Expert meeting on reducing the humanitarian impact of the use of explosive weapons in populated areas

London, 23-24 September 2013

Summary Report

The United Nations Office for the Coordination of Humanitarian Affairs (OCHA), in partnership with Chatham House and the support of the Ministry of Foreign Affairs of Norway, convened the first meeting of governmental and other experts to discuss ways to strengthen the protection of civilians from the use of explosive weapons in populated areas. The discussions established the parameters of a roadmap for complementary work streams on this topic for OCHA and others, including partner States, United Nations actors, the International Committee of the Red Cross (ICRC) and civil society.

The context

In recent years, the need to strengthen the protection of civilians from the humanitarian impact explosive weapons in populated areas\(^1\) has emerged as a key concern for the United Nations, the ICRC, civil society and an increasing number of States. Beginning with his 2009 report to the Security Council on the protection of civilians in armed conflict\(^2\), the United Nations Secretary-General has consistently drawn attention to the issue. In his 2012 report, the Secretary-General recommended that parties to conflict refrain from using explosive weapons with wide-area effects in populated areas. He further recommended that States, United Nations actors, international organizations and non-governmental organizations (NGOs) intensify their consideration of the issue, including through more focused discussion.\(^3\)

The United Nations Emergency Relief Coordinator has highlighted the issue in Côte d’Ivoire, Libya, Sudan and Syria and called upon parties to refrain from using explosive weapons in populated areas.\(^4\) Concern has been expressed also by consecutive Special Representatives of the Secretary-General on children and armed conflict.\(^5\)

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\(^1\) One possible definition of “populated areas” is areas likely to contain concentrations of civilians. The term “concentrations of civilians” is defined in Protocol III to the Convention on Certain Conventional Weapons as any concentration of civilians, be it permanent or temporary, such as in inhabited parts of cities, or inhabited towns or villages, or as in camps or columns of refugees or evacuees, or groups of nomads.


\(^3\) Report of the Secretary-General on the protection of civilians in armed conflict, S/2012/376 (2012), para.75.

\(^4\) OCHA, UN Humanitarian Chief Alarmed at Cote d’Ivoire Violence (18 March 2011); UN Humanitarian Chief Highlights Humanitarian Concerns of Continued Fighting in Libya (17 March 2011), Emergency Relief Coordinator’s Key Messages on Syria (25 October 2012); Security Council Open Debate on the Protection of Civilians in Armed Conflict: Statement by Ms. Valerie Amos, Emergency Relief Coordinator and Under-Secretary-General for Humanitarian Affairs (25 June 2012)

\(^5\) See for example, Annual Report of the Special Representative of the Secretary-General for Children and Armed Conflict, A/HRC/21/38 (28 June 2012); Report of the Special Representative of the Secretary-General...
The meeting

In response to the Secretary-General’s recommendation for most focused discussion of this issue, OCHA, in partnership with the International Security Research Programme of Chatham House and the support of the Norwegian Ministry of Foreign Affairs, convened an expert meeting on the issue. The 51 participants included governmental/military experts from Australia, Austria, Germany, Kenya, Mexico, Norway, the United Kingdom and United States of America; United Nations actors; ICRC and civil society organizations under the

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7 Statement of the President of the Security Council, S/PRST/2012/10 (5 April 2012).
8 A/RES/66/253 (15 May 2103)
9 At the February 2013 open debate, the following States referred to the issue in their statements: Australia (Security Council member), Luxembourg (SC member), Austria, Bangladesh, Benin, Chile, Guatemala, Germany, Jordan, Lichtenstein, Lithuania, Malaysia, Montenegro, New Zealand, Qatar, Spain, Sweden. It was also referred to in statements made on behalf of the European Union, the Human Security Network, the Arab Group and Nordic Countries. For more analysis see: www.inew.org/news/explosive-weapons-raised-as-key-issue-in-security-council-debate-on-protection-of-civilians
10 ICRC, International Humanitarian Law and the Challenges of Contemporary Conflicts – Report prepared for the 31st International Conference of the Red Cross and Red Crescent (October 2011) 42
12 Office for the Coordination of Humanitarian Affairs, Office of the High Commissioner for Human Rights, Office of the Special Representative of the Secretary-General on Children and Armed Conflict, United Nations
The umbrella of the International Network on Explosive Weapons; and individual military experts, academic and research institutes. The meeting was conducted under the Chatham House rule.

