



Explosive weapons in populated areas, where civilians pay the price.

Summary introduction

PAX is the largest peace organization in the Netherlands. Working with local partners in 15 conflict areas, the organization seeks political solutions to crises and armed conflicts. In order to support a secure, peaceful world, PAX also works on global disarmament and on the protection of civilians in fragile and repressive states. PAX is a founding member of the International Network on Explosive Weapons (INEW)¹ and strives to reduce harm caused by explosive weapons in populated areas and enhance transparency about the consequences of using explosive weapons in populated areas, including their impact on the civilian population.

As PAX pointed out in a 2011 report, there is a widespread 'acceptance' of explosive weapons within the context of armed conflict, which in turn creates a phenomenon that we refer to as the 'moral outrage gap'. Both humanitarian actors and the media tend to treat this pattern of violence as 'normal' and are instead drawn toward singling out 'unconventional' types of weapons, such as white phosphorous or dense inert metal explosives (DIME).² However, explosive weapons cause a distinct and predictable form of humanitarian harm to civilians when used in populated areas.

Whilst different technical features dictate the precision and explosive effect of explosive weapons, explosive weapons generally create a zone of blast and fragmentation which makes their use in populated areas particularly problematic. Most victims of explosive weapons are civilians. In Syria today, the use of explosive weapons poses one of the biggest threat to civilians.

In the short term, explosive weapons kill and injure people during and immediately after an attack. In the long term, they cause permanent physical disabilities, psychological suffering, loss of socio-economic infrastructure (access to schools, power supply), and often leave behind unexploded remnants of war, which prolongs the threat these weapons cause.

Explosive weapons include factory-made items like grenades, mortars and rockets as well as home-made bombs (improvised explosive devices, or IEDs). The injuries and other consequences of explosive weapons substantially increase when these weapons are used in populated areas.

We call upon states to:

- Acknowledge that the use of explosive weapons in populated areas is problematic and poses a severe threat to civilians;
- gather and make available relevant data;
- review and strengthen national policies and practices on use of explosive weapons;
- develop stronger international standards and commitments to prevent the use of explosive weapons with a wide area effect in populated areas; and
- systematically document and condemn the large scale use of these weapons in Syria and use it as sad reminder as to why strengthened international commitment to prevent the use of these weapons in populated areas is so urgently needed.

¹ For more information about INEW, see: www.inew.org.

² IKV Pax Christi (now : PAX), "Protecting Civilians from Explosive Violence; Defining the Humanitarian Problem", 2011, available at <http://www.paxforpeace.nl/media/files/protecting-civilians-from-explosive-violence.pdf>.



What are explosive weapons?

Explosive weapons are weapons that affect an area around the point of detonation, usually through the effects of blast and fragmentation. Explosive weapons refer to a broad category of weapons, ranging from grenades to missiles, from landmines to rockets, from cluster munitions to mortar bombs. They can be fabricated weapons or IEDs. Despite a large variation in effect, function, design and means of delivery, explosive weapons broadly share certain basic characteristics. They contain a high explosive substance, and when detonated they project shrapnel, create heat and produce a blast wave that can have a radius up to 300 meters. These shared characteristics create a distinct pattern in the damage these weapons cause. Most damage is caused by explosive weapons that have a wide area effect. This is the case with weapons that have a large fragmentation or blast radius, when multiple explosive weapons are fired at the same target, when inherently inaccurate or when used inaccurately. Explosive weapons are considered distinct from firearms, laser blinding weapons, weapons that heat the body with microwaves, incendiary weapons, and nuclear, biological or chemical weapons.³

Foreseeable harm

Upon detonation, explosive weapons can injure or kill people and damage or destroy objects present in the area around the target. These constitute the immediate or primary effects of explosive weapons. Secondary effects are the longer-term disruption of vital socio-economic activities caused by, for instance, the destruction of hospitals, markets, power plants and roads. Added to these long-term effects are the dangers posed by Unexploded Ordnance (UXO) which can injure and kill people many years after the conflict has ended and which can deny the use of or access to the areas they contaminate, for instance depriving populations of valuable arable land.⁴ Children are not spared from these effects, quite on the contrary. As a research paper by Save the Children shows, in addition to killing or injuring children, the use of explosive weapons in populated areas can result in children being denied access to healthcare, or the opportunity to go to school. Infrastructural damage may furthermore cause displacement from their homes, exposing them to the risk of separation from their families and increasing their vulnerability to exploitation and abuse.⁵ Therefore, when used in populated areas, the effects of explosive weapons pose a serious concern to civilians.

