Preventing harm from the use of explosive weapons in populated areas

Presentation by Richard Moyes,[1] International Network on Explosive Weapons,
at the Oslo Conference on Reclaiming the Protection of Civilians under International Humanitarian Law

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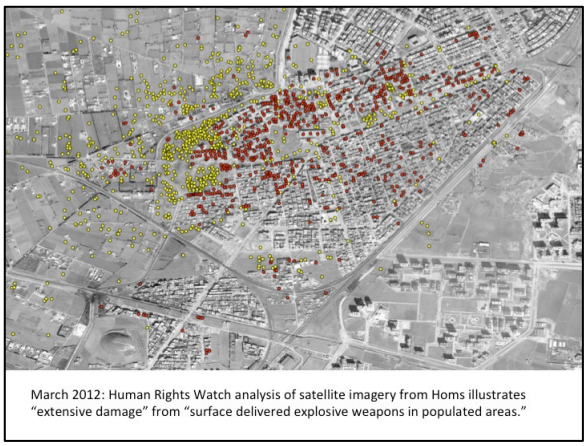
Thank you for the opportunity to brief this meeting. I am speaking on behalf of the International Network on Explosive Weapons (INEW) – a partnership of NGOs that are concerned with the impact on civilians of the use of explosive weapons in populated areas (an issue that has already been highlighted in the first session of this meeting).



The first thing to say is that the humanitarian problem we are concerned with here is not new, and in many ways it is very familiar. Bombing and bombardment in populated areas kills and injures civilians at the time of the attacks. It destroys houses and infrastructure vital to that civilian population.

Such effects are familiar to organisations that have worked in conflict and post-conflict environments, they are familiar to war fighters, and they are familiar in the media representation of conflict. Syria provides a pressing example.

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Yet arguably since World War II, the general direction has been slowly towards greater legal and policy constraint on the use of explosive weapons in populated areas.

Yet as Foreign Minister Barth Eide suggested in his introduction, despite the harm that civilians still suffer, and in some cases we see egregious conduct in the use of explosive weapons, the broad trajectory since World War II is probably towards better civilian protection – we have a shared responsibility to maintain and to further that, and we have heard practical examples of how that might be done from my fellow panelists.

Whilst not a new problem, recognising that use of explosive weapons in populated areas causes a distinct pattern of harm opens up potential to better prevent that harm.

And it is important to see the characteristics of explosive weapons, as a category, as the starting point for our analysis. Explosive weapons include improvised explosive devices and explosive ordnance – which ranges from hand grenades and rifle grenades at one end of the spectrum, right up to multiple launch rockets and aircraft bombs at the other. It is a broad category.

Blast and fragmentation affect an area out from the point of detonation.

Explosive weapons affect the area around the point of detonation with a combination of blast and fragmentation. This makes them different to firearms that strike at a point.

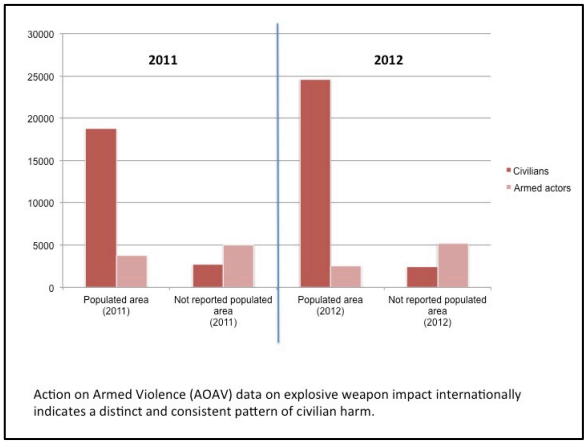
And although it is a broad category, we should recognise that this categorical distinction from firearms is already clearly accepted in the common practice of states.

Explosive weapons are generally excluded from policing. The movement to the use of explosive weapons indicates risks to civilian protection.

Whilst firearms are fairly commonplace as an option for lethal force in a law enforcement context, explosive weapons are generally reserved for use by the military and for the context of war-fighting. And the reason for the broad exclusion of these weapons from law-enforcement is that their blast and fragmentation effects around the area of detonation would put at risk members of the public that the state has a responsibility to protect from harm.