**Types of explosive weapons and patterns of use**

Session one considered the range of explosive weapons that exist today and how their use in populated areas can be problematic. Many types of explosive weapons are currently in use. These include aircraft bombs, artillery shells, missile and rocket warheads, mortar bombs, grenades and improvised explosive devices. Some are air dropped, others are surface launched. Whilst different technical features dictate their precision and the scale of their explosive effect, these weapons generally create a zone of blast and fragmentation within which further discrimination is not possible. This makes their use problematic in populated areas.

Particular concern was expressed regarding the widespread use, predominantly by non-State armed groups, of improvised explosive devices (IEDs) in populated areas, including attacks targeted at civilian populations. The discussions also highlighted the elevated risk to civilians from the use in populated areas of explosive weapons that have “wide-area effects”, whether from the scale of blast that they produce, their inaccuracy, or the use of multiple warheads across an area.

**The question of humanitarian impact**

Session two sought to deepen understanding of the actual impact on civilians of the use of explosive weapons in populated areas, drawing on the experience of field-based United Nations and NGO actors in Afghanistan, the occupied Palestinian territory, Somalia and Syria. The presentations referred to the immediate impact in terms of deaths and injuries to civilians, including maiming. For example, it was noted that during 2012, of the 34,700 people killed and injured by explosive weapons, at least 78% were civilians. This was a 26% rise in the number of civilian casualties compared to 2011. When explosive weapons were used in populated areas, 91% of the casualties were civilians.

While international conventions on antipersonnel landmines and cluster munitions include important provisions relating to victim assistance, these weapons account for only a small proportion of the overall victims from explosive weapons. The wider group of victims and survivors do not currently have the same explicit legal basis for seeking support.

In the longer-term, the meeting noted that civilians are displaced, often for long periods. Housing and essential infrastructure are damaged or destroyed which serves to impede the return of the displaced once fighting has moved on or the hostilities have ceased. Those injured by explosive weapons require emergency and specialist medical treatment, rehabilitation and psycho-social support services that often do not exist, in part because hospitals and clinics may have been damaged or destroyed by fighting. According to ICRC, explosive weapons were found to be the leading cause of damage to healthcare facilities in situations of conflict and armed violence. Similarly, schools are damaged or destroyed while the fear of attacks involving explosive weapons prevents families from sending their children to school.

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children to schools. Livelihoods are devastated as agricultural land and other means of production (factories, fishing boats) are damaged or destroyed. Explosive remnants of war pose a continued threat until they are removed. Moreover, the use of explosive weapons in populated areas has a dramatic impact on post-conflict reconstruction requirements and costs.

**Mitigating the impact of explosive weapons in populated areas**

Session three focused on efforts to mitigate the humanitarian impacts of explosive weapons use in populated areas. Consideration was given to the operational steps taken by the International Security Assistance Force (ISAF) in Afghanistan and the African Union Mission in Somalia (AMISOM) to reduce the humanitarian impact of explosive weapons. These include the issuance of tactical directives to ISAF commanders to use the least destructive force to obtain a military purpose in defensive operations; and the development and adoption of an indirect fire policy by AMISOM limiting the use of mortars and other indirect fire munitions in populated areas. In both cases, it was recognized that these policies were not necessarily legally demanded but allowed harm to be reduced by curbing the use of certain weapons in certain contexts. Emphasis was also placed on the important role of civilian casualty tracking mechanisms for allowing the parties concerned to better understand the impact they are having on the civilian population and to identify the steps that need to be taken to reduce that impact and strengthen the protection of civilians.