Syria

In Syria, it is estimated that more than 90% of the casualties of explosive weapons have been civilians.⁶ Explosive weapons like missiles, mortars and air-dropped bombs are being used almost perpetually in Homs, Aleppo and other cities for three years. The devastating effects of unguided barrel bombs is yet another sad example of the grave destruction explosive weapons in populated

³ Landmine Action (now: AOAV), "Explosive Violence; The Problem of Explosive Weapons", 2009, available at: www.landmineaction.org/resources/Explosive%20violence.pdf .

⁴ UNIDIR, 'Background Paper No 2', 1-2; UNIDIR, 'Discourse on Explosive Weapons', 2; Richard Moyes, 'IEDs and Explosive Violence – Framing the Humanitarian Problem', (Presentation transcript, 20 April 2009) 4-6.

<http://www.landmineaction.org/resources/LMA%20presentation%20on%20IEDs%20to%20the%20UN%20CCW.pdf>. Last visited 8 October 2010; Caecilie Buhmann, 'The Direct and Indirect Costs of Explosive Violence: Recognition and Documentation Need to Translate into Policy Action and Political Support', *BMJ* 339 (September-October 2009) 761.

⁵ Save the Children UK, "Explosive Weapons and Grave Violations against Children", 2013, available at: http://www.savethechildren.org.uk/sites/default/files/images/Explosive_Weapons_and_Grave_Violations_Against_Children.pdf.

⁶ Action on Armed Violence, "An Explosive Situation; Monitoring explosive violence in 2012", March 2013, available at: <http://aoav.files.wordpress.com/2013/06/an-explosive-situation-explosive-violence-in-2012.pdf>.



areas cause. Furthermore, the destruction caused by the explosions will take years and years to rebuild. Children pay a heavy price as well. The 2013 report by INEW member Save the Children UK pointed out that the use of explosive weapons leads to grave violations of children's rights in Syria.⁷ "The use of explosive weapons in populated areas has a devastating impact on children. As well as killing and injuring them, bombs and the increasing use of IEDs are denying children access to healthcare and education, and ruining their futures", Save the Children UK.⁸

What rules apply?

The above concerns raise the question on what laws apply when explosive weapons are used in populated areas. Perhaps even more importantly, it raises the question how these laws and regulations are implemented by states. In times of war, International Humanitarian Law (IHL) applies as a way to minimize humanitarian harm. Through the principles of proportionality and distinction, states are obliged to limit civilian casualties as much as possible. But the rules of proportionality and distinction leave room for interpretation, and different situations will lead to different outcomes. Interpretation of IHL thus far has not prevented the grave effects of the use of explosive weapons with a wide area effect in populated areas.

What to do?

In his November report on the protection of civilians in armed conflict, the UN Secretary-General notes that: *"There is increased understanding of the disastrous short-term and long-term impact on civilians of the use of explosive weapons in populated areas. (...)*

"(a) Member States are strongly encouraged to engage proactively in these efforts, including by supporting organizations undertaking research in this area and engaging in a process aimed at developing a political commitment and guidance with regard to reducing the short-term and longer-term impact on civilians of explosive weapons in populated areas;

*(b) More immediately, parties to conflict should refrain from the use in populated areas of explosive weapons with wide-area effect and the Security Council, whenever relevant, should call upon parties to conflict to refrain from such use."*⁹

It is time to reevaluate International Humanitarian Law when it comes to the use of explosive weapons in populated areas.

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⁷ Save the Children UK, "Explosive Weapons and Grave Violations against Children", 2013, available at: http://www.savethechildren.org.uk/sites/default/files/images/Explosive_Weapons_and_Grave_Violations_Against_Children.pdf.

⁸ www.inew.org

⁹ United Nations Secretary General, "Report of the Secretary-General on the protection of civilians in armed conflict", 2013, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/Report%20of%20the%20SG%20on%20the%20Oprotection%20of%20civilians%20S2013-689.pdf>.