



Regional Meeting on Protecting Civilians from the Use of Explosive Weapons in Populated Areas

Draft Summary Report

Hotel Avenida
Maputo, Mozambique
27-28 November 2017

Introduction

Representatives of 19 African countries¹, international organizations (UN OCHA, ICRC, GICHD) and civil society organizations, including victims and survivors, met in Maputo, Mozambique, from 27-28 November 2017, on the regional meeting on protecting civilians from the use of explosive weapons in populated areas. The objective was to share expertise and evidence on the distinctive pattern of harm caused to civilians by the use of explosive weapons in populated areas, and to explore steps to address this harm at a political and operational level, from a national and regional perspective

The meeting was officially opened by his Excellency **Dr. Oldemiro Júlio Marques Balóí**, Minister of Foreign Affairs and cooperation of Mozambique, joined by Ms. Marcia Freitas de Castro, UN Resident Coordinator, Dr. Jean-Baptiste Richardier, Founder, Handicap International, Dr. Eirini Giorgou, Legal Advisor, International Committee of the Red Cross (ICRC), Ms. Margaret Arach Orech, Ugandan Landmine Survivors Association. Ambassador Alberto Maverengue Augusto, Director of Directorate for Africa and Middle East in the MOFA of Mozambique, chaired the conference.

Opening statements

Jean-Baptiste Richardier, the founder of Handicap International, in the opening statement said that we are seeing a deterioration of restraint in warfare and a crisis in the duty to protect and comply with existing international law, and that we need to restore respect for civilians in conflict. He recalled the Mine Ban Treaty and Convention on Cluster Munitions processes where likeminded states and CSOs have showed that change was possible, and praised Mozambique's role. He noted that the problem of EWIPA is not limited to Syria, Yemen and Middle East – it is seen in Somalia, Côte d'Ivoire, South Sudan: the African region is directly concerned. Explosive weapons are often considered an inevitable result of conflict, but there is evidence that militaries can and have restricted the use of certain weapons, and in doing so strengthened civilian protection. He also noted that the review of national policy and practices is needed and international standards must be

¹ Angola, Botswana, Cameroon, Central African Republic, Congo, Ethiopia, Ghana, Kenya, Liberia, Madagascar, Mali, Mozambique, Nigeria, Senegal, Sierra Leone, Somalia, South Africa, Togo, Uganda, Zambia

strengthened in order to fully realize rights of victims/survivors, and at the end called for states to support the development of a political declaration.

His Excellency, Mr Oldemiro Júlio Marques Balói, Minister of Foreign Affairs and cooperation of Mozambique, recalled that the dramatic effects of the use of explosive weapons in populated areas are still live in memories. Mozambicans have experienced first-hand the dramatic impact of the use of explosive weapons, in both protracted armed struggle for independence, followed by a vicious war of destabilization. It is, indeed, the reason why Mozambique is strongly interested in seeing the issue of explosive weapons in populated areas further known and disseminated worldwide, but especially in Africa. He strongly reiterated Mozambique's political commitment to the process, in general, that will, lead to the Political Declaration on explosive weapons in populated areas in the period to come.

Ms. Marcia Freitas de Castro said it is important to us to better address humanitarian impact of urban wars. We are seeing a growing use of explosive weapons in some areas, and affected populations need specialised support to address the serious public health issues, displacement, destruction of schools and houses, interruption of basic services caused. Many populations cannot return to their houses and communities. Referenced UNOCHA's report and said policies and practices like those seen in Somalia should be supported in other contexts. Ms. Freitas de Castro noted that the UNSG calls on member states to get involved in the process towards a political declaration and expressed the hope that this meeting will mobilise various actors as well as raise awareness and increase knowledge.

