

Written submission on victim assistance for political declaration on explosive weapons

Brussels, 6th December

Background of the problem

The current process toward a political declaration aims to address the use of explosive weapons in populated areas, particularly explosive weapons with wide area effects. When explosive weapons are used in populated areas, they cause significant pattern of harm reflected in immediate and long-term impact on the civilian population and civilian infrastructure. In particular, the use of EWIPA kills and injures large numbers of civilians and causes psychological harm. Hundreds of thousands of civilians across almost 120 countries have been killed or injured by explosive weapons in the past decade alone, and 90 percent of those civilian casualties occurred in populated areas¹. Reverberating effects include damage to critical infrastructure (such as housing, medical facilities, education, power plants, water and sanitation facilities), the subsequent impact on the provision and quality of essential services and displacement of the local population, among other adverse impacts.

As the people affected by conflicts and exposed to the direct and indirect impact of explosive weapons, must be at the centre of all discussions related to ending the harm from explosive weapons, we in Humanity & Inclusion are strongly advocating for a standalone commitment on victim assistance must be in the political declaration on explosive weapons. Again, the fact that there is a large number of victims and a widespread pattern of destruction is not a justification for ignoring or denying people their rights and needs, but rather should be driver of the urgency of addressing this problem in the political declaration.

Rationale

Many legally binding instruments and political declarations related to armed violence include commitments on the need to assist victims whose lives have been damaged by the weapons of focus of these instruments. Victim assistance encompasses a wide range of measures devoted to

¹ INEW, "Protecting Civilians from the Use of Explosive Weapons in Populated Areas," October 2019, <http://www.inew.org/wp-content/uploads/2019/10/INEW-briefing-on-protecti...> (accessed November 4, 2019), p.1

remediating ongoing human suffering regardless of when it was caused. In particular, it includes emergency and continuing medical care, physical rehabilitation, psychological and psycho-social support, measures to ensure the social and economic inclusion of survivors, and the adoption or adjustment of relevant laws and public policies supported by data collection and analysis.²

The concept of victim assistance originated and has been codified in disarmament treaties. The 1997 Mine Ban Treaty commits states parties to provide assistance for people harmed by a specific type of weapon in its preamble and its provision concerning international cooperation.³ The 2003 Protocol V on Explosive Remnants of War to the Convention on Conventional Weapons and the 2008 Convention on Cluster Munitions include articles fully dedicated to the needs of victims and their rights to receive assistance.⁴

Victim assistance has also been incorporated in many political declarations. For example, in the 2010 Oslo Commitments on Armed Violence, states committed to “[r]ecognise 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.”⁵ In the 2013 Declaration of Commitment to End Sexual Violence in Conflict, states committed to “[p]rovide better, more timely and comprehensive assistance and care, including health and psychosocial care that addresses the long-term consequences of sexual violence in conflict, to female, male and child victims and their families, including children born as the result of sexual violence.”⁶

In addition to the provision of services for critically injured individuals, survivors, and indirect victims, victim assistance can include support for the rebuilding of public infrastructure and compensation for the loss of property and livelihoods.⁷ For example, the 2015 Safe Schools Declaration includes a commitment to “support the re-establishment of educational facilities.”⁸ Reconstruction of infrastructure sometimes falls under the umbrella of victim assistance, although it can also be treated as one of the practical measures discussed above.⁹

Such a commitment could build on experience from instruments responding to the needs of victims of specific weapons, reinforcing the non-discriminatory nature of those instruments and building a

² Humanity & Inclusion, “Implementing Victim Assistance in the Context of the Use of Explosive Weapons in Populated Areas in Syria,” October 22, 2018, https://handicap-international.fr/sn_uploads/fck/TORsconsultantEXTERNAL13122018.docx, p. 3.

³ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, adopted September 18 1997, entered into force March 1, 1999, pmbi., art. 6(3).

⁴ Protocol on Explosive Remnants of War (Protocol V to the 1980 Convention on Certain Conventional Weapons), adopted November 28, 2003, entered into force November 12, 2006, para. 8(2); Convention on Cluster Munitions, adopted May 30, 2008, entered into force August 1, 2010, art. 5.

