhere ... My father told me our house was damaged and so we had to come to Sana'a. We don't have anywhere else to go so now we live in a school ....<sup>15</sup>

In eastern Ukraine, a victim testimony recorded by PAX and OCHA puts the rationale for fleeing the bombing in stark terms:

I own a small store in the open marketplace. We were outside and we heard the sound of a plane approaching. The plane flew by and then it seemed to turn around. Within three or four minutes something hit the ground about 300 metres away from us. I can't even talk about it now, the feeling was so strong and so horrible. I left my market store and ran to the kindergarten where my child was. People were telling me to close the store but I didn't care. I just ran to the kindergarten. Early the next morning we fled.<sup>16</sup>

## Explosive weapons as a driver of displacement

As pointed out by the International Council of Voluntary Agencies (ICVA) at the 2015 High Commissioner's Dialogue on Protection Challenges, "[t]he most visible cause of displacement in conflict is the bombing of towns, cities and communities". <sup>17</sup> Yet, recent work carried out by the ICRC and the United Nations Institute for Disarmament Research (UNIDIR) suggests that the use of explosive weapons might also contribute to population displacement in more indirect, less visible, ways.

In addition to creating fear and insecurity, extensive use of explosive weapons can cause severe damage to critical infrastructure and thereby limit or deny the local population access to essential services, which can also result in deciding to flee. In some conflict areas, the use of explosive weapons has damaged

hospitals, limiting the local population access to medical facilities and sometimes vital treatment. But the use of explosive weapons has also caused irreparable damage to less visible, but equally important, infrastructure, such as water, electricity and sewerage systems. These systems are often interconnected, which means that damage to one element might disable others. As noted by the ICRC, "in the face of such devastation [to critical infrastructure], surviving civilians often have no choice but to leave".<sup>18</sup>

The way in which damage to critical infrastructure can lead to a decision to flee is illustrated by a victim testimony recorded by PAX and OCHA in eastern Ukraine:

We came to pick up our things. It's impossible to live here, the shelling is almost every day. There's no water, no gas, nothing—no conditions for life. All the pipe systems are damaged. The apartment is on the contact line so it's right in the middle. We're told 'Please take all you can because this place will not exist'. I am seven months pregnant. 19

The use of explosive weapons can also affect the underlying, structural factors that contribute to a crisis. As noted by UNIDIR in a recent report, explosive weapons disrupt development and the achievement of the Sustainable Development Goals (SDG). Resulting resource shortages can lead to hunger, which is a major cause of forced displacement, and/or increased societal tension, which may lead to the outbreak of armed violence. <sup>20</sup>

The ways in which the use of explosive weapons can cause irreparable damage to critical infrastructure and disrupt development suggest that explosive weapons-induced displacement can be long-lasting. Once destroyed, schools, hospitals and schools can take years to rebuild physical structures let alone continue to provide services at the quality needed, especially in areas of ongoing conflict. The presence of unexploded ordnance in areas of widespread explosive weapons use might also prevent the safe return of displaced populations, with potential implications for asylum proceedings and return decisions

The implication from the sections above is that the use of explosive weapons in populated areas can function as both an immediate trigger and a longer-term driver of displacement. Furthermore, while different conflict modalities may all have some potential to promote displacement, the specific effects associated with the use of explosive weapons in populated areas are particularly likely to promote displacement. The fear of death or injury, the sense that the bombing or shelling is being conducted without the control necessary to avoid civilian harm, and the lack of capacity to establish strategies for personal or family safety all encourage movement. The progressive erosion of housing and shelter, and of critical infrastructure, similarly suggest a context that is becoming less capable of providing for health, safety and security. When the explosive weapons used employ large quantities of explosive force, where they may affect a wide area, and where bombing and shelling is protracted over time, the pressure of displacement is likely to be exacerbated.

## The limitations of quantitative analysis

Whilst personal testimonies are highly indicative of a strong relationship between bombing and shelling in populated areas and displacement, data limitations and the complexity of issues make it more difficult to establish this in general quantitative terms. Data collected by Action on Armed Violence (AOAV)<sup>21</sup> on media reported deaths and injuries from the use of explosive weapons and data collected by the Internal Displacement

Monitoring Centre (IDMC)<sup>22</sup> is suggestive of the relationship between the use of explosive weapons and conflict-induced population displacement.