So when we start to see the use of explosive weapons we are entering a situation where civilian protection is going to become more difficult and more pressing.

Over a number of years now NGOs have been systematically gathering data on the humanitarian impact of explosive weapons. I will not go into great detail on this here because I know there is a side-event this lunchtime where Action on Armed Violence will be discussing this, and I would encourage people to attend that.



Action on Armed Violence (AOAV) data on explosive weapon impact internationally indicates a distinct and consistent pattern of civilian harm.

But based on English language media reports in 2011, AOAV recorded at least 21,500 civilians killed or injured internationally by explosive weapons. Where attacks took place in populated areas 84% casualties were civilians, compared with 35% elsewhere.

In a follow up report looking at 2012, AOAV document some 27,000 civilians killed or injured. With 91% of casualties in populated areas being civilians.

In 2012, this pattern was spread across 58 countries or territories, with Syria standing out as the most severely affected location.

So there is a consistent pattern of elevated harm when explosive weapons are used in populated areas – in cities, towns and villages.

And whilst data such as this provides an important perspective on the issues, we need to remember that these numbers reflect real human experiences.

Ali Shiba, a carpenter from Misrata, Libya, lost his eldest son in June 2011. His wife was also badly injured, when a rocket struck their home.

We should remember when we look at numbers of people injured that these are people who may need long-term assistance. In all contexts, it is important that we address the rights of victims. And both the statistics I drew upon earlier, and the experiences of individuals, should remind us of the importance of casualty recording and casualty tracking as we have heard.

The son in the photograph here was born just the day before the attack and they named him Ibrahim after the child that they lost.

In Syria the use of “heavy weapons in population centres” been clearly highlighted by the international community as a major threat to civilian protection.

This is Fatima a Syrian refugee interviewed by Save the Children in Lebanon recently. At the time of the interview she had fled Aleppo after her home was destroyed, fled with her young children and her extended family and was left to take shelter in a chicken farm with no access to clean water.

In addition to direct deaths and injuries, the use of explosive weapons in populated areas also causes displacement

22 November 2012: Clearing debris after the bombing of Dar al-Shifa hospital in Aleppo, northern Syria.

It damages schools, housing, water and sanitation systems – all of which causes longer-term harm and exacerbates the suffering of conflict. The ICRC, in their study on *Healthcare in Danger* identified explosive weapons as the leading cause of damage to healthcare facilities.

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So use of explosive weapons in populated areas creates a pattern of severe civilian harm. And of course in many ways this is not surprising – cities, towns and villages are where civilians are concentrated. But identifying this pattern of violence as a distinct source of a civilian harm provides a starting point for thinking about how that impact can be reduced.

Whilst the use of explosive weapons in general in populated areas is problematic the use of heavy explosive weapons that have wide area effects is a particular concern.

Heavy indirect-fire weapon systems such as high-explosive artillery and multiple launch rockets, or unguided aircraft bombs, can create effects that are more difficult to control – either because they are inaccurate, or because the zones of blast and fragmentation extend across a wide area, or because multiple weapons are used to saturate an area with explosive force.

Illustration - Oslo Kongressenter

The casualties we interviewed in Misrata, Libya, were linked to a specific type of explosive weapons - Grad rockets, a type of multiple launch rocket system, an indirect fire weapon. In Syria, much of the bombardment has come from the use of high explosive artillery or large calibre mortars and large unguided aircraft bombs.

And I have just prepared a couple of slides here to illustrate the type of wide area effect that we are concerned with.

Here we have the conference centre of this meeting.

Illustration – Grad rocket attack. Fired from range of 20km: 40 x rockets with a 28m blast radius per rocket. Rockets fall within a rectangle approximately 500 x 250m.

And he we have an illustration of how a Grad Rocket strike might affect this area if targeted on the conference centre. With 40 rockets, each with a blast radius of approximately 30m landing across an area of roughly 500 by 250 m.

And we can see that with the conference centre – a large building – as the target of this attack, a very substantial effect would be caused across the surrounding area.

