

## Explosive weapons in populated areas: Implications of the Oslo Commitments for a new response

*Presentation by Richard Moyes, Policy & Research Director, AOAV ([rmoyes@aoav.org.uk](mailto:rmoyes@aoav.org.uk)), at a briefing on Armed Violence co-hosted by the Government of Norway and UNDP, Geneva, 24 June 2010,*

Whilst the armed violence agenda is very broad, I am going to use this opportunity to suggest how implementation of the Oslo Commitments<sup>1</sup> can be used to support progressive policy goals in specific areas. My comments are certainly not a statement of the full potential of the Oslo commitments, rather they should be seen as a more narrow example of how these commitments might be used to promote better protection of civilians.

In particular I am going to look at the problem of civilian harm from the use of explosive weapons in populated areas and I am going to suggest how actions in fulfilment of the Oslo Commitments could serve as vital first steps towards addressing this humanitarian problem.

The Oslo Commitments explicitly indicate that armed violence includes both conflict and non-conflict violence – and it is important in this presentation that I am not talking only about situations of armed conflict.



The use of explosive weapons in populated areas repeatedly causes unacceptably high levels of harm to civilians.

From airstrikes and artillery attacks in Afghanistan and *[photographed here]* Georgia, Gaza and Lebanon ...



... to car-bombs in Pakistan [*photograph*] or Iraq, the use of explosive weapons in populated areas is a consistent cause of severe civilian suffering.



For example, in Yemen in 2009 repeated use of explosive weapons in populated areas by different parties to the conflict there has resulted in civilians’ deaths, displacement, and widespread damage to civilian infrastructure. In an incident in September last year reported on by Human Rights Watch, at least 87 people were reported killed and a further 35 wounded , the majority women, children and the elderly, when a camp for displaced people was hit by aircraft bombs. People were reported to have been killed from the explosions and others crushed to death when a bridge they were sheltering under collapsed.

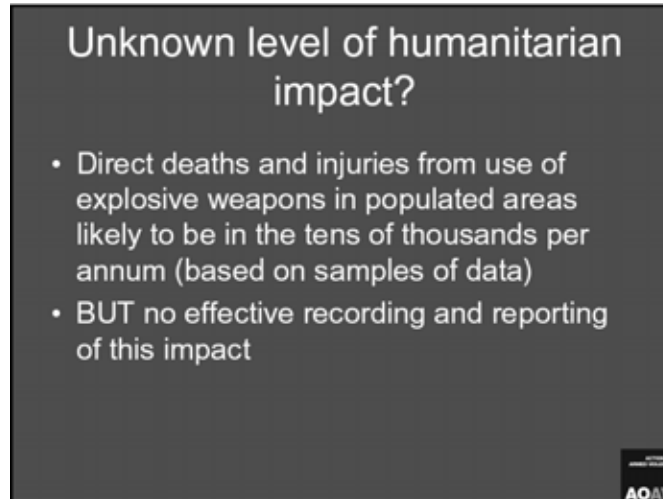
*In these photographs we see buildings damaged by explosions, with graffiti on the wall that asks “what have markets done wrong?”. In the photograph below the bodies of dead civilians are being dug out of their collapsed home.*



Similarly, in the Somali capital Mogadishu there is an ongoing pattern of violence involving extensive use of explosive weapons in heavily populated areas. Just one incident from June 2009 saw shelling of a market area by government and African Union forces that left 17 civilians dead and 61 wounded.

*The first of these photographs shows civilians killed by another attack on a market area this year that left 20 killed and 60 wounded. And this boy being evacuated after being wounded by the explosion of a mortar shell.*

In response to this pattern, Médecins Sans Frontières condemned such attacks as “totally unacceptable.”