Country	EW casualties 2011-15	EW incidents 2011-15	IDPs 2015
Iraq	53,493	2,660	3,290,310
Syria	40,884	1,606	6,600,000
Pakistan	21,041	1,714	1,459,312
Afghanistan	15,961	1,701	1,174,306
Yemen	9,761	590	2,509,068
Nigeria	9,043	248	2,095,812
West Bank & Gaza	5,756	675	221,425
Libya	6,146	258	500,000
Somalia	5,062	303	1,223,000
Ukraine	2,290	295	1,678,587

The ten countries where AOAV recorded the highest number of civilian victims of explosive weapons between 2011 and 2015 had between 221,425 (West Bank and Gaza) and 6.6 million (Syria) conflict-induced IDPs on their territories in 2015 (see table above). Comparing the annual number of explosive weapons victims and the annual number of IDPs in the years 2011-2015 gives a correlation of 0.8, which is statistically significant.

However, changes in the number of civilians reported killed and injured by explosive weapon use and the number of IDPs *over time* (see charts below) suggest that there is a complex relationship between these two variables at this general scale of analysis.

In some cases, a year of increased explosive weapon casualties coincides with a decrease in the displaced population. Nevertheless, for most of the countries in question, an increase in civilian casualties as a result of explosive violence was likely to result in an increase in the number of IPDs recorded either during the same or the following year. In fact, in nine of the ten cases, a change in the total number of explosive weapons victims corresponded to a similar change in the number of IDPs. In only two cases—in Syria from 2012 to 2013 and in Nigeria from 2014 to 2015—did an increase in the number of explosive weapons casualties not correspond to an increase in the number of IDPs either the same or the following year.

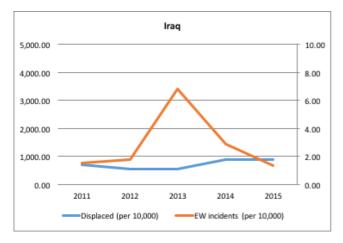
Moreover, with the exception of Somalia, all countries that experienced high levels of explosive violence in the period 2011-2015 reported a significantly higher number of IDPs at the end of the period than at the beginning of the period. In the ten countries where AOAV recorded a total of 10,050 incidents of explosive weapon use there was an overall increase of 14 million IDPs—an increase of 206 per cent.

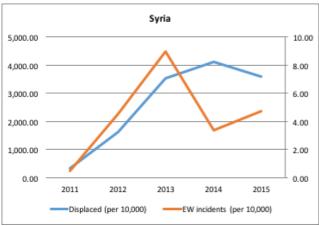
However, the following factors might all condition the patterns of data represented here:

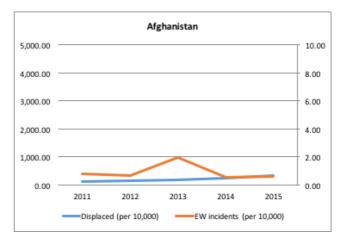
 AOAV's data on media reported incidents tends to underrepresent the scale of widespread and systematic explosive

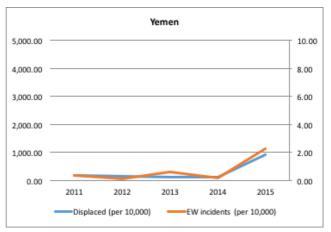
- weapon use and is subject to geographic variations in the source data;
- Numerous factors bear upon the number of people reported to be living as IDPs in a given year – including movement into refugee status;
- In some contexts, notably West Bank and Gaza, there are physical geographical constraints to the utility of adopting IDP status:
- The extent to which explosive weapon use is locally concentrated and sustained may have a significant on the likelihood of it precipitating displacement. Even if the number of incidents is high, if they are sporadic and geographically dispersed they are much less likely to result in people deciding that staying at home is unsustainable.