Dr. Eirini Giorgou said EWIPA is a humanitarian and legal challenge, and that any dilemma about the practical application of International Humanitarian Law (IHL) must be resolved with the aim of protecting civilians in mind. Ms **Giorgou** noted that explosive weapons have a significant likelihood of indiscriminate effects due to wide-area explosives which cause unacceptably high level of humanitarian harm. She also noted that urban warfare is increasing, but militaries have not updated their policies to account for this. She emphasised that the effects of EW are not limited to direct harm but extend in time and space, are accentuated in protracted armed conflict, and are largely foreseeable. Yet these effects (which speak to the proportionality of an attack) are insufficiently taken into account by parties to an armed conflict. Explosive weapons with wide area effects are likely to have effects beyond their target: civilian objects around the target likely make their use indiscriminate, and the reverberating effects also likely make such attacks disproportionate. IHL prohibits indiscriminate and disproportionate attacks, and includes an obligation to take all feasible precautions in choice of means and methods of warfare. The reality we are seeing in current conflicts raises serious questions regarding the application and implementation of these rules. States should avoid the use of explosive weapons with wide impact areas in populated areas despite the absence of a specific legal prohibition.

Ms. Margaret Arach Orech said we should have a common goal – the people-centred prevention of harm from the use of EWIPA. This has also been a central theme to work on the Mine Ban Treaty and Convention on Cluster Munitions where African States have shown great stride towards its universalisation. Protection of civilians from EWIPA is essential to the achievement of the UN SDGs. The rise in numbers of persons with disability including those with mental health is also linked to armed conflict, where explosive weapons are used in populated areas and with devastating long term effects on civilians and communities. African states should champion this initiative and discourage in particular wide impact area explosive weapons use in populated areas. She encouraged each African country to champion this humanitarian initiative in their respective countries and regions, and to discourage in every possible way any use of explosive weapons with

wide area effects in populated areas. States should not allow Africa to be a dumping ground for weapons that inhibit development.

Discussed topics

Over the 2 days of the regional Meeting, a variety of topics was discussed demonstrating the impact of explosive weapons from the point of affected communities, operators and practitioners.

Together, the participants discussed the following topics:

Session 1: Background on the issue and where we are now

The panellists to this session provided a brief overview of the humanitarian impacts resulting from the use of explosive weapons in populated areas, and the growing number of actors concerned about this pattern of harm, experienced in a variety of contexts. It updated to the efforts being undertaken to address this issue of grave humanitarian concern, and the current international policy landscape. This session also laid out the objectives for this meeting.

Ms. Laura Boillot, *Coordinator of International Network on Explosive Weapons (INEW)*

Dr. Simon Bagshaw, *Senior Policy Advisor, UN Office for the Coordination of Humanitarian Affairs (OCHA)*

Mr. Jaime Chissano, *Minister Plenipotentiary, Permanent Mission of Republic of Mozambique to the United Nations in Geneva*

Discussions?

Session 2: Direct harm from the use of explosive weapons in populated areas

The panellists to the second session provided an overview of the direct harm that result from the use of explosive weapons in populated areas, with a particular focus on the disproportionate impact on civilians, including death, injury and trauma. It highlighted the pattern of harm as documented through data collection, presenting key data, and highlighting countries that are experiencing high levels of explosive violence.

Key data on the harm from the use of explosive weapons in populated areas - *Dr. James Kearney, Action on Armed Violence*

Harm to the human body - *Ms. Alma Al Osta, Handicap International*

A case study: The shelling of Abobo market, Cote d'Ivoire, *Ms. Nounou Bouto, Centre for Peace, Security and Armed Violence Prevention*

The impact on children, Mr. Judas Massingue, Save the Children

Discussion:

Cameroun representative said that it was a question of respect for IHL, and that they conduct training on this issue. Also referenced the impact Boko Haram attacks have had on the country. ***CAR rep.*** expressed support for the initiative to work towards a political declaration. ***CAR*** said that though Africa does not produce these weapons, their use in Africa and elsewhere obliges African states to

look into possible precautions in their use. **Nigeria rep.** noted the use of children suicide bombers by Boko Haram and suggested there was a need to better educate children on the dangers

Session 3: **The impact of explosive weapons on infrastructure and essential services**

Panellists to this panel provide an overview of the wider pattern of harm from the use of explosive weapons in populated areas, with a focus on the damage and destruction to private property including housing, as well as essential infrastructure and critical services such as medical services and healthcare, water and sanitation systems, and education, and the resulting impact on the civilian population.

