

Devastating Impact

Explosive weapons and children



Save the Children

Devastating Impact

Explosive weapons and children

Save the Children is the world's leading independent children's rights organisation, with members in 29 countries and operational programmes in more than 120. We fight for children's rights and deliver lasting improvements to children's lives worldwide.

This report was written by Kerry Smith, Humanitarian Advocacy and Policy Adviser, Save the Children UK.

Published by
Save the Children UK
1 St John's Lane
London EC1M 4AR
UK
+44 (0)20 7012 6400
savethechildren.org.uk

First published 2011

© The Save the Children Fund 2011

The Save the Children Fund is a charity registered in England and Wales (213890) and Scotland (SC039570). Registered Company No. 178159

This publication is copyright, but may be reproduced by any method without fee or prior permission for teaching purposes, but not for resale. For copying in any other circumstances, prior written permission must be obtained from the publisher, and a fee may be payable.

Cover photo: A burning house in Gaza, reportedly hit by an Israeli tank shell, 2006. (Photo: Apollo Images/IRIN)

Edited by Frances Ellery
Typeset by Grasshopper Design Company
Printed by Stephen Austin Ltd.

Contents

Executive summary	iv
Introduction	1
1 The impact of explosive weapons	3
Child fatalities	4
Physical injury	5
Psychological damage	5
Impact on education, health services and economic development	6
2 The international humanitarian and legal framework	8
International humanitarian law	8
Children's rights	8
Monitoring and Reporting Mechanism	9
Experience from the establishment of existing weapons frameworks	9
3 Conclusion	11
4 Recommendations	14
Endnotes	15

Executive summary

The use of explosive weapons in populated areas has a devastating impact on children. As well as killing and injuring them, bombs and the increasing use of improvised explosive devices (IEDs) are denying children access to healthcare and education, and ruining their futures. Children left with disabilities are less able to earn a living and contribute economically to their communities and countries. They are also more vulnerable to exploitation and abuse.

According to the UN Secretary-General's 2010 report on children in armed conflict,¹ in 2009 children were killed and maimed in 13 countries where explosive weapons were involved. These included Afghanistan, Iraq, Sri Lanka, Somalia, Yemen, Israel and the occupied Palestinian territory. Increasingly, non-state armed actors are responsible for child deaths. But children are also particularly vulnerable to air-dropped explosives.

The changing nature of modern-day conflict and the proliferation of non-state actors should not be used to justify turning away from principles enshrined in international law after the second world war. In particular, governments must take seriously their responsibility to monitor and record the use and impact of explosive weapons in populated areas in their territories, whether these weapons are used by their armed forces or by other armed groups.

Governments and non-state actors that use explosive weapons in populated areas are unable to show that such use is proportional where information about the impact of their use is not being collected or analysed. Civil society, including children and their communities, should be involved in this monitoring.

States, non-governmental organisations (NGOs), international organisations and other relevant bodies must respond to, and take action to reduce, the impact of explosive weapons on children and other civilians.

Transparent monitoring and reporting

- The United Nations (UN) Security Council should allocate to an appropriate UN body the mandate to create a mechanism that serves to ensure open and accurate monitoring and reporting of loss of life, injury, impact on infrastructure and environmental damage when explosive weapons are used. Information should be disaggregated by age, gender, nationality and ethnic group.
- Governments should review their policies and practices regarding the use of explosive weapons in populated areas and make the results public.

Strengthen existing mechanisms

- Resources to strengthen UN Security Council resolution 1612 on the Monitoring and Reporting Mechanism at country task-force level should be prioritised, as should child and community participation.
- The Security Council should ask the UN Office for the Coordination of Humanitarian Affairs (OCHA) Protection of Civilians team to report on the extent and impact of the use of all explosive weapons in populated areas in its report for 2012.

Steps to improve adherence to the spirit of international humanitarian law

- States and non-state actors should publicly commit themselves to operating with a strong presumption against the use of explosive weapons in populated areas in all conflicts in which they are involved.



SIEGFRIED MODOLAIRIN

Mogadishu, Somalia, 2010

Introduction

Conflict continues to pose one of the biggest threats to the survival, development and well-being of a significant number of children across the world. In the past decade, 2 million children have died directly as a result of conflict and 6 million have been permanently disabled or seriously injured.²

Explosive weapons were responsible for the death and injury of thousands of children in a number of conflicts in 2009 – including Operation Cast Lead in Gaza, the final stage of the war in northern Sri Lanka, and the intensification of conflicts in Afghanistan, Pakistan, Somalia and Yemen. In these latter four countries, as well as in the occupied Palestinian territory and Iraq, the use of explosive weapons continued through 2010. Children were often the victims in these conflicts, with too little attention paid to minimising the risk to them or to

ensuring that their fundamental human rights, such as the right to life, were not violated.

As well as governments' use of explosive weapons in populated areas, recent decades have seen a rising number of non-state actors using more sophisticated explosive weapons. For instance, information leaked from Afghanistan indicates that the Taliban has used shoulder-launched surface-to-air missiles, which are more technologically advanced than the rocket-propelled grenades they frequently use.³ Improvised explosive devices (IEDs) have also become more sophisticated and more deadly over the past two decades.⁴

Article 51 of the United Nations Charter codifies the fundamental right of a state to defend itself from attack. However, war can be waged in a number of

Definitions

Explosive weapons can be defined as “weapons that cause injury, death or damage by projecting explosive blast, and often fragmentation, from the detonation of an explosive device”. They include artillery shells, aircraft bombs, improvised explosive devices such as car bombs and ‘suicide’ bombs, grenades, landmines, mortars and rockets, among others.⁷

A **populated area** can be a