

Article36

Casualty recording, critical argument and campaigning against weapons

Introduction

Casualty recording and the documentation of the impact of armed violence have played a critical role in past and current processes to curb weapons. Such processes have made progress by exposing failures to deal with or even acknowledge this humanitarian impact.

These approaches of evidence collection and critical argument were central to the prohibitions on landmines and on cluster munitions and underpin current efforts to restrict the use of explosive weapons in populated areas. They are also the basis for a renewed push to develop an international treaty prohibiting nuclear weapons.

While the political contexts surrounding these different weapons are distinct, the civil society efforts to address them have shared a basic motivation to prevent humanitarian harm. Where political or legal agreements are sought and achieved, their success is measured by how they have prevented humanitarian harm.

Casualty recording and weapons

Article 36 is part of the Every Casualty Campaign¹, which brings together organisations calling for every casualty from armed violence to be promptly recorded, correctly identified and publicly acknowledged. Casualty recording takes many different forms, but generally should include the name of the person and when, where and how they were killed. The greatest omissions in the documentation of casualties from armed violence are seen in situations of conflict, but research shows that even in the most trying of circumstances casualty recording can and must take place.²

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It should be seen as a fundamental moral right to have one's violent death recognized and understood. In this way, casualty recording constitutes an essential element of victims' rights. There are also many practical benefits that flow from the documentation of harm from armed violence. In many post-conflict situations, recording casualties has fulfilled an important memorial function and contributed to accountability and reconciliation efforts. Casualty recording and the wider measurement of the impact of armed violence are necessary building blocks for the development of policies to prevent, reduce and address the problem of armed violence.

In relation to international efforts to reform the use of certain weapons, the documentation of casualties was of course only one component of these processes. Analysing the effectiveness and utility of certain weapons, as well as official claims about them, has also been important in challenging their use and possession. This has broader implications for present and future efforts to control the technologies of violence, including in the context of states' legal reviews of means and methods of warfare under article 36 of Additional Protocol I of the Geneva Conventions.³

Landmines

The recognition by medical and development communities of a specific pattern of injuries due to landmines provided the impetus for the campaign that developed to prohibit them. By the early 1990s ICRC surgeon Robin Coupland was talking about "an epidemic of injuries" from landmines.⁴ Documentation of the casualties from these weapons was central to the growing opposition to them.

This pattern of casualties was documented in numerous studies, including the 356-page report "Landmines: a deadly legacy"⁵ published by Human Rights Watch and Physicians for Human Rights in 1993. The effects of the weapon have been an enduring focus throughout the campaign, including the ongoing documentation of casualties, the prominent role for survivors, the imagery of photographers like John Rodsted and Giovanni Diffidenti and the "evidence-based advocacy" of the Landmine Monitor that continues today.⁶

Cluster munitions

Although the issue had struggled for recognition for several years, the basis for acknowledgement of the cluster munition problem was systematic documentation of casualties from the weapon's use. Human Rights Watch documented casualties from cluster bombing in Kosovo, Afghanistan and Iraq⁷, while Landmine Action documented the humanitarian harm in Lebanon shortly after the 2006 bombardment of southern Lebanon with hundreds of thousands of cluster submunitions.⁸ Handicap International published a global picture of the impact of cluster munitions in 2006 including figures on all recorded casualties.⁹

Once the issue was on the table in at the UN, states insisted on striking a balance between the humanitarian concerns and military considerations. The Cluster Munition Coalition instead fought successfully for a focus on casualties and humanitarian harm in order to provide terms of debate that favoured reform rather than

the status quo. Many states rejected reform instinctively, but could not challenge the humanitarian case effectively or provide compelling military case either. Credible reports challenged claims about specific weapons¹⁰ and prominent interventions by military figures¹¹ undermined rhetoric about the utility of the weapons.

This increased the power of the campaign's sceptical, questioning stance, shifting the burden of proof to opponents of reform. The starting point became the unacceptability of the weapons based on documentation of casualties and wider harm. Proponents of the weapons had to provide compelling evidence for why they should be acceptable.

