



INEW BRIEFING PAPER: UN GENERAL ASSEMBLY'S FIRST COMMITTEE

October 2021

The International Network on Explosive Weapons (INEW)¹ calls for immediate action to prevent human suffering from the use of explosive weapons in populated areas (EWIPA).

During First Committee, delegations should:

- X Acknowledge** that the use of explosive weapons in populated areas causes severe harm to individuals and communities, including through both direct and reverberating effects.
- X Endorse** the UN Secretary-General's recommendation that states should avoid the use of explosive weapons with wide area effects in populated areas.²
- X Express their support** for the development of an international political declaration on explosive weapons to protect civilians and intention to participate in the consultations in Geneva later this year.

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 priority³ following the increase⁴ in recent years of conflicts taking place in urban settings resulting in high levels of civilian casualties. Data consistently shows that when explosive weapons are used in populated areas, approximately 90% of those reported killed and injured are civilians.⁵ Over the last decade more than 260,000- were recorded killed or injured by explosive weapons, and explosive violence has affected at least 123 countries.⁶

Long-term harm and suffering

The effects of explosive weapons are wide ranging and have long term implications. Beyond immediate deaths and injuries, civilians suffer from psychological distress and trauma⁷, and 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 homes⁸ leaving people without shelter and impedes access to, and availability of, vital provisions including food. Humanitarian access can be hampered, or stopped entirely, as humanitarian and relief organisations struggle to access particularly violent areas.⁹ Damage to electricity, energy, power further compound such problems, and in some instances prevents the civilian population from fleeing the area.¹⁰ 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.

Explosive weapons with wide area effects

Most types of explosive weapons – which include, among others, aircraft bombs, artillery shells, rockets, grenades, missiles as well as improvised explosive devices – are designed for use in open battlefields, and not towns and cities where there is a concentrations 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.

Explosive weapons and international law

International humanitarian law (IHL) sets out legal standards of behaviour for parties to armed conflict which must be applied even in the most desperate circumstances. Under IHL, direct attacks on civilians and civilian objects are prohibited, indiscriminate and disproportionate attacks are prohibited, and parties to an armed conflict are required to take feasible precautions in attack in order to avoid or minimize civilian harm.

There are, however, limitations to the extent that IHL can provide sufficient protection to civilians from the use of explosive weapons in populated areas. IHL guides states towards preventing direct death and injury to civilians in specific attacks, but it does not address the long-term, and indirect effects that the use of explosive weapons in populations has on the civilian population, including from the impact to buildings, infrastructure and services, which is both foreseeable and a cause of widespread harm to civilians. It is also focused on rules over individual attacks. As such, it is

incumbent on states to assess the risk of harm to civilians on a case-by-case basis, rather than providing an explicit standard of behaviour, and subject to varying interpretation by states. IHL rules on the conduct of hostilities do not reflect detailed agreement on how the risk of harm from blast and fragmentation effects can be effectively addressed and reduced.¹²

Military policy and practice

Clearer guidance to states on this matter could be developed in the form of national-level operational policies and procedures, which would not only help to reduce humanitarian harm and civilian suffering, but would also help to avoid non-compliance of IHL. 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. There are already good examples of policy and practice that have been effectively developed and implemented to curtail the use of explosive weapons in populated areas in order to provide greater protection to civilians.¹⁴

Developing stronger standards for protection: an international political declaration on explosive weapons

Positive movement in developing a political declaration aimed at strengthening the protection of civilians has been made over the past year and beyond despite continued delays caused by COVID-19 to holding an in-person meeting to finalise the political declaration text.¹⁵

Around 70 states and many organisations participated in informal online consultations in March 2021 convened by the government of Ireland to share views on the draft political declaration text. A final round of (at least partially) in-person meetings are expected to take place later in 2021 in Geneva.

