

SOME KEY ISSUES IN HUMANITARIAN DISARMAMENT

Article36

www.article36.org

ISSUES

CLUSTER MUNITIONS

Bombs, rockets or shells that open in mid-air scattering dozens, sometimes hundreds, of small explosive submunitions over a wide area.

Article 36 is a UK-based not-for-profit organisation that undertakes research, policy and advocacy. It promotes civil society partnerships to respond to harm caused by existing weapons and to build a stronger framework to prevent harm as weapons are used or developed in the future. The organisation's name refers to article 36 of 1977 Additional Protocol I to the Geneva Conventions which requires states to review new weapons, means and methods of warfare.

CONCERNS

Cluster munitions can deliver explosive force over a wide area without distinction between civilian objects and military objectives. Civilians within this area are at a serious risk of being killed or injured.

Many submunitions fail to explode on impact and can kill or injure civilians, including many children, for years after a conflict has ended. The Cluster Munition Monitor reported 190 casualties from cluster munitions in 2012. This contamination makes the use of land dangerous and can prevent it altogether.

This chart was updated in October 2013. It provides a summary of some of the key issues in humanitarian disarmament - but there are others not covered here. These include responsibility for recording the casualties of armed violence, the rights of victims of that violence, and responsibility for the toxic remnants left after conflict.

RESPONSES

Cluster munitions are banned under the 2008 Convention on Cluster Munitions. (CCM - 84 States Parties)

'Determined to put an end for all time to the suffering and casualties caused by cluster munitions' each State Party to the CCM undertakes 'never under any circumstances to: use cluster munitions; develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions...'. (Preamble, Art. 1)

The CCM also prohibits assistance in such activities and requires States Parties to destroy their cluster munition stockpiles, to clear contaminated areas, and to provide assistance to victims and affected communities.

CIVIL SOCIETY

The **Cluster Munition Coalition (CMC)** was instrumental in bringing about the 2008 ban on cluster munitions.

www.stopclustermunitions.org

The Cluster Munition Monitor report, published yearly, monitors progress in the global elimination of cluster munitions.

<http://www.the-monitor.org>

LANDMINES

Placed under, on or near the ground or other surface, landmines are designed to be exploded by the presence, proximity or contact of a person or a vehicle.

Landmines are activated by their victims and cannot differentiate between a civilian and a soldier or between a schoolbus and a tank.

They were used extensively in the 1980s and early 1990s, resulting in millions of deadly items buried world-wide. These and more recent explosive remnants continue to cause casualties. The Landmine Monitor reported 4,286 new casualties from landmines and explosive remnants of war in 2011.

The presence of mines also impedes the delivery of humanitarian aid and denies communities safe access to land, negatively affecting socio-economic development.

Anti-personnel landmines are banned under the **1997 Mine Ban Treaty** (MBT - 161 States Parties). States Parties are also required to destroy stockpiles and clear contaminated land.

Other landmines, such as anti-vehicle mines are subject to limited restrictions under the **1996 Amended Protocol II** (100 States Parties) to the **1980 Convention on Certain Conventional Weapons** (CCW).

The **International Campaign to Ban Land Mines (ICBL)**, formally launched in 1992, was awarded the Nobel Peace Prize in 1997 for its role in the achievement of the anti-personnel landmine ban. The Campaign has inspired other civil society initiatives in the field of humanitarian disarmament.

www.icbl.org

The annual Landmine Monitor report provides a global overview of progress in eliminating landmines.

<http://www.the-monitor.org>

EXPLOSIVE WEAPONS

Explosive ordnance, such as artillery shells, mortars and air-dropped bombs, and improvised explosive devices cause harm mainly through blast and fragmentation. For heavy explosive weapons these effects can extend over a wide area.

Explosive weapons kill and injure tens of thousands of civilians each year.

The use of explosive weapons in populated areas causes high levels of civilian harm. According to Action on Armed Violence (AOAV) data, 91% of casualties from explosive weapons used in populated areas were civilians in 2012.

The use of heavy explosive weapons in populated areas puts civilians at grave risk because of the wide area effects of these weapons. The destruction of housing, schools, hospitals and other infrastructure vital to the civilian population exacerbates long-term suffering.

Explosive weapons that fail to detonate or are abandoned after a conflict continue to pose a threat in the form of explosive remnants of war (ERW).

Explosive weapons are generally excluded from use in domestic policing because this would be difficult to reconcile with international human rights standards governing the use of force for the purposes of law enforcement, including the **1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials** (BPUFF).