Landmine Action's "Out of Balance" report in 2006 analysed UK statements in parliament on cluster munitions concluding that the oft-claimed balance between humanitarian impact and military necessity could not in fact have been ever made because the government had never made any assessments of the humanitarian impact of cluster munitions.¹²

Gathering data on casualties and humanitarian harm from weapons and using this data to ask critical questions on how this harm is being dealt with can provide a strong platform for organisations and states to challenge the prevailing discourse and assumptions and to promote reform in the area of weapons and armed violence. Current efforts to curb the use of explosive weapons in populated areas and to promote negotiations on a treaty to ban nuclear weapons are good examples of this.

Explosive weapons in populated areas

Similarly the concern about the use of explosive weapons in populated areas has been driven by an analysis of what is causing civilian casualties. Action On Armed Violence (formerly Landmine Action) began gathering news media data on harm from explosive weapons in 2006, publishing a landmark report on this in 2009.¹³

The news media methodology and public health theory of armed violence developed by Coupland / Taback (vulnerability of victim; type of weapons; number of weapons; how the violence is perpetrated) underpinned the development of concern over explosive weapons in populated areas.¹⁴

Asking states to acknowledge the humanitarian harm has been the first step in establishing the terms of debate for addressing the problem. So far around 30 states have acknowledged the humanitarian problem¹⁵ based on documentation of the use of explosive weapons by Action On Armed Violence, Human Rights Watch and Save the Children. The data gathered on casualties consistently indicates that when explosive weapons are used in populated areas, 80-90% of casualties are civilians.¹⁶

With these stark figures in mind, advocacy in explosive weapons in populated areas seeks to develop a collective interest amongst states and organisations in finding the best ways to reduce and ultimately prevent civilian casualties from the use of explosive weapons in populated areas.

A meeting of experts hosted by Chatham House and OCHA in September provided space for participants from a range of backgrounds and affiliations to continue discussions on this humanitarian problem. Military, medical, humanitarian, legal and policy people gathered to consider which explosive weapons are causing the biggest problems, in what circumstances, with what type of injuries and longer term harm and began to discuss what sort of policy and / or legal responses might be most beneficial in order to enhance the protection of civilians.

Nuclear weapons

While the context is different now, the origin of opposition to nuclear weapons had the same basis as the opposition to the conventional weapons described above: their humanitarian effects. In 1945, the reaction to the obliteration of Hiroshima and Nagasaki was widespread global horror. Later, in the wake of atmospheric testing of nuclear weapons, the public health documentation of radioactive isotope Strontium 90 in children's teeth (1959) was influential in prompting the partial test ban treaty in 1963. These concerns continued in the run up to the CTBT in 1996, including with documentation of the environmental effects by groups such as Greenpeace.

Perhaps because we do not see new victims from nuclear weapons on the news, these health and environmental effects have found themselves side-lined in discussions on the issue. It is almost as if we take these consequences for granted, even accept them, while discussions focus on politics, security, and power. The weapons have become symbols.

Over the past few years debate has refocused on these initial humanitarian concerns over nuclear weapons¹⁷; further documentation of effects on health and environment have been undertaken, including an influential study by climate scientists on the potential effects of a regional nuclear war in South Asia on global climate and food production.¹⁸

This reframing has opened up space for critical questions to be asked and has already caused some discomfort for nuclear armed states and has also shown recognition by governments of the powerful link between documentation of casualties and humanitarian impact and effective campaigning against weapons. The following passage is from UK government internal communications in the run up to the Oslo Conference on the Humanitarian Impact of Nuclear Weapons, which was attended by 127 states and which the UK boycotted along with China, France, Russia and the US:

At the heart of the “humanitarian disarmament movement” is the thread that any weapons which are indiscriminate in their effect should be outlawed. This is how the Cluster Munitions Convention campaign began. The Oslo meeting will seek to establish as gospel that nuclear weapons have such an indiscriminate effect, and must therefore be banned. So we need to establish a strong counternarrative which reflects our broader disarmament and deterrence strategy.¹⁹

