



Protecting civilians from the use of explosive weapons in populated areas

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Palestinians gather around a building after it was bombed by an Israeli aircraft, in Gaza City August 9, 2018.

The International Network on Explosive Weapons¹ (INEW) calls for strengthened action to prevent human suffering from the use of explosive weapons in populated areas.

INEW calls on states to:

- ✘ Continue to publicly acknowledge and call for action to address the severe harm to individuals and communities from the use of explosive weapons in populated areas, both direct and indirect.
- ✘ Endorse, and embed in national policy and practice, the recommendation of the UN Secretary-General and ICRC that parties to conflict should avoid the use of explosive weapons with wide area effects in populated areas.
- ✘ Endorse – if not already the case – the Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences Arising from the Use of Explosive Weapons in Populated Areas by writing to the government of the Republic of Ireland via its permanent missions in Geneva or New York or by emailing: ewipa@dfa.ie
- ✘ Encourage other states to endorse the Declaration in order to promote its adoption and implementation by the greatest number of states, including through convening or participating in discussions at the regional/sub-regional level.
- ✘ Start to assess the steps required at the national level (revision of existing or development of new policy and practice, training, etc) to implement the declaration's commitments and designate government focal points for this work, including in the areas of military policy and practice, victim assistance/humanitarian access, and data collection.

HUMANITARIAN CONSEQUENCES OF THE USE OF EXPLOSIVE WEAPONS IN POPULATED AREAS

The use of explosive weapons in populated areas is a leading cause of harm to civilians in armed conflict. It has been documented across different contexts including Gaza, Ethiopia, Iraq, Libya, Sudan, Syria, Ukraine and Yemen, to name a few recent examples.

Each year, tens of thousands of civilians are killed and injured by explosive weapons. Data shows that when explosive weapons are used in populated areas, 90% of victims are civilians. They suffer complex and life changing injuries and long-term psychological distress from the trauma of living under bombing.

The use of explosive weapons in populated areas also destroys critical civilian infrastructure such as hospitals, schools and power and water systems which impacts the provision of essential services to the civilian population, further compounding their situation. Access by humanitarian organizations is constrained while ongoing attacks involving explosive weapons, the destruction of housing and loss of access to essential services, as well as the presence of explosive remnants of war, forces civilians to flee or leave their homes towards an uncertain fate. The destruction caused by explosive weapons has a dramatic impact on post-conflict reconstruction requirements which can escalate dramatically with protracted use of explosive weapons while also delaying if not reversing progress in the achievement of the Sustainable Development Goals.

Further, current, information on the humanitarian consequences of explosive weapons use is available at the Explosive Weapons Monitor: explosiveweaponsmonitor.org

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 rather than towns and cities that are characterised by a concentration of civilians and civilian objects, including objects essential to the survival of civilians.

While there exists 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.² 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. The use of such wide area effect weapons in populated areas substantially increases the risk of harm to civilians and is likely to result in damage to or destruction of buildings and essential infrastructure. It is for this reason that the United Nations (UN) Secretary-General and the International Committee of the Red Cross (ICRC) have repeatedly called on parties to conflict to avoid the use of explosive weapons with wide area effects in populated areas.³

EXPLOSIVE WEAPONS AND INTERNATIONAL LAW

International humanitarian law (IHL) prohibits direct attacks on civilians and civilian objects, as well as indiscriminate and disproportionate attacks. It also requires that parties to conflict take all feasible precautions in attack and defence. IHL represents the minimum standard of behaviour even in the most desperate circumstances of armed conflict.

IHL does not expressly regulate the use of explosive weapons in populated areas, nor is such use unlawful per se. However, evidence shows that even in situations in which parties to conflict assert that their use of explosive weapons complies with IHL, we still see the same pattern of short and long-term harm to civilians resulting from such use.

More needs to be done to prevent and address the humanitarian consequences of the use of explosive weapons in populated areas. There are important examples of military forces limiting the use of certain explosive weapons in certain situations in order to better protect civilians.⁴

THE POLITICAL DECLARATION ON EXPLOSIVE WEAPONS IN POPULATED AREAS: AN AGENDA FOR STRENGTHENED PROTECTION OF CIVILIANS

On 18 November 2022, 83 states endorsed the Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences of the Use of Explosive Weapons in Populated Areas⁵ – the culmination of almost three years of consultations, led by Ireland, involving states, the UN, ICRC and INEW. The declaration is the first formal international recognition that the use of explosive weapons in populated areas has severe humanitarian consequences that must be urgently addressed.

The declaration sets an agenda for the progressive realisation of strengthened protection of civilians from the use of explosive weapons in populated areas. It spells out 14 commitments that endorser states will implement including, crucially, a commitment to avoid civilian harm by restricting or refraining from the use of explosive weapons in populated areas. The declaration also provides a framework for future collaboration, both between states, as well as with the UN, ICRC and civil society, building on the shared goal of reducing harm to civilians.

The declaration also sets an expectation that endorser states will act in good faith and implement their commitments. They should move expeditiously to begin that process so that a broad expectation and culture of implementation develops from the outset. This should include reviewing existing policies and practices relevant to the protection of civilians, and engaging in dialogue with key partners including civil society.⁶ However confident endorser states are in their existing efforts to protect civilians in their military operations, they should not automatically consider them sufficient for meeting their commitments under the declaration to avoid civilian harm from the use of explosive weapons.

ENDNOTES

- 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 See further Article 36/PAX, Areas of Harm – Understanding Explosive Weapons with Wide Area Effects (October 2016), at: <https://article36.org/wp-content/uploads/2020/12/PAX-A36-Areas-of-Harm.pdf>
- 3 The UN Secretary General has repeatedly called on all state and non-state parties since 2012 to “avoid the use of explosive weapons with wide-area effects in populated areas”, including most recently in his 2022 report on the protection of civilians in armed conflict’ (S/2022/381, para.13). 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 UN Office for the Coordination of Humanitarian Affairs, Reducing the Humanitarian Impact of the Use of Explosive Weapons in Populated Areas: Compilation of Military Policy and Practice (2017), at: <https://www.unocha.org/sites/unocha/files/OCHA%20Compilation%20of%20Military%20Policy%20and%20Practice%202017.pdf>
- 5 Text available at: <https://www.dfa.ie/our-role-policies/international-priorities/peace-and-security/ewipa-consultations/>
- 6 Guidance on the possible actions that endorser states could take to implement the declaration can be found at: Article 36, Implementing the Political Declaration on the Use of Explosive Weapons in Populated Areas: Key Areas and Implementing Actions (November 2022), at: <https://article36.org/updates/publication/implementing-the-political-declaration-on-the-use-of-explosive-weapons-in-populated-areas-key-areas-and-implementing-actions/>