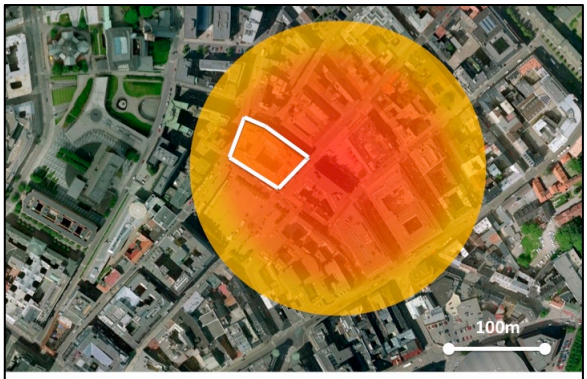

Illustration – OFAB 250-270, 250kg aircraft bomb with a casualty producing radius 155m.

And whilst the Grad system created a wide area effect mainly because of the inaccuracy of the individual rockets, and because of the use of multiple rockets in a strike, other weapons, such as the OFAB 250-270 aircraft bomb that has been used recently in urban areas of Syria, pose a threat because of inaccuracy, but also because of the very large blast radius of these weapons (155m in this case).

These slides are simply for illustration of course, they don't take into account the shielding that may be provided by structures or the specific probability of casualties at different distances. But they make the broad point that there are explosive weapons with wide area effects and that it is hard to see how their use in populated urban areas can be acceptable.

Some people might argue that these specific weapons are already prohibited from use in populated areas under existing rules of international humanitarian law (IHL). Certainly existing IHL rules, in particular the prohibition on indiscriminate attacks and the principle of proportionality, are pertinent when it comes to the decision on whether to use explosive weapons in populated areas.

But generally IHL does not give us clear judgements or guidance about particular means and methods of warfare being unacceptable in particular contexts - because it tends to rely on a case-by-case weighing of factors for specific attacks.

We think we need to get beyond that in order to improve civilian protection: to build a realisation that where these weapons – explosive weapons with wide area effects - are used in populated areas the civilian harm will be very high, the risk of illegality very grave, and so we should build a recognition that such attacks are unacceptable.

There is a need to draw a line, to set a standard. This does not need to be a legal line. Most important is to build up a shared recognition of a political line – that the use of wide-area explosive weapons in cities, towns and villages is not how responsible actors conduct themselves.

Attacks with improvised explosive devices in populated areas continue to cause high levels of civilian harm.

When thinking in that direction, about increasing the political cost, it is worth noting that a significant part of the harm documented internationally from the use of explosive weapons comes from non-state actors using improvised explosive devices in public places. Addressing this problem is very challenging. But by states showing movement towards greater constraint on the use of explosive weapons in populated areas, there is potential to also strengthen the broad agreement that these bombings are a source of humanitarian suffering and regardless of political motivations and political labels, they need to be recognised as such.

INEW calls on states to develop stronger standards that will better protect civilian populations in the future.

In conclusion I will comment briefly on the political direction here. Around 30 countries have explicitly acknowledged the harm from explosive weapons in populated areas, most during the Protection of Civilians open debates of the Security Council.

We are not calling for a ban on explosive weapons, or even a wholesale ban on their use in populated areas, but we would like to see further states engage on this theme and a movement towards focused discussions where we can consider, with stakeholders from different communities, where we might draw lines that can be used to leverage stronger civilian protection whilst recognising the current needs of military forces from different backgrounds. So we welcome the announcement earlier today by the Assistant Secretary General for Humanitarian Affairs that OCHA will convene an experts meeting on this subject.

Whilst policy discussions can often seem distant from the experiences of civilians on the ground, such discussions do also frame expectations of acceptable and unacceptable conduct. And such discussions can also open up further space to encourage the sorts of practical actions that both military forces and civilian organisations can be engaged in to move away from means and methods of warfare that push the burden of harm too far onto the civilian population.

So I want to close by saying that change on this issue is achievable. If states that are concerned with the protection of civilians choose to engage with this problem – to recognise it in their statements, to consider its implications at a national level, and in the future, to adopt a common position against the use of explosive weapons with wide area effects in populated areas, then new lines will be drawn and stronger moral barriers created to protect civilians from forms of attack that we still see far too often.

Thank you.