The use of explosive weapons as a means of warfare is governed by the rules of international humanitarian law, including **1977 Additional Protocol I** (173 States Parties) to the Geneva Conventions.

The ICRC and the UN Secretary-General have called on states to avoid using explosive weapons with wide area effects in populated areas.

2003 Protocol V (84 States Parties) to the **1980 Convention on Certain Conventional Weapons** (CCW) requires states to document their use of explosive ordnance and take responsibility for the problem of explosive remnants of war.

The **International Network on Explosive Weapons (INEW)**, established in 2011, aims to prevent human suffering from the use of explosive weapons in populated areas. INEW calls for the development of stronger international standards, including for an end to the use in populated areas of explosive weapons with wide area effects.

<http://www.inew.org>

INCENDIARY WEAPONS

Weapons that contain an incendiary substance, such as napalm or white phosphorus, and cause harm mainly through heat and flame.

Incendiary weapons cause horrific burn injuries that are intensely painful. Burn victims require intensive care. Severely burned victims are likely to suffer a slow and painful death.

Some incendiary substances, such as white phosphorus, are pyrophoric - they continue to burn while exposed to oxygen. Wounds are very difficult to treat and the substance can injure rescuers and medical personnel.

Incendiary effects can spread over a wide area causing indiscriminate harm to civilians.

Protocol III (108 States Parties) to the **1980 Convention on Certain Conventional Weapons** (CCW) limits the use of air-delivered incendiary weapons, as defined under that treaty, in concentrations of civilians.

'It is prohibited in all circumstances to make any military objective located within a concentration of civilians the object of attack by air-delivered incendiary weapons'. (Art. 2)

According to the ICRC, **customary international humanitarian law** further prohibits the anti-personnel use of incendiary weapons, unless it is not feasible to use a less harmful weapon to render a person hors de combat. (Rule 85, ICRC Customary IHL Study, 2005)

Human Rights Watch, Article 36 and others have called on states to elaborate stronger rules on incendiary weapons. A complete ban on the use of incendiary weapons would have the most humanitarian benefits and provide the strongest protection under international law.

<http://www.hrw.org/topic/arms/incendiary-weapons>

ARMS TRADE

The trade among states of conventional arms, including battle tanks, combat aircraft, artillery, rockets, missiles, and small arms, as well as the trade in ammunition and parts and components of arms.

Thousands of people are killed, injured, raped, and forced to flee from their homes as a result of the unregulated global arms trade.

The global trade in conventional arms and ammunition fuels conflict and human rights abuses. It undermines sustainable development and contributes to poverty.

The lack of transparency and the corruption in arms trade processes and practices undermine the rule of law and good governance.

Lack of accountability of states for the end-use of exported arms facilitates diversion of arms to the illicit market.

The **2013 Arms Trade Treaty** (7 States Parties, 113 Signatories) aims to establish the highest possible common international standards for regulating the international trade in conventional arms and to eradicate the illicit trade in conventional arms for the purpose of 'Contributing to international and regional peace, security and stability; Reducing human suffering; Promoting cooperation, transparency and responsible action by States Parties in the international trade in conventional arms'. (Art. 1)

The **Control Arms coalition** is a broad based global civil society alliance launched in 2003, that was instrumental in bringing about the 2013 Arms Trade Treaty.

<http://controlarms.org>

NUCLEAR WEAPONS

Nuclear weapons can release immense amounts of energy through a nuclear fusion or fission process. They can cause harm of catastrophic proportions through blast, fragment projection, heat, light and ionising radiation, as well as radioactive fall-out.

Nuclear weapons vaporise, burn and blind people. The blast wave crushes bodies and destroys buildings. Fires can coalesce into firestorms, consuming all the oxygen from the air and killing people through asphyxiation. Survivors are likely to suffer horrific injuries, radiation poisoning, and great emotional distress.

Even a relatively small nuclear weapon can cause immense devastation, massive loss of life and great suffering over an extended period of time.

There is no cure for radiation sickness. Many victims will suffer a slow and painful death. Radiation will also affect the health of future generations.

There is no adequate humanitarian response capacity to alleviate the suffering caused by a nuclear weapon explosion.

The use of multiple nuclear weapons could disrupt the global climate, causing widespread agricultural collapse and famine on a global scale. The consequences for humankind would be catastrophic.

Unlike the other weapons of mass destruction (chemical and biological weapons), nuclear weapons are not subject to a comprehensive prohibition under international treaty law.

The International Court of Justice concluded in a **1996 Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons** that 'the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law'. (Dispositif, para. 2E)

States Parties to the **1968 Treaty on the Non-Proliferation of Nuclear Weapons** (190 States Parties) are obliged to pursue nuclear disarmament in good faith.

