



**Statement to First Committee
on the impact of explosive weapons in populated areas and
on toxic remnants of war**

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International Network on Explosive Weapons
&
Toxic Remnants of War Project

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Mr. Chair,

While other statements will speak to issues where specific international instruments already exist, this statement will consider two areas where the development of new standards would help us to progressively reduce harm from armed violence.

I will first speak on behalf of the International Network on Explosive Weapons, and then on behalf of the Toxic Remnants of War Project.

The bombing and shelling of towns and cities is a major cause of death, injury, and destroyed livelihoods. *The International Network on Explosive Weapons* is a civil society partnership working to prevent and reduce that harm.

Explosive weapons include mortars, rockets, artillery shells, aircraft bombs, improvised explosive devices, and other munitions. When used in populated areas, these weapons tend to cause high levels of harm to individuals and communities.

The British NGO Action on Armed Violence recorded from English language newswire reports 34,758 people killed or injured by explosive weapons in 2012.¹ Of those affected, more than 27,000 were reported as civilians. When explosive weapons were used in populated areas, 91% of victims were civilians.²

Destruction of infrastructure vital to the civilian population, including water and sanitation, housing, schools and hospitals, results in a pattern of wider, long-term suffering. Victims and survivors of explosive weapons can face long-term challenges of disability, psychological harm, economic hardship and social exclusion.

¹ Action on Armed Violence, "An Explosive Situation: Monitoring Explosive Violence in 2012", April 2013, <http://aoav.files.wordpress.com/2013/06/an-explosive-situation-explosive-violence-in-2012.pdf>

² Action on Armed Violence, "An Explosive Situation: Monitoring Explosive Violence in 2012", April 2013, <http://aoav.files.wordpress.com/2013/06/an-explosive-situation-explosive-violence-in-2012.pdf>

The worsening humanitarian situation in Syria, including the bombardment of Homs, Aleppo³ and other populated areas, led the President of the UN Security Council to call on parties to “end the use of heavy weapons in population centres.”⁴ The use in populated areas of explosive weapons such as multiple launch rocket systems, makeshift air-dropped bombs, high explosive artillery and mortar shells, and powerful improvised explosive devices, has been a leading cause of civilian harm in Syria. Heavy explosive weapons such as these are particularly problematic because their effects can extend across a wide area. Their use in populated areas should be stopped.

This problem is not new, but over recent years the use of explosive weapons in populated areas has attracted increasing concern within the international community as an issue that requires a structured response. Two types of explosive weapons – antipersonnel landmines and cluster munitions – have already been prohibited outright due to their devastating impact on civilian populations, but the broader problem of humanitarian harm from explosive weapons used in populated areas must also be addressed as a priority.

An increasing number of actors are calling for greater restraint in the use of explosive weapons in populated areas.

In May 2013, the Co-Chairs summary for an **international conference attended by 94 states** on “Reclaiming the Protection of Civilians Under International Humanitarian Law” stated that “the use of explosive force in military operations in densely populated areas has devastating humanitarian consequences for civilians. In particular, the use of explosive weapons with a wide area effect should be avoided.”⁵

The 2012 **UN Secretary-General’s** Report on the Protection of Civilians in Armed Conflict urged parties “to refrain from using explosive weapons with a wide-area impact in densely populated areas.”⁶ This message has been reinforced in subsequent UN Security Council Open Debates.

The **UN Special Representative for Children and Armed Conflict** has noted the devastating impact the use of explosive weapons in populated areas has on civilians, and especially children.

In 2011, **the International Committee of the Red Cross** 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.”⁷

Across different forums some 30 countries have directly expressed concern on this issue.

States, international organisations and civil society have a responsibility to take action to prevent humanitarian harm from the use of explosive weapons in populated areas.

3 Article 36, “The bombing of Aleppo: Heavy weapons and Civilian Protection”, 10 August 2012, <http://www.article36.org/cat1-explosive-weapons/bombardment-of-aleppo-heavy-weapons-and-civilian-protection/>

4 Statement by the President of the Security Council, 21 March 2012, S/PRST/2012/6

5 Co-Chairs Summary from the “Reclaiming the Protection of Civilians under International Humanitarian Law” conference, Oslo, Norway, 23-24 May 2013: http://www.regjeringen.no/upload/UD/Vedlegg/Hum/reclaime_recommendations.pdf

6 United Nations Secretary-General Ban Ki-moon, “Report of the Secretary-General on the protection of civilians in armed conflict,” UN Security Council, S/2012/376, 22 May 2012, http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_4150.pdf

⁷ International Committee of the Red Cross (ICRC), *International Humanitarian Law and the challenges of contemporary armed conflicts*, October 2011, 31IC/11/5.1.2

States should endorse the repeated calls from the UN Secretary-General that the use in densely populated areas of explosive weapons with wide-area effects should be avoided, and should undertake focused discussion on this issue.

As requested by the UN Secretary-General, states should also set out national policies on the use of explosive weapons in populated areas, including outlining “which explosive weapons may and may not be used” in such areas.

