

Explosive Weapons *Framing the Problem*

May 2010

Report of the 1st symposium of the Discourse on Explosive Weapons (DEW) project

Geneva, 29 April 2010

Summary

- Symposium participants shared a concern about the pattern of humanitarian harm caused by explosive weapons, particularly when used in populated areas.
- There was an inclination toward improving responses to the harm caused to civilians by explosive weapons, and clear interest in the explosive violence framework.
- Some institutions are already engaged in internal discussions on explosive weapons issues, or such dialogue is starting. Others are undertaking activities aiming to reduce and prevent civilian harm from explosive weapons.
- Clear interest was expressed in exploring future collaboration, including elaborating common approaches to address explosive weapons use of humanitarian concern. Several opportunities for joint work among some participants were discussed.

Introduction

The use of explosive weapons in populated areas is linked to elevated levels of harm to civilians. This represents a distinct humanitarian problem—one recognized by the UN Secretary-General in his 2009 report on the protection of civilians in armed conflict.¹

A greater international policy focus on explosive weapons effects could enhance civilian protection, support the full application of relevant legal norms, contribute to reducing the global burden of armed violence and represent a further step toward creating the conditions for general and complete disarmament. To these ends, UNIDIR commenced the Discourse on Explosive Weapons (DEW) project in early 2010.²

As part of this project, UNIDIR hosted a one-day symposium on “Explosive Weapons: Framing the Problem” in Geneva on 29 April 2010.³ Nearly 30 individuals from governments, international organizations and non-governmental organizations (NGOs) working in the disarmament, development and humanitarian fields participated. The discussions were held under the Chatham House Rule.

This report is not meant to be a comprehensive summary. It is intended to convey the main themes and some particular points raised in the course of the discussions.

Characterizing the problem of explosive weapons

As a presentation by a technical expert showed, explosive weapons share certain characteristics. Explosive weapons contain at least one high explosive substance, which creates blast, fragmentation and other effects when detonated (such as flash and heat), affecting persons and objects in an area around the point of detonation. Explosive weapons include industrially manufactured devices such as bombs, cluster submunitions, rocket and missile warheads, grenades, shells and mines, as well as so-called improvised explosive devices (IEDs).

It was observed that explosive weapons are commonly subdivided into categories according to functional, logistical criteria, or a weapon's desired effect on a target. Governments, humanitarian actors and the media tend to accept and adopt such classifications, and to differentiate their responses to harm caused by explosive weapons depending on what explosive weapon was used, who used it and how (for example, was delivery accurate?).

Differentiation among explosive weapons on the basis of their effects tends to be based on tests by producers and users of those weapons (for example, the determination of a weapon's "lethality radius"). Such classifications are not oriented toward factoring in foreseeable risk to civilians when the explosive weapon is used in their vicinity. As such, several presenters proposed that most existing classifications and differential responses are not grounded in evidence of the actual impacts of explosive weapons on civilians in real-world contexts.

The blast wave created by detonation, the projection of fragments, and sometimes the collapse of structures in the surrounding area are major and typical causes of civilian harm. Explosive weapons also cause damage to infrastructure vital to civilian populations and can leave behind unexploded explosive ordnance, which poses a post-conflict health risk and impedes reconstruction and long-term development.

It was observed that explosive weapons use has caused a pattern of harm to civilians in a range of past and contemporary conflicts. A case study presented on Somalia illustrated the humanitarian impacts of explosive weapons use in an urban context. In Mogadishu, civilians are at grave risk of becoming victims of heavy artillery attacks in residential neighbourhoods on a near-weekly basis.⁴

Framing the debate—what kind of problem is this?

Today, humanitarian concerns arising in connection with explosive weapons use are mainly discussed with a view to the legality of use. Whereas human rights law, for instance, would tend to bar the use of explosive weapons for law enforcement, it provides for different standards of evaluation in exceptional situations, such as armed conflict. The issue was raised as to why killing and injuring people should be considered more acceptable in a situation legally qualified as an armed conflict than in a domestic law enforcement situation.

Several participants raised questions about the accountability of states using explosive force in the vicinity of people they purport to be securing.