Destruction of infrastructure and services, presentation delivered by Dr. Eirini Giorgou, Legal Adviser, International Committee of the Red Cross in Mozambique

Impact on healthcare: a look at Ukraine and Libya, presentation delivered by Ms. Roos Boer, PAX

Impact on education, presentation delivered by Ms. Mimidoo Achakpa, IANSA Women's Network Nigeria

Discussion:

Nigeria rep. shared a concern whether a political commitment is enough, or do we also want to see practical steps that the international community can enforce to protect civilians? Also asked what is being done to forestall the production of explosive weapons, and how to stop the flow to Non-State Actors (NSAs)? Wondered given non-compliance with IHL, how can we enforce a political commitment?

Mali rep. referenced the use of EW by terrorists, and asked how we can better prevent them accessing these? **Mozambique rep.** responded by saying we need to first commit ourselves regardless of the reaction/actions of others. Just by doing that we can achieve a lot and go far.

Session 4. **Protecting and assisting affected communities**

Panellist to session 4 looked at the broader impact of explosive weapon use in populated areas, and the impact on affected communities, including how the use of explosive weapons in towns and cities is a driver of displacement. It looked at the risks presented to civilians from explosive remnants of war and explosive ordnance, and efforts that can be undertaken to reduce the risk to civilians from explosive weapons, ensure assistance to affected communities, and uphold the rights of victims.

Contamination of land from explosive ordnance, presentation delivered by Mr. Robert Burry, Handicap International Mozambique

Making communities safe again, presentation delivered by Mr. Albino Forquilha, FOMICRES

Upholding the rights of victims of armed violence speech delivered by Ms. Margaret Arach Orech

Conflict prevention and preparedness, presentation delivered by Ms. Siv Mjaaland, Norwegian People's

Displacement and denial of return presentation delivered by Mr. Geoffrey Duke, South Sudan Network on Small Arms

Discussion:

Zimbabwe rep. noted that significant parts of the country are still mined, with approximately over 3 million mines laid, plus ERW. Regarding combat in built-up areas, Zimbabwe stresses the need not to disrupt essential services or harm the local population. Said there needs to be a starting point: the long road travelled on the APMBT is now bearing fruit, with most of the state parties mine-free in the coming years. Zimbabwe rep expressed the hope we get somewhere with the subject under discussion, and then come up with a convention, and the implementation will follow after that. **Kenya** rep. (Maj-General Simon Karanja) asked about the shelf-life of ammunition brought into a conflict area e.g. by some troop-contributing countries? It was noted that explosive weapons present a specific danger for soldiers and civilians especially when stored in populated area.

Session 5: **Managing explosive weapons with wide area effects**

Participants to the session 5 looked at types of explosive weapons that exist and are currently in use. These include aircraft bombs, artillery shells, missile and rocket warheads, mortar bombs, grenades and improvised explosive devices. In particular, it looked at concerns over explosive weapons with wide area effects, and the risks that these present to civilians, as well as efforts better constrain the use of explosive weapons to better protect civilians.

Characteristics and effects of explosive weapons, presentation delivered by Mr. Samuel Paunila, Geneva International Centre for Humanitarian Demining (GICHD)

Military policy and practice to strengthen the protection of civilians, Dr. Simon Bagshaw, UN Office for the Coordination of Humanitarian Affairs (OCHA)

Enhancing the protection of civilians: An example of AMISOM's operational policies in Somalia, presentation delivered by Major General (Ret) Simon Karanja

Working with militaries, presentation delivered by Ms. Mary Gorrety Ajwang, Handicap International Kenya

Discussion:

How to deal with the issue of how to engage with NSAs? Simon Bagshaw from UNOCHA noted that the use of EW by states tended to alienate populations and drive recruitment for NSAs.

How can sue of EWIPA be reduced? Major General (Ret) Simon Karanja: (1) ask who the perpetrators are and how responsive they are to international law and human rights? E.g. in Somalia there as al-Shabaab (no respect for IHL, but may be able to negotiate with), militias (also not adhering to IHL but may be able to control/negotiate with), Somalia National Army & AMISOM (tried to adhere but sometimes fired weapons into populated areas).