Worldwide, the direct deaths and injuries from use of explosive weapons in populated areas are likely to be in the tens of thousands each year (in 2006 we documented nearly 15,000 in just 6 months just from a sample of news reports). To summarise the mechanisms of civilian harm:



- [GRAPHIC SLIDE] Explosive weapons cause harm to civilians caught directly by blast and fragmentation in the zone affected by the detonation; *Here I have illustrated the immediate likely blast area of two artillery shells landing outside Cornavin train station in Geneva. This is the area in which death or serious injury are likely to occur – though fragments may be dangerous at even longer ranges. And of course people inside buildings may be injured by secondary fragmentation such as flying glass. This just to remind us how explosive weapons in this context will affect not only any specific targets, but also passers-by, shops, hotels and also the transport infrastructure, for example.*



- Others people killed or injured due to the collapse of buildings or, subsequently, as a result of damage to infrastructure vital to the wellbeing of the population (such as water and sanitation systems) – which can substantially contribute to indirect mortality and morbidity;



- And of course, the use of explosive weapons creates unexploded ordnance, that persists as a threat until it is removed, and can prevent safe civilian access to an affected area and use of its resources.

**A developing agenda of humanitarian concern**

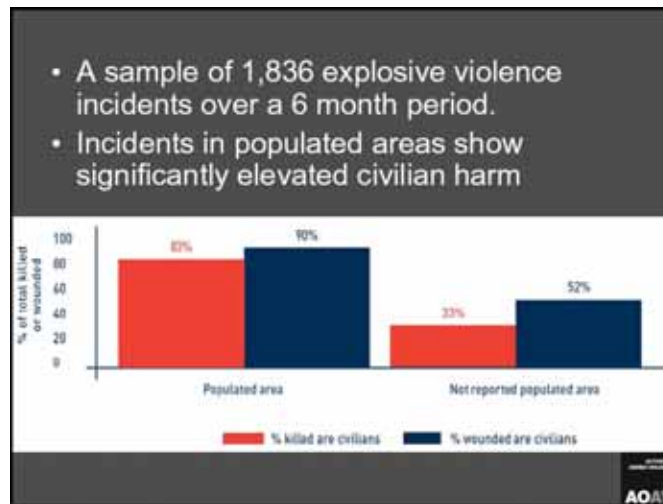
- **2009 UN SG's report on protection of civilians:** "... increasingly concerned at the humanitarian impact of explosive weapons, in particular when used in densely populated areas ..."
- **2009 Annual Report of ICRC:** "stark illustrations of the potentially devastating humanitarian consequences of military operations ... in densely populated areas, especially when heavy or highly explosive weapons are used."

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The problem of explosive weapons in populated areas is increasingly recognised as a distinct issue of humanitarian concern.

The UN *Secretary-General stated in his 2009 Report of the on the protection of civilians in armed conflict* stated: "I am increasingly concerned at the humanitarian impact of explosive weapons, in particular when used in densely populated areas. As demonstrated by this year's hostilities in Sri Lanka and Israel's campaign in Gaza, the use in densely populated environments of explosive weapons that have so-called "area effect" inevitably has an indiscriminate and severe humanitarian impact."

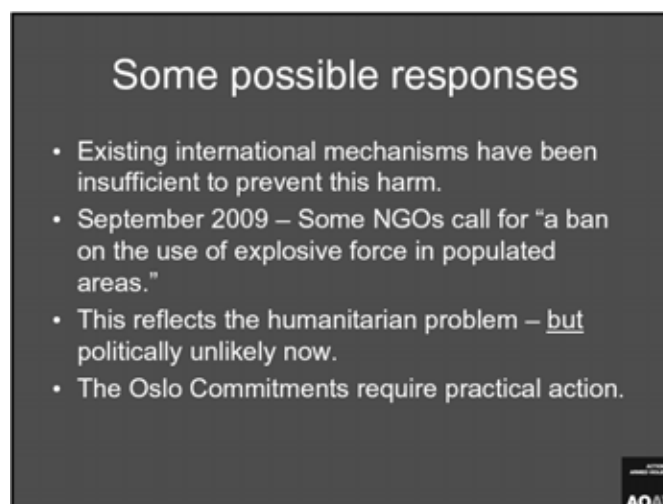
Similarly, in his introduction to the *2009 Annual Report of the International Committee the Red Cross*, the ICRC President noted that "Two of the ICRC's key operations in 2009 – in the Gaza Strip and in Sri Lanka – provided stark illustrations of the potentially devastating humanitarian consequences of military operations conducted in densely populated areas, especially when heavy or highly explosive weapons are used."