International humanitarian law (IHL), particularly its rules on proportionality and precaution, provides a reference point for evaluating the lawfulness of explosive weapons use during armed conflict. IHL already acknowledges that certain types of explosive weapon are problematic from a humanitarian standpoint. Indeed, international legal agreements banning anti-personnel mines⁵ and cluster munitions⁶ emerged in large part because of the documented negative impacts of these explosive weapons on civilians, despite their purported military utility. International rules to deal with explosive remnants of war⁷ also stem from increased awareness of the deleterious (post-conflict) impacts of explosive weapons on civilians.

Participants seemed to feel that legal approaches have encountered limits in preventing harm to civilians caused by explosive weapons. The specificities of IHL can result in a circular discourse that fails to take into account the law's humanitarian objectives and that fails to advance notions of what is acceptable, it was suggested. Several participants expressed the view that an emerging humanitarian discourse on explosive weapons use should build on existing frameworks, but not be constrained by them.

One alternative proposed and discussed at the symposium was the explosive violence framework presented in a September 2009 report by the British NGO Action on Armed Violence.⁸ Many participants felt this represented a useful way to move beyond the prevailing discourse in order to frame the problems that explosive weapons cause, taking into account moral acceptability as well as narrower legal arguments. The report explored different dimensions of explosive violence including issues at time of use, post-use and use outside of armed conflict. In the context of the symposium two areas of particular interest were how the report framed explosive weapons issues at time of use in populated areas, and what steps it identified for enhancing the protection of civilians.

How could the explosive violence framework reduce and prevent harm to civilians?

A range of ways in which the explosive violence framework might contribute toward enhancing the protection of civilians from explosive weapons was suggested at the symposium. Broadly categorized, these included:

Data collection and analysis

There appeared to be a general view that the effective collection, analysis and communication of evidence about the human costs of explosive weapons use would be integral in stimulating productive debate and policy formulation on explosive weapons (this has been described elsewhere as the "Solferino cycle"⁹). In particular, it was argued that what is needed is data that conveys the patterns and characteristics of the humanitarian problem. It was noted that quite a lot of evidence already exists.

Data and findings could be generated by various research methods. Two examples discussed were analyses of media reports of incidents of explosive violence, along with context-

specific field studies of explosive weapon use. One challenge for such research and analysis is securing financial backing. Methodological questions are also important. Experience in other contexts in which the human costs of conflict were measured, it was noted by certain participants, had underlined that controversy over ensuring the validity of the total data set in large-scale studies could inadvertently distract attention from the core issues researchers intend to illuminate. At the same time, certain participants stressed that appropriate research methods did exist to ensure that data was trustworthy, including from incomplete data sets, and could be conclusive provided that studies were well designed and carefully conducted.

Overall, it was felt that further research was important to deepen understanding of the nature and scope of the short- and long-term impacts of explosive weapons on civilians in different contexts, as well as the military, political, economic, legal and moral considerations of explosive weapons use.

Enhancing humanitarian communication in response to explosive weapons use.

Further research and a deeper understanding of the humanitarian problems caused by explosive weapons, it was felt, would also help to improve the communication of such problems, so as to stimulate constructive debate on the moral acceptability of explosive weapons use, encourage policy formulation and improve practical responses to the humanitarian problems.

It was observed that when humanitarian actors respond in their public communications to incidents of explosive violence, they usually do not do so in a uniform way. Some participants thought the use of a common approach or consistent language could help to attract the attention of the media, elicit a more effective response from policymakers and the public to the humanitarian impacts of explosive violence and contribute to further stigmatizing explosive weapons use in certain contexts.

In that regard, some participants thought it would be useful to specifically engage the media to raise awareness and communicate the humanitarian problem to different constituencies. Explosive weapons, it was noted, already feature on the news agenda, but in an unfocused manner—certain uses of explosive weapons, such as shelling of urban areas, rarely make headlines, in contrast to IED attacks or the use of exotic weaponry, such as dense inert metal explosives or white phosphorous munitions.

There seemed to be a general view that public communication should convey a sense of urgency, focus on the nature of the humanitarian problems and go beyond the legal characterization of the situation or simple tallying of victims. The view was repeatedly expressed that it was neither necessary, nor helpful, for effective communication and policymaking to present total numbers of victims, or to claim to have complete data sets.