Gorrety Ajwang from Handicap International shared importance to ensure research and work is incorporated in the development of policies. Not only dealing with the effect of explosives as used by the military; clear that in Africa, improvised explosive weapons are largely used by NSAs and this must be recognised. Kenya, Somalia, Nigeria and other countries, main impact comes from NSAs. Look at prevention, mitigation, but also recovery: how do we incorporate them in a holistic approach to recovery?

Samuel Paunila said that militaries want ever more lethal and compact weapons, also calling for more localised effects. Technology for non-fragmenting munitions and projectiles with more local effects is there but the prices are high. Effects modelling are getting better and more complex but

will always have limitation. Trained targeting and analysis getting better and faster, but the training is only starting in most companies. Targeting currently is not competent or careful. Also boils down to ad hoc vs planned use of EW: when military forces react to incoming fire, policies on self-defence differ between states; clear that militaries use the first available weapon to protect themselves rather than carry out comprehensive weapons-target matching.

Zambia rep. *noted use of explosive weapons is especially for developing world more on the part of NSAs. Considering this kind of dynamic where NSAs using explosive weapons: what assurance would be in the political declaration that there would be a reduction in the harm caused by use of EW? IHL provides clear and specific guidance to states on EWIPA: recent discussions in Geneva had established the fact that IHL is sufficient; rather it is the failure by those involved to adhere to their obligations under IHL, a lack of respect for the law. What assurance do we have that states currently not engaged in the political declaration process will adhere to or accept it?*

Session 6: **Developing new international standards**

Panellist to session 6 looked at how explosive weapons are regulated in international law and policy, what constraints are placed on the use of explosive weapons, and how civilians are protected against the effects of explosive weapons. This panel also provided an update on efforts to develop an international commitment in the form of a political declaration, and what commitments it should contain in order to prevent harm and provide better protection to civilians experiencing armed conflict.

Explosive weapons and the law, presentation delivered by Ms. Maya Brehm, Article 36

A declaration to prevent harm, presentation delivered by Ms. Laura Boillot, the International Network on Explosive Weapons

Update on a process towards a political declaration, Mr. Hubert Neuwirth, Head of Cooperation, Austria Embassy in Mozambique

Working groups

Working group sessions – what are the practical steps African states and civil society can take

The objective of the working group was to identify what needs to be done to move the issue of explosive weapons use in populated areas forward both at domestic and international level and how to involve different stakeholders.

Group 1: Chaired by Nigeria (on behalf of the following group of states: Ghana, Liberia, and Zambia)

- To engage in the diplomatic process of the Political Declaration as soon as possible. Willing to cooperate to the process.
- Do as much as possible to avoid direct and indirect fire in populated areas, to avoid civilian casualties.
- Encourage political dialogue to avoid conflict
- Ensure regular training to military personnel
- Checks and balances in the military with Ministry of Defense supervising the army, air force and navy. Ensure they don't go beyond their boundaries and mandate.
- Ensure that current international policies and treaties are effectively implemented including through their translation into domestic legislation

- Ensure that the report of the Maputo Conference is put to the attention to heads of the states concerned

Actors to involve / be involved with:

- MPs: Bring the topic at Parliament level in plenary sessions.

Group 2: Chaired by Togo (on behalf of the following group of states: Senegal, Madagascar, Mali, Central African Republic, Congo, and Cameroon).

- Important to address this issue for States AND Non-State Actors
- **At National level**, teaching IHL to citizens since basic education level / very first grades.
- At National level, harmonize the national legal tools at our disposal with international standards
- At National level, build suitable infrastructures to stock explosive weapons outside of city centers, to strengthen the physical protection to avoid robbery and their use by non-state armed groups.
- At National level, adopt new laws on transportation and stock of explosive weapons in populated areas
- At National level, strengthen the education of citizens on the risks posed by such weapons
- To adopt the necessary financial means, to strengthen the capacities (law, education and operations) of the State regarding the EWIPA campaign.
- Make sure that weapons do not come to the hands of non states actors
- **At International level**, create a mechanism to destroy weapons which comes to expiration, by notably getting a systematic insurance from the manufacturers.
- At International level, to declare the use of explosive weapons with wide area effects in populated areas as a war crime.
- At International level, call on states to effectively implement IHL.
- Actors to involve / be involved with: Government, ministries, NGOs, victims all platforms of dialogue and cooperation.