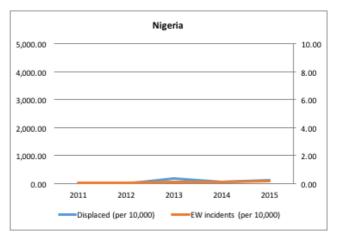
The following charts are scaled by approximate country population, to facilitate comparison of the data between different contexts. The population reported internally displaced is represented by the blue line with the scale on the left side of the chart indicating people displaced per 10,000 of total population. Incidents of media-reported explosive weapon use are represented by the orange line with the scale on the right side chart indicating incidents per 10,000 of total population.

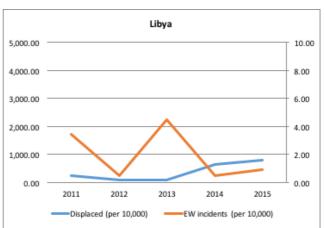


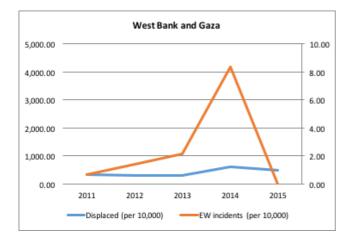


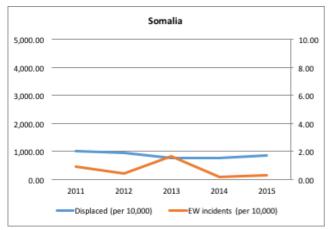


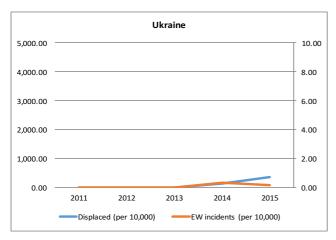


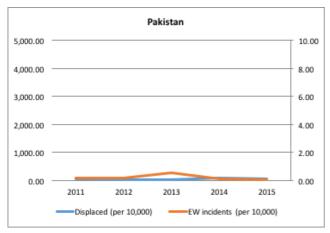












Each country situation will be subject to various specific factors that serve to condition the extent to which these phenomena interact in practice. Beyond the broad correlation noted above, a possible further line of inquiry would be whether certain thresholds (such as reported explosive weapons incidents crossing the 2 per 10,000 of population line) might be associated with a predictable increase in displacement. Article 36 continues to propose that incidents of explosive weapon use by state forces within their own territory should be adopted as a specific indicator in conflict warning mechanisms. It is possible that certain metrics regarding reported incidents of explosive weapon use could inform planning processes for actors in the displacement sector.

## **Protection as prevention**

The patterns identified above suggest that working to curb the use of explosive weapons in populated areas, particularly heavy explosive weapons and those with wide area effects, would constitute a useful activity for actors working to prevent conflict-induced forced displacement. Whilst the direct relationship between these phenomena is complex and always locally conditioned, the consistent reporting from displaced people of bombing and shelling as a reason for fleeing warrants increased engagement on the part of displacement agencies in this area.

Recently, states have at the international level begun to address the humanitarian harm caused by explosive weapons, commencing a process to adopt a political commitment to better protect civilians from the use of explosive weapons in populated areas. Engaging with this process is a natural entry point for advocacy on this issue. Of course, the transmission from international policy commitments to change in situations of actual conflict can be tenuous – but greater focus on the specific phenomena of heavy explosive weapon use in populated area offers the potential at least to provide one line of disaggregation in the wider phenomenon of 'conflict', a line that is measurable and can provide a starting point for predictive strategies as well as advocacy for prevention.

Yet, the question of what the specific role of displacement agencies in this work should be, still remains. In the article 'Prevention of Forced Displacement: the inconsistencies of a concept', UNHCR Senior Protection Officer Josep Zapater argues that the concept of prevention has limited utility for displacement agencies. According to Zapater, the concept is not only 'ill-defined', but also 'so much ridden with internal inconsistencies as to render it all but impractical as a basis for policy design in the humanitarian field'.<sup>23</sup>

Zapater identifies several challenges associated with the concept of prevention in conflict-induced displacement policy design. Because forced displacement is only one of a wide range of humanitarian problems caused by armed conflict, a prevention strategy to address the root-causes of forced displacement could amount to nothing less than a conflict-prevention strategy full stop. Similarly, more fine-grained policies to prevent violations or abuses of human rights and infractions of international humanitarian law during armed conflict would arguably be equally relevant for human rights and humanitarian protection organisation as displacement agencies, and hence lose their character of "IPD policies". <sup>24</sup>