Influencing discourse on protection of civilians in armed conflict

Invoking the title of the symposium, one presenter observed that “framing” referred to organizing principles that diagnose a problem and indicate to people what to do about it. In this way, there was a need to speak to the existing mental models of people who report

on explosive weapons-related events and issues, those who read about them, and those able to influence relevant policy. This can be complicated by the need to speak to multiple constituencies. It was noted, for instance, that a number of non-state armed groups use explosive weapons in the vicinity of civilians, and the methods to engage such entities, as opposed to state actors, pose a range of particular challenges. However, these are not insurmountable obstacles, several participants thought.

A view emerged during the symposium that further fine tuning would help the explosive violence framework to be communicated most effectively, and aid the understanding of its aims and implications. Further discussion, for instance, could be useful in establishing common understandings about key concepts, and both intermediate and over-arching objectives for influencing policy thinking could be identified (see also below).

Looking forward

Various participants presented explosive weapons-related work they or their institutions are undertaking or planning. Examples included ordnance clearance, risk education for populations confronted with explosive weapons use or explosive remnants of war in their vicinity, research studies on explosive weapons use and its impacts, and efforts to modify internal and external ways of communicating to inculcate aspects of the explosive violence framework.

Several participants felt that existing streams of policy work and field programmes, including existing development programming, present opportunities for raising awareness about the humanitarian problems around explosive weapons, and to encourage reflection among users. For example, within the United Nations system, Member States could be encouraged to engage to a greater extent on this topic. The humanitarian impacts of explosive weapons could be stressed during UN Security Council briefings on humanitarian crisis situations, discussed in working groups for example, on children and armed conflict or the protection of civilians in armed conflict), taken up by monitoring and reporting mechanisms, and made explicit in reports on related issues by the Secretary-General or other UN bodies.

Participants from civil society organizations also discussed ideas for potential collaborative work, such as:

- efforts to achieve greater coordination or uniformity in the preparation of statements in response to instances of explosive weapons use putting civilians at risk;
- the adoption of a common position or declaration to facilitate joint work and promote stigmatization of explosive weapons use in populated areas;
- drawing attention to practical protection measures for civilians at risk from explosive weapons;
- the establishment of focal points on explosive weapons work in their organizations;
- the sharing of data and analysis, for instance on a website; and
- greater engagement on these issues with other actors, including the media and militaries.

For its part, UNIDIR's DEW project will continue its work in 2010, including through development of a website (<<http://ExplosiveWeapons.info>>) and further symposia to explore issues around the humanitarian problems associated with the use of explosive weapons.

Notes

- 1 See in particular paragraph 36 of Security Council, *Report of the Secretary-General on the Protection of Civilians in Armed Conflict*, UN document S/2009/277, 29 May 2009.
- 2 UNIDIR's Discourse on Explosive Weapons (DEW) project aims to contribute to a shared understanding among multilateral humanitarian/disarmament practitioners of the humanitarian problems caused by explosive weapons. For a description of the DEW project, visit UNIDIR's website at <www.unidir.org/bdd/fiche-activite.php?ref_activite=499> or our project website at <<http://ExplosiveWeapons.info>>.
- 3 For general information, see *Explosive Weapons: Framing the Problem*, DEW project Background Paper no.1, UNIDIR, April 2010.
- 4 A podcast of this presentation will be available at <<http://ExplosiveWeapons.info>> from June 2010.
- 5 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 18 September 1997.
- 6 Convention on Cluster Munitions, 30 May 2008.
- 7 Protocol on Explosive Remnants of War (Protocol V to the 1980 Convention on Certain Conventional Weapons), 28 November 2003.
- 8 See Landmine Action, *Explosive Violence: The Problem of Explosive Weapons*, 2009.
- 9 See Robin M. Coupland, "The effects of weapons and the Solferino cycle", *British Medical Journal*, vol. 319, no. 7214, 1999. Also, a podcast on the topic will be available at <<http://ExplosiveWeapons.info>> from June 2010.

About UNIDIR

The United Nations Institute for Disarmament Research (UNIDIR)—an autonomous institute within the United Nations—conducts research on disarmament and security. UNIDIR is based in Geneva, Switzerland, the centre for bilateral and multilateral disarmament and non-proliferation negotiations, and home of the Conference on Disarmament. The Institute explores current issues pertaining to the variety of existing and future armaments, as well as global diplomacy and local tensions and conflicts. Working with researchers, diplomats, government officials, NGOs and other institutions since 1980, UNIDIR acts as a bridge between the research community and governments. UNIDIR's activities are funded by contributions from governments and donor foundations. The Institute's web site can be found at:

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