115 countries have already clearly rejected nuclear weapons by establishing nuclear weapon free zones.

The **International Campaign to Abolish Nuclear Weapons (ICAN)** is a global campaign coalition working to mobilize people in all countries to inspire, persuade and pressure their governments to initiate and support negotiations for a treaty banning nuclear weapons.

<http://www.icanw.org>

CHEMICAL AND BIOLOGICAL WEAPONS

Chemical and biological weapons use either chemicals or biological agents such as viruses and bacteria to harm or incapacitate.

Chemical and biological weapons cause concerns regarding the frightening and painful ways in which they kill and injure people, as well as the risks that their effects cannot be limited to combatants.

Their invisibility makes poisonous gas and biological agents such as bacteria and viruses particularly terrifying, causing acute anxiety amongst populations in which they are used. An effective medical response to alleviate the suffering from a chemical or biological attack may often be difficult.

The use of chemical weapons in Syria in 2013 caused international outrage.

The **1972 Biological and Toxin Weapons Convention** (169 States Parties) and the **1993 Chemical Weapons Convention** (190 States Parties) prohibit biological and chemical weapons respectively. Both of these treaties affirm the determination of states to see the prohibition and elimination of all types of weapons of mass destruction.

Civil society engagement on biological and chemical weapons has included academia, scientific networks and thinktanks. The **Pugwash Conferences** on Science and World Affairs has been active on biological and chemical weapons since its establishment in the 1950s.

<http://www.pugwash.org/reports/cbw/cbwlist.htm>

The **BioWeapons Prevention Project** (BWPP) is a global network of civil society actors launched in 2003 and dedicated to the permanent elimination of biological weapons and of the possibility of their re-emergence. In 2010, 2011 and 2012 it published an annual BioWeapons Monitor.

www.bwpp.org

DRONES

Remotely piloted aircraft, unmanned aerial vehicles (UAVs) or 'drones', are mounted with an array of cameras and sensors and are controlled by human pilots via computers using satellite technology.

The use of armed drones to attack targets in countries like Afghanistan, Pakistan, Somalia, Yemen and the Occupied Palestinian Territories has dramatically increased in the past five years. Their use has raised concerns around:

alleged violations of international human rights and humanitarian law, in particular execution without trial;

psychological impacts on people living in areas where armed drones are circling in the skies above;

a distinct lack of transparency, including a lack of data on casualties.

So far the US, UK and Israel are known to have undertaken attacks with armed drones, but the technology is rapidly proliferating, with around 20 countries thought to possess armed drones.

In a 2010 report, UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, raised concern about the use of drones to carry out targeted killings.

In 2013, UN Special Rapporteur on human rights and counter terrorism, Ben Emmerson, began investigating civilian casualties from 25 drone strikes in Afghanistan, Pakistan, Yemen, Somalia and the Occupied Palestinian Territories.

In 2013, following criticism from activists and legal scholars, US President Obama announced he would transfer the drone programme from the CIA to the US Military.

The rapid emergence of armed drones without significant prior public debate raises questions about the process for assessing the acceptability of new weapons.

The **Bureau of Investigative Journalism** maintains a database of civilian casualties from drone strikes in Pakistan, Yemen and Somalia.

Global Drones Watch is a coalition campaign to monitor and regulate drone use, coordinated by Code Pink.

UK organisation **Reprieve** has represented victims of drone strikes seeking legal redress.

KILLER ROBOTS

Fully autonomous weapons would be able to identify and attack targets without direct human involvement. Although such weapons have not yet been deployed, several governments are engaged in the development of weapons systems with increasing autonomy.

Giving machines the power to release violent force without meaningful human control crosses a fundamental moral line.

It is hard to envision how such systems could accord with the requirements of international law.

Fully autonomous weapons raise concerns in relation to accountability for harm done, and could contribute to further distancing those employing force from the consequences of their actions.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, 'calls on States to impose national moratoria on certain activities related to [Lethal Autonomous Robotics]'. (§ 118, UN doc. A/HRC/23/47)

Two states, the US and the UK, have already published policies on autonomous weapons systems - the US DoD Directive No. 3000.09 (21 November 2012) and the UK MoD Joint Doctrine Note 2/11, 'The UK Approach to Unmanned Aircraft Systems'.

Launched in April 2013, the **Campaign to Stop Killer Robots** is an international coalition of civil society organisations working to ban fully autonomous weapons by international treaty.

<http://www.stopkillerrobots.org>