Action on Armed Violence compiled a sample set of global data on the impact of explosive weapons over a 6 month period in 2006, based on English language newswire reports. In just six months, this sample comprised 1,836 incidents with a minimum total of 6,115 killed and 12,670 wounded.

Where incidents took place in populated areas, some 83% of those reported killed and 90% of those reported wounded were civilians. This compares with some 33% of the killed and 52% of the wounded away from populated areas. So there is a correlation visible here between use of explosive weapons in populated areas and a significantly elevated level of civilian harm.

Such incidents occur in both conflict and non-conflict settings. They may be the responsibility of states or non-state armed actors. They may use different types of explosive weapons.

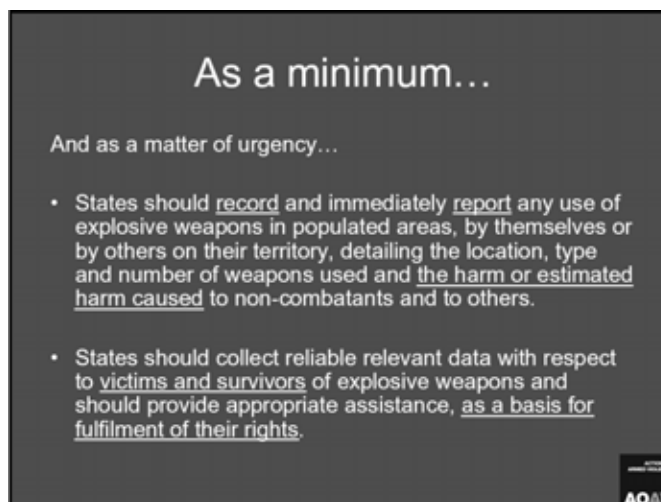


So what is to be done? It is apparent that existing national and international mechanisms have proved insufficient to prevent unacceptable harm in the past. In such a situation, all potential users of explosive weapons should undertake meaningful steps to reduce future harm to civilian populations through new national and international prevention measures.

In September 2009, in a communication to the UN Security Council, a wide-ranging NGO Declaration on disarmament, peace and development on behalf of over 340 Non-Governmental Organizations, included amongst many other items a call on states to “establish a ban on the use of explosive force in populated areas.”

Such a call reflects the severity of the humanitarian problem – but it is unlikely to result in urgent action from states given current assumptions about military needs.

The Oslo commitments, and previous instruments such as the Geneva Declaration on Armed Violence and Development, reiterate a commitment by states to reduce the impact of violence. Further, the Oslo Commitment require actions that could be developed as important first steps in response to this problem.



Action on Armed Violence proposes that two interlinked responses be undertaken by States as a matter of urgency.

1. Firstly, states should record and immediately report any use of explosive weapons in populated areas, whether by themselves or by others on their territory, detailing the location, type and number of weapons used and the harm or estimated harm caused to non-combatants and to others.
2. Secondly, states should collect data with respect to victims and survivors of explosive weapons and should provide assistance, as a basis for fulfilment of their rights.

These responses both follow from implementation of the Oslo Commitments as well as building on other instruments.

- Measuring and monitoring the impact of explosive weapons in populated areas is critical to understanding the humanitarian problem.
- Responding to victimisation from these incidents is vital to reducing the impact of that violence.

Through the Oslo Commitments, States have endorsed the principles that underpin these responses and have committed themselves to action.

Turned into action, these responses would:

- Allow better understanding of how the excessive levels of civilian harm are being caused.
- It would allow a better understanding of which types of explosive weapons are the worst offenders if used in populated areas –which in turn could provide a basis for more specific measures;
- In situations of armed conflict, this should also be recognised as a necessary component of

state's implementation of existing international humanitarian law. How can judgements be made of the civilian harm of attacks if the actual civilian harm from past attacks is not documented or responsibly estimated? Without such practices, in the face of an evident humanitarian problem, IHL risks becoming merely a rhetorical device.