Group 3: Chaired by Mozambique (on behalf of the following group of states: Angola, Botswana, and Zimbabwe)

- **At country level**, engage with militaries. They should play an important and active role, and should always address the issue within their rules of engagement.
- At country level, involve members of the cabinets to make sure they are better equipped to engage in discussions on the issue.
- At country level, to engage with civil society and INEW network
- Increase efforts to integrate international laws into domestic legislation: IHL, CCW, CCM, MBT.
- **At regional level**, to disseminate and bring the EWIPA topic as soon as possible in all relevant political frameworks and spaces, whenever possible (States meetings / Regional summits / At groups of experts), through side-events, workshops or interventions.
- Whenever possible, the delegates should condemn the use of explosive weapons with wide area effects in populated areas.
- At continental level, the African Union and its Peace and Security Department should be seized about this matter.
- At the same level, an African common position is urgently needed.
- A workshop should take place to disseminate the outcomes of the Maputo regional conference.
- Mass media should be more involved in the EWIPA diplomatic campaign.

- The process should include the African initiative to prevent terrorism.

Group 4: Chaired by Uganda (on behalf of the following group of states: Kenya, Ethiopia, Somalia).

- A high political will is needed to drive the issue of EWIPA. There is a general agreement that we need to go forward.
- **At country level**, National legislation should strengthen the protection of civilians and address the use of EWIPA. The legislation also needs to be enhanced with the current evolution of warfare (adaptation in urban areas, growing urbanization challenge)
- At country level, involve diplomats and militaries through serious training, enhancing their knowledge on the current matter.
- However, in the training and discussions, we should separate diplomats and militaries to get more expertise from each side.
- Be bold and ask for all financial and logistical requirements (HR, infrastructures) to address the issue properly.
- **At regional level**, a regional Stakeholder meeting should take place, with relevant actors and communities at political, economic levels, and make them drive this issue.
- **At global level**, bring every single international actor (the UN to take the lead) on board.
- At global level, there should be a parallel stipulation of penalty, in a way that, once you bomb a market or a populated area, you will know that the price to pay is high and above all, known in advance.
- To engage survivors to get guidance from them.
- There should be a mechanism of monitoring and evaluating to see, after Maputo and the political declaration, what has been concretely done and implemented.

Conclusion:

The Regional Meeting on Protecting Civilians from the Use of Explosive Weapons in Populated Areas was concluded with the closing speech by the Chair of the meeting and adoption of the official Communiqué (Annex 1) by the participants to the meeting.

The Chair thanked all participants for their fruitful and vibrant participation throughout the two days of this high-level conference, which gathered a diversity of stakeholders at state and civil society levels.

States representatives have collectively **expressed deep concern** that explosive weapons used in populated areas cause deaths, injuries and traumas to civilian victims, damage and destroy essential infrastructure and critical services, drive forced displacement, leave explosive remnants of war that pose a threat in the long term, disrupt socio-economic activities and potentially compromise human security

This communiqué is a very positive step towards a better protection of civilians in armed conflicts. Being a collective and action-oriented communiqué, it reflects the **high level of commitment** towards supporting concrete steps at national and regional level, from both state and civil society representative, to **address the harm** caused by the use of explosive weapons in populated areas.

This will most certainly **pave the way for an increased involvement** of African states in the diplomatic dynamics seeking solutions towards improved international standards on the protection of civilians from the use of explosive.

Chair, Ambassador Alberto Maverengue Augusto, Director of Africa and Middle East Directorate
Co-chair, Ms. Alma Al-Osta, Handicap International Annex 1