⁵ Oslo Commitments on Armed Violence, 2010, <http://www.sehla.org/wp-content/uploads/2012/06/98130251-Oslo-Commitments-on-Armed-Violence.pdf>, p. 2.

⁶ Declaration of Commitment to End Sexual Violence in Conflict, 2013, <https://www.mofa.go.jp/mofaj/files/000016524.pdf>, p. 2.

⁷ Humanity & Inclusion, “Study: Victim Assistance in the Context of the Use of Explosive Weapons in Populated Areas,” August 2016, http://blog.handicap-international.org/influenceandethics/wp-content/uploads/sites/4/2018/01/Study2016_victimassistance_newcharte_EN_WEB.pdf

⁸ Safe Schools Declaration, 2015,

http://www.protectingeducation.org/sites/default/files/documents/safe_schools_declaration-final.pdf, p. 1.

⁹ A Commitment to Civilians Precedent for a Political Declaration on Explosive Weapons in Populated Areas, November 2019 https://www.hrw.org/sites/default/files/supporting_resources/201911arms_ewipa.pdf

wider expectation towards inclusion and support in line with the UN Convention on the Rights of People with Disabilities (CRPD) and the Sustainable Development Goals (SDGs).

Providing assistance to victims encompasses specific challenges in contexts where explosive weapons are used in populated areas. These challenges relate to the need for affected communities to have access to principled humanitarian aid, the scope of psychological trauma, the additional barriers preventing access to basic vital services due to the continuous and cumulative damage to critical infrastructures, and the risks attached to forced displacement in contexts where explosive remnants of war can be present.

A standalone commitment in the political declaration is crucial to ensure these specific challenges are properly addressed, and that adequate assistance to victim is considered a key element to reduce civilian harm caused by explosive weapons in populated areas.

VA in a political declaration on explosive weapons

A political declaration on explosive weapons should also include a standalone commitment to recognize the rights and needs of victims.

Suggested commitment:

Ensure that victims - people critically injured, survivors, family members of people killed and/or injured and affected communities – receive adequate assistance based on their needs in a non-discriminatory manner, including in the form of emergency medical care, physical rehabilitation, psychosocial support and socio-economic inclusion, as well as support towards the full realisation of their rights and full participation in the societies.

Humanity & Inclusion, also known as Handicap International, as an international organisation that works with and for victim of explosive weapons in more than 20 conflict affected countries around the world¹⁰, has recommended above commitment which would entitle states to commit to ensuring that victims:

1. have their basic needs met in a timely manner, including safety, protection, shelter, food, water, hygiene and sanitation;
2. Safe and timely access to mainstream, personal support and disability-specific services, including emergency and long-term medical care, rehabilitation, psychological and psychosocial support, education, work, employment, social protection and social inclusion;
3. Assistance to compensate for the loss of their homes and livelihoods due to explosive weapons.

¹⁰ Humanity & Inclusion, is an international NGO that works with disabled and vulnerable people to promote respect for their rights and dignity. See "Our Mission," Humanity & Inclusion, <https://humanity-inclusion.org.uk/en/our-mission>

Humanity & Inclusion also recommends complementary remedial commitments on:

1. Reconstruction of public infrastructure, such as medical and education facilities, power supplies, water and sanitation systems,¹¹ etc.
2. Data collection and analysis of the full range of harm caused by explosive weapons, including through recording all casualties. Data on victims should be disaggregated by age, sex and impairment, forwarded to the relevant national body and made publicly available in an appropriate form.
3. Unimpeded access to principled and inclusive humanitarian aid, risk education, and the clearance of explosive remnants of war.

Integrated support for affected communities is especially important in the EWIPA context, where damage to infrastructure often has severe reverberating consequences.

¹¹ Article 36: “Damage to the built environment from the use of explosive weapons”, September 2013
<http://www.article36.org/wp-content/uploads/2013/09/DAMAGE.pdf>