Warring party transparency in such policies as well as the creation of mechanisms to track, analyse, and respond to civilian harm can provide a basis for practical strategies to reduce harm, such as those that have been undertaken by ISAF in Afghanistan and AMISOM in Somalia. Recording casualties from violence provides an essential basis for developing practical and policy responses, and is the first step to ensuring the rights of victims.

Unexploded ordnance often remains deadly after conflict, and states have acknowledged, through Protocol V to the UN Convention on Conventional Weapons, an obligation to clear contamination, and a responsibility to retain and make available data on weapons' use to facilitate that process.

Speaking now on behalf of NGOs working together as the Toxic Remnants of War Project, these requirements provide a basis in principle for a broader responsibility for the lasting risks and environmental degradation resulting from conflict; a responsibility for the toxic remnants of war.

Successive environmental treaties have helped establish standards and norms protecting human and environmental health from a range of toxic substances. However, few controls exist concerning munitions or emissions from military activities in conflict settings, in spite of the risk to civilians from uncontrolled or chronic exposures to materials widely recognised as hazardous.

Growing concern over the long-term environmental and health impact of the toxic components of conventional weapons has focused on heavy metals, explosives, propellants, and obscurants. Many states will be familiar with the environmental footprint of firing ranges and installations, particularly where emissions breach domestic standards. Nevertheless, significant data gaps exist concerning the toxicity and environmental fate of many commonly used military substances.

Similarly, attacks on industrial facilities, military wreckage and wastes can all create health and environmental hazards. Abandoned or poorly stored ordnance can also present pollution risks, risks increased by accidents or deliberate attacks.

Historic and contemporary conflicts in contexts such as Vietnam, Laos, Lebanon, Iraq, the Balkans and Afghanistan have provided insights into the long-term environmental impact of armed conflict. Attention has often focused on depleted uranium, or the legacy of Agent Orange, but considerably less on civilian exposure to other munitions residues or other military pollution.

Toxic remnants of war and conflict pollution can generate localised but severe contamination, posing a long-term risk to civilians; scenarios poorly addressed by existing provisions for the protection of the environment under International Humanitarian Law. The **International**

Committee of the Red Cross⁸, the **United Nations Environment Programme**⁹ and the **International Law Commission**¹⁰ have identified these weaknesses. The **Toxic Remnants of War Project**¹¹ welcomes this and also supports the inclusion of environmental considerations within the developing protection of civilians framework.

Where conflict is intense or prolonged, or takes place in areas where civilians live, work or play, greater scrutiny is needed of the levels of contaminants in the environment, both during and after conflict. Warfare's unpredictability makes modelling and generalised risk prediction challenging, underscoring the need for comprehensive post-conflict environmental assessment and health monitoring. This should be focused on both populations at high risk of exposure, and those for whom age, gender or health conditions place them at greater risk of harm from toxics.

Short-term post-conflict environmental assessments undertaken by the United Nations Environment Programme have resulted in recommendations to affected states. However, states recovering from conflict often lack the capacity and resources to fulfil these recommendations. Obligations for assistance from belligerents, or the wider international community, remain poorly defined.

The **United Nations Human Rights Council**¹² has recommended that communities affected by conflict toxics be informed of their presence and risks. However, without more comprehensive environmental and health monitoring, civilians will continue to be ignorant of the risks posed by toxic remnants of war. Documenting harm, communicating pollution risks and managing environmental contamination must be viewed as a key component of the protection of civilians.

Previous resolutions, such as *Observance of environmental norms*¹³ and 67/36¹⁴ have helped establish that environmental concerns and principles are relevant to this committee. The Toxic Remnants of War Project therefore welcomes debate here, and in other forums, on initiatives for improving the protection of civilians and the environment during and after conflict.

How societies manage the risks to which citizens may be exposed by the actions of others serves as an indicator of their accountability and responsibility.

A significant endeavour of our global community has been the effort to apply rules and standards to even the most brutal of circumstances.

This has been, and should continue to be, a progressive process. We hope that discussions on these themes in First Committee, and in other forums, can help to promote the development of stronger standards to reduce harm in the future.

Thank you.

⁸ ICRC, 2011, Report of the 31st ICRC conference, Switzerland, *Strengthening legal protection for victims of armed conflicts*: <http://www.icrc.org/eng/assets/files/red-cross-crescent-movement/31st-international-conference/31-int-conference-5-1-1-report-strength-ihl-en.pdf> pp14

⁹ UNEP, 2009, *Protecting the Environment During Armed Conflict: An Inventory and Analysis of International Law*. http://postconflict.unep.ch/publications/int_law.pdf pp51

¹⁰ ILC, 2013, A/68/10 Chapter IX, *Protection of the environment in relation to armed conflicts*

¹¹ The Toxic Remnants of War Project, research hub: <http://www.toxicremnantsofwar.info>

¹² HRC, 2007, A/HRC/5/5 <http://www.un.org/Docs/journal/asp/ws.asp?m=A/HRC/5/5> pp24

¹³ Resolution: 2012, A/C.1/67/L.17 (A/RES/67/37) *Observance of environmental norms in the drafting and implementation of agreements on disarmament and arms control*

¹⁴ Resolution: 2012, A/C.1/67/L.16 (A/RES/67/36) *Effects of the use of armaments and ammunitions containing depleted uranium*