As noted by Zapater, such preventive policies would be "as good to prevent forced displacement as they [would be] to prevent any other humanitarian consequences of armed conflict. Their labelling as prevention of root causes of forced displacement is thus fairly arbitrary, as there is nothing specific to displacement in them".<sup>25</sup>

In itself, the fact that a policy might have applicability beyond displacement agencies might not necessarily be a problem. Rather, such commonality might be a source of increased interagency cooperation and contribute to more efficient solutions. Unless, however, a specific link is established between the proposed preventive policy and forced displacement, preventive displacement policies might end up inaccurately reflecting the needs of the persons a displacement agency is mandated to serve. As Zapater points out:

'If we accept that the prevention of acts that lead to displacement is the main policy basis of an agency engaging in protection in areas affected by armed conflict, then it is very likely that the designed intervention may end up considering areas less likely to produce displacement, but with a higher level of suffering and violations of rights, as a lesser priority. That is, the prioritization exercise linked to considering prevention as a good basis for protection may well lead to serious breaches of the principle according to which aid and protection must be distributed according to need'. <sup>26</sup>

Do the challenges related to implementing 'protection' in order to achieve prevention of conflict-induced displacement apply to working or advocating against the use of heavy explosive weapons in populated areas? Curbing the use of heavy explosive weapons in populated areas would not only support an agenda of displacement prevention, but also likely reduce risks of infractions of international human rights and humanitarian law. But is that really a significant challenge?

The useful step in considering this is to acknowledge the difference between armed conflict (as a whole) and different conflict modalities as a cause of forced displacement. The background paper produced by UNHCR ahead of the 2015 High Commissioner's Dialogue on Protection Challenges demonstrates the confusion that can result from a failure to distinguish between armed conflict, on the one hand, and different conflict-modalities, on the other:

'Causes of conflict-induced displacement can, however, be hard to isolate and distinguish, and causes frequently converge. Conflicts can be self-perpetuating, not only causing but also exacerbating and continuing displacement. An expert roundtable on international protection of persons fleeing armed conflict and other situations of violence held in South Africa in 2012 concluded that "there is usually no singular explanation for a particular conflict, and that there are multiple and overlapping causes, which may change over time". Reasons underlying armed conflict, or other situations of violence, range from political, ethnic, or religious, to the exploitation of economic resources, to the drug trade and transnational criminal activities. In many situations, poverty, human rights violations, sexual and gender-based violence, drought, impunity, bad governance, corruption and ethnic marginalization co-exist as multiple drivers of displacement. Statelessness has been a root cause of violent conflict in a number of situations, leading to massive internal and external displacement."

In the quote above, what starts out as a discussion about the causes of conflict-induced displacement slides into a discussion about the causes of armed conflict in general, and then back again into a discussion about drivers of displacement. Moreover, specific modalities of conflict (such as sexual and gender-based violence) are listed alongside factors that might either be a cause of armed conflict (such as poverty and drought) or the effects of armed conflict (such as bad governance and impunity). The failure to recognise that armed conflict and different conflict modalities operate at different levels of causality also leads to

inconsistencies in application of the concept of prevention. That is to say, it becomes unclear exactly what the preventive policy in question is designed to prevent.

If the root cause of conflict-induced population displacement is simply understood to be armed conflict (as a whole), it would be difficult to avoid a prioritisation hazard by which resources and attention might be directed towards countries and areas where conflict-prevention activities might have the largest potential to succeed, instead of the countries and areas in which an armed conflict have the potential to lead to the highest number of IDPs.

However, if the root causes of conflict-induced displacement are instead conceptualised in relation to *a range of modalities of conflict*, in theory that would allow us to identify and assess the conflict modalities that are particularly likely to lead to displacement.