This suggests that at least some within the UK government recognized that the humanitarian framing of disarmament matters can present serious challenges to established discourses. However, it reveals a perverse view of the achievements of this framing, in this case illustrated by the prohibition of cluster munitions. What the processes on landmines and cluster munitions did and what the processes on explosive weapons and on nuclear weapons are doing now, is to assert the unacceptability of a certain weapon or a certain use of weapons based on evidence about the impact on people and communities. In the end, this became the UK's own official narrative on landmines and cluster munitions. It is to be hoped that these official statements of concern about humanitarian impact are the motivation behind UK policies on weapons issues, rather than concerns over narratives and counter-narratives.

ENDNOTES

¹ The Every Casualty Campaign was established in 2012 by Action on Armed Violence, Article 36 and Oxford Research Group and is open to non-governmental organisations committed to the principle that every casualty of armed violence should be promptly recorded, correctly identified and publicly acknowledged. See www.everycasualty.org.

² “Towards the recording of every casualty: analysis and policy recommendations from a study of 40 casualty recorders,” Elizabeth Minor, Oxford Research Group, 2012.

³ “Ethics, civil society and new technologies: the roles of civil society in the development of standards around new weapons and other technologies of warfare,” Brian Rappert, Richard Moyes, Anna Crowe and Thomas Nash, *International Review of the Red Cross*, vol. 94, issue 886, June 2012, pp 765-785.

⁴ “Victims of anti-personnel landmines: what is being done?” Robin Coupland and Remi Russbach, *Medicine & Global Survival*, vol. 1, issue 1, 1994.

⁵ “Landmines: a deadly legacy,” Human Rights Watch and Physicians for Human Rights, 1993.

6 "Evidence-Based Advocacy: Civil Society Monitoring of the Mine Ban Treaty," Mary Wareham in "Banning Landmines: Disarmament, Citizen Diplomacy and Human Security, Jody Williams, Stephen D. Goose and Mary Wareham eds, Rowman and Littlefield, 2008.

7 See Human Rights Watch's dedicated page on cluster munitions resources for these and other reports: <http://www.hrw.org/topic/arms/cluster-munitions>.

8 "Foreseeable harm: the use and impact of cluster munitions in Lebanon, 2006," Thomas Nash, Landmine Action, 2006.

9 "Fatal Footprint: the global human impact of cluster munitions," Handicap International, 2006.

10 "M85: an analysis of reliability," Colin King, Ove Dullum, Grethe Østern, Norwegian People's Aid, 2007.

11 General Lord Ramsbotham et al, letter to the editor, The Times, London, 19 May 2008

12 "Out of balance: the UK government's efforts to understand cluster munitions and international humanitarian law," Brian Rappert, Landmine Action, 2005.

13 "Explosive violence: the problem of explosive weapons," Richard Moyes, Landmine Action, 2009.

14 "Security of journalists: making the case for modelling armed violence as a means to promote human security", Nathan Taback & Robin Coupland, in Thinking Outside the Box in Multilateral Disarmament and Arms Control Negotiations, John Borrie and Vanessa Martin Randin eds, UNIDIR, 2006.

15 See an up to date list of countries that have acknowledged the problem at <http://www.inew.org/acknowledgements>.

16 "An explosive situation: monitoring explosive violence in 2012," Action on Armed Violence, 2013.

17 "After Oslo: Humanitarian Perspectives and the Changing Nuclear Weapons Discourse," John Borrie and Tim Caughley, UNIDIR, 2013.

18 "Self-assured destruction: the climate impacts of nuclear war," Alan Robock, Owen Brian Toon, Bulletin of the Atomic Scientists, 68(5), pp 66-74, 2012.

19 For an analysis by Article 36 of these documents see: <http://www.article36.org/nuclearweapons/documents-suggest-uk-boycott-of-key-nuclear-weapons-meeting-was-driven-by-p5-partners/>.