The International Committee of the Red Cross (ICRC) and the UN Secretary-General have continued to call on states to avoid the use of explosive weapons with wide area effects in populated areas, which “expose civilians to a high risk of indiscriminate effects”.¹⁶ The focus on harm to civilians from explosive weapons continues to be a priority for the International Network on Explosive Weapons (INEW) and is the premise of its inputs to the political declaration process and the binding commitments on states in the draft declaration text.¹⁷

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 is urgently needed on this vital humanitarian issue.

END NOTES

1. 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, Center for Civilians in Conflict, Handicap International, Human Rights Watch, Norwegian People's Aid, Oxfam, PAX, Save the Children, SEHLAC, and the Women's International League for Peace and Freedom.
2. 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/2020/366).
3. See for example, ‘Explosive weapons in cities: Civilian devastation and suffering must stop’, 18 September 2019, The Secretary-General of the United Nations Antonio Guterres, and the President of the ICRC, Peter Maurer, issue a joint appeal, <http://bit.ly/2l1VBkL>
4. Explosive Weapons Monitor, <https://www.explosiveweaponsmonitor.org/>
5. Action on Armed Violence, ‘Patterns of Harm: Five years of explosive violence 2011 – 2015’, June 2016 <http://www.inew.org/wp-content/uploads/2016/08/Patterns-of-Harm.pdf>
6. Action on Armed Violence, ‘A Decade of Explosive Harm, 2011-2020’, 25 May 2021, <https://aoav.org.uk/2021/a-decade-of-explosive-violence-harm-2011-2020/>
7. Article 36, ‘The impact of explosive weapons on mental health and psycho-social wellbeing’, September 2013, <http://bit.ly/1ATCBSO>
8. Humanity and Inclusion, ‘Death Sentence to Civilians: The Long-Term Impact of Explosive Weapons in Populated Areas in Yemen’, May 2020, https://blog.hi.org/wp-content/uploads/2020/06/Study2020_Rapport-YEMEN-EWIPA_EN_Web.pdf
9. See Insecurity Insight, ‘Aid in Danger’ <http://www.insecurityinsight.org/aidindanger/explosives/>
10. See for example ICRC, ‘Explosive weapons in populated areas: The consequences for civilians’, June 2015 <https://bit.ly/1BfcidM> and Landmine Action, ‘Explosive violence: The problem of explosive weapons’, August 2009, <https://bit.ly/2GXobf2>
11. Article 36, ‘Fleeing the bombs: Approaching explosive weapons in the policy framework of displacement’, February 2017, <https://www.inew.org/wp-content/uploads/2017/11/Fleeing-the-bombs.pdf>
12. Maya Brehm, UNIDIR, ‘Protecting Civilians from the Effects of Explosive Weapons: An Analysis of International Legal and Policy Standards’ (2012)
13. Article 36 and PAX, ‘Areas of harm: Understanding explosive weapons with wide area effects’, October 2016, <http://bit.ly/2dGaVLx>
14. OCHA, ‘Compilation of Military Policy and Practice: Reducing the humanitarian impact of the use of explosive weapons in populated areas’, October 2017, <http://bit.ly/2ANCyhf> and Sahr Muhammedally, ‘Minimizing Civilian Harm in Populated Areas: Examination of ISAF and AMISOM Policies and Practices’, in International Review of the Red Cross, March 2017 <https://bit.ly/2vyGfIS>
15. For the latest version of the political declaration text dated 29 January 2021, and any subsequent versions shared subsequent to the publication of this article, see: <https://www.dfa.ie/our-role-policies/international-priorities/peace-and-security/ewipa-consultations/>
16. ‘Report of the UN Secretary General on the Protection of Civilians in Armed Conflict’, S/2021/423, 3 May 2020, <https://undocs.org/S/2021/423>
17. See detailed inputs on the draft political declaration text here: <https://bit.ly/3DbCYxN> and a summary of what the political declaration text should contain to be effective in humanitarian terms, here: <https://bit.ly/3j7tBaE>