The use of explosive weapons indicates specific conflict modalities. Explosive weapons can be understood as a "category of technology generally considered unacceptable when those employing armed force are directly responsible to the population amongst whom they are operating". <sup>28</sup> That this view of explosive weapons is prevalent is indicated by the fact that explosive weapons are normally excluded from domestic police operations. So the transition to the use of explosive weapons amongst the state's own population indicates a distinct transition into a certain modality of conflict. Developing from this, the use of heavy, widearea explosive weapons in areas of civilian population represents a still more intense conflict modality - and one which can be directly linked to an elevated likelihood of displacement. It can also be used to inform asylum and return decisions: in recognition of the hindrance use of explosive weapons in populated areas and explosive remnants of war pose to safe return, information about their impacts and risks could be systematically included by UNHCR in its eligibility guidelines for assessing the international protection needs of asylum seeker, in return advisories, and in country of origin background notes.

Building a typology of conflict modalities likely to have specific implications for displacement would provide a basis for a stronger consideration of prevention. Such a typology should be developed in conjunction with practical indicators that allow policy makers to understand the conflict modalities developing in specific contexts. The development and intensification of explosive weapon use provides a basis for one thread of such a typology: it is amenable to practical indicators, and it offers opportunities for interventions and policy positions that would support efforts to prevent displacement.

#### Conclusion

Whilst there is a clear scope for more research into the points of connection between the use of explosive weapons and forced displacement, the mechanisms and quantitative patterns presented in this paper suggest that extensive use of heavy explosive weapons is likely to lead to situations of protracted displacement. In addition to advocating in favour of curbing the use of explosive weapons in populated areas and supporting political processes to further that goal, displacement agencies should establish indicators and analysis of explosive weapon use as a basis for understanding the development of conflict modalities that present particular likelihoods of forced displacement.

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<sup>1</sup> Josep Zapater, 'Prevention of forced displacement: the inconsistencies of a concept' (UNHCR 2010)

UNCHR, Background paper for the High Commissioner's Dialogue on Protection Challenges: Understanding and addressing the root causes of displacement, available at http://www.unhcr.org/564c53429.html 3 UNHCR, 'Summary Conclusions on International Protection of Persons Fleeing Armed Conflict and Other Situations of Violence' (September 2012), available at http://www.refworld.org/docid/50d32e5e2.html <sup>4</sup> See http://www.unhcr.org/high-commissioners-dialogue-on-protectionchallenges-2015.html

Ann Mary Olsen, 'Understanding and addressing root causes of displacement' Devex (2016), available at https://www.devex.com/news/understanding-and-addressing-root-causesof-displacement-87785

UN General Assembly Resolution A/71/L.1, available at https://www.un.org/ga/search/view\_doc.asp?symbol=A/71/L.1 <sup>7</sup> Ibid.

See http://www.inew.org/acknowledgements for a full list of states that have acknowledged the harm caused by the use of explosive weapons in populated areas

Statement available at http://www.inew.org/acknowledgements#UNSG <sup>10</sup> See http://www.unocha.org/what-we-do/explosive-weapons-populated-

11 See https://www.icrc.org/en/document/explosive-weapons-populatedareas-consequences-civilians

Danish Refugee Council, Towards understanding and addressing root causes of displacement: The DRC perspective', DRC (2015), available at https://drc.dk/media/1956218/towards-addressing-root-causes-of-displacement.pdf; see also http://www.dagbladet.no/nyheter/her-brukesetsende-og-brennende-vapen-ingen-av-dem-skiller-mellom-de-250-000 sivile-og-soldatene/63420810 (in Norwegian) for a statement made by Secretary General of the Norwegian Refugee Council, Jan Egeland. Co-Chairs' Summary, High-Commissioner's Dialogue on Protection Challenges: Understanding and addressing root causes of displacement, Thematic Session 1: Understanding the causes of conflict-induced

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17 ICVA, NGO Key Messages for the 16-17 December 2015 High

Commissioner's Dialogue on the Root Causes of Forced Displacement, available at http://www.unhcr.org/566ff9c09.html

18 See https://www.icrc.org/en/document/explosive-weapons-populatedareas-consequences-civilians

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- Ibid.
- <sup>25</sup> *lbid*.
- <sup>26</sup> Ibid.

27 UNCHR, Background paper for the High Commissioner's Dialogue on Protection Challenges: Understanding and addressing the root causes of displacement, available at http://www.unhcr.org/564c53429.html

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