- In certain cases, the use of explosive weapons in populated areas has been ruled on as a violation of international human rights law in the European Court of Human Rights. The responses urged here would constitute mechanisms of strengthened human rights monitoring.
- These responses would provide a basis for trying to reduce the impact of this violence on individuals and communities through subsequent forms of assistance – itself vital for the implementation of human rights obligations such as those of the Convention on the Rights of Persons with Disabilities.
- Beyond this, these would establish a clear recognition that the use of explosive weapons in populated areas bears a special responsibility, which is not currently recognised under international humanitarian law, – which in turn would strengthen the stigmatization of such violence. Given the proliferation of this form of violence in political protest, there is an urgent need to develop such stigma on a non-political, humanitarian basis.

So implementation of the Oslo Commitments should provide a stepping stone from existing legal obligations to document explosive weapon use, and to respond to victims and survivors of violence, to practices that could be adopted now, and that would have a major impact on our ability to protect civilians in populated areas from explosive weapons.

Such responses would have a significant impact but they are also quite limited in relation to the scale of the humanitarian issue under discussion here. If states can't undertake such actions, and can't provide data and evidence of their own regarding the impact of explosive weapons in populated areas, there must serious doubt about the capacity of any actors to use explosive weapons in populated areas without exposing civilians to excessive risk.

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<sup>i</sup> The Oslo Commitments on Armed Violence: Achieving the Millennium Development Goals:

We, the representatives of States, met in Geneva on 12 May 2010 to discuss how to address effectively the humanitarian and development impact of armed violence.

Armed violence – whether it occurs in contexts of conflict or crime – is a fundamental challenge to our common humanitarian and developmental goals, often violating human rights, exacerbating gender inequality, and undermining security, justice, education and public health.

Armed violence and development are closely linked. An environment of fear and insecurity can undermine human, social and economic development. At the same time, persistent inequality and a lack of development are among the underlying causes of armed violence. We are convinced that development efforts that address the risk factors for armed violence can help to prevent and reduce its incidence and enhance the prospects for development.

We commend the work being undertaken to prevent and reduce armed violence by States, international organizations and civil society. We reaffirm the commitments of the Geneva Declaration on Armed Violence and Development and take note of the recommendations made by the United Nations Secretary-General in his reports on armed violence and development, including the efforts to control the illicit trade in small arms and light weapons (A/64/228) and on developing an action agenda to achieve the Millennium Development Goals (MDGs) in his report 'Keeping the Promise' (A/64/665).

Determined to achieve measurable reductions in armed violence and to realise the existing Millennium Development Goals by 2015, we commit to:

- Support, where appropriate, the inclusion of armed violence reduction and prevention in the Outcome Document of the High Level Plenary Meeting on the MDGs and in subsequent MDG achievement strategies through to 2015;
- Measure and monitor the incidence and impact of armed violence at national and sub-national levels in a transparent way, and develop a set of targets and indicators to assess progress in efforts to achieve measurable reductions in armed violence;
- Recognise the rights of victims of armed violence in a non-discriminatory manner, including provision for their adequate care and rehabilitation, as well as their social and economic inclusion, in accordance with national laws and applicable international obligations;
- Enhance the potential of development to reduce and prevent armed violence by integrating armed violence prevention and reduction strategies into international, regional, national and sub-national development plans, programmes and assistance strategies;
- Strengthen international cooperation and assistance, including South-South cooperation, to develop national and sub-national capacities for armed violence prevention and reduction and achievement of the MDGs.

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We will work together, and in partnership with civil society and international organizations, to fulfil and advance these Commitments, both before and beyond the High Level Plenary Meeting on the MDGs in September 2010.

Geneva, 12 May 2010

Endorsed by Afghanistan , Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Bosnia And Herzegovina, Brazil, Burundi, Canada, Chile, Columbia, Costa Rica, Côte D'ivoire, Croatia , Cyprus, Democratic Republic Of Congo, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Ghana, Guatemala, Holy See, Indonesia, Italy, Jamaica, Japan, Jordan, Kenya, Lao People's Democratic Republic, Lebanon, Liberia, Mexico, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Papua New Guinea, Philippines, Ro Congo, Senegal, Serbia, South Africa, Spain, Sweden, Switzerland, Tanzania, Thailand, The former Yugoslav Republic Of Macedonia, Timor-Leste, Uganda, Vanuatu, Zimbabwe