In recognition of the significant role of non-State armed groups in the use of explosive weapons, consideration was also given to steps to mitigate the impact of use by such actors and the challenges in doing so.

**Next steps**

The final session identified possible next steps for strengthening the protection of civilians from the humanitarian impacts of explosive weapons in populated areas. These were considered in terms of three work streams – research, operational and political.

In terms of **research**, efforts to collect data on deaths and injuries should continue at the global level. National level data is also important, both to assist analysis of the humanitarian situation and also for the development of practical operational steps to reduce harm at the national level. More attention is needed on the “wide-area effects” that certain explosive weapons present and this should also draw on the practical steps taken in Afghanistan and Somalia to move away from using wide-area effect weapons near civilian populations. There is a need also to better understand State policy and practice in targeting. Greater focus is required also on the problem of IEDs and the practical steps that could be taken to address this problem, including in terms of limiting access to components used to make such devices.

In terms of **operational steps**, reference was made to the possible emulation in other contexts of the steps taken by ISAF and AMISOM, and to the possibility of preparing generic guidance for States reducing harm to civilians. This would need to be straightforward and would not seek to interpret international humanitarian law and human rights law but draw on examples of good practice in this area.

As for **political steps**, a concerted effort is required from States, the United Nations and civil society to increase the “political currency” of the issue, including in thematic and country-specific discussions in the Security Council, as well as through more regular and prominent
statements from senior leadership within the United Nations, civil society and from a cross-
section of Member States.

Consideration was given to developing some form of non-binding political commitment
through which States would acknowledge the problem and express their determination to
address it. Various options exist at the inter-governmental level for developing such a
commitment, both within and outside the UN, and should be mapped. Some examples of
political processes leading to the development of non-binding commitments and guidance
were mentioned and there was broad interest in pursuing this further. 14

Further consideration would also be needed of how and when to engage non-State armed
groups on any such commitment. One option raised was the incorporation of relevant
commitments into Action Plans concluded with listed armed groups pursuant to Security
Council resolution 1612 on Children and Armed Conflict.

Conclusions

As this was the first international expert meeting on the topic, participants considered all
aspects of the problem, resulting in a broad discussion. The meeting nevertheless noted that
the general theme of reducing the humanitarian harm from explosive weapons could be
divided into three separate but mutually reinforcing areas of work:

- a presumption of the exclusion of the use of explosive weapons from law enforcement
  (in the context of human rights law);
- the development of a presumption against the use of those explosive weapons with
  wide-area effects in populated areas (in the context of international humanitarian
  law); and
- a focus on IEDs from the perspective of the humanitarian harm they cause.

These areas constitute distinct responses to different aspects of the wider problem and will
likely be taken up by different actors in different ways. These various aspects could be
addressed through the research, policy and operational work streams which could be usefully
brought together in a road map that would identify key windows of opportunity to promote
and advance the issue. Such opportunities would include the next Security Council protection
of civilians open debate, an ICRC expert meeting proposed for late 2014 or early 2015, and
the preparatory process leading to the 2016 World Humanitarian Summit and the thematic
area of better serving the needs of people affected by conflict.

There was broad consensus that the objective was not to ban explosive weapons or develop
new treaty law governing their use. Rather, there was broad interest in pursuing options that
would see a non-binding political commitment and a set of operational guidelines developed
and endorsed by an interested group of States.

Overall, there was a widely shared view that challenging the assumption that explosive
weapons are acceptable for use in populated areas is an important step in bringing about

14 Such as the Guiding Principles on Internal Displacement, Geneva Declaration on Armed Violence and
Development, Montreux Document on pertinent international legal obligations and good practices for States
related to operations of private military and security companies during armed conflict, and the draft Lucens
guidelines for protecting schools and universities during military operations.
changes in user policies and practices that enhance the protection of civilians. Given the scale of this issue, success in this area could have a greater impact on the protection of civilians than previous (and successful) efforts to ban particular types of explosive weapons such as antipersonnel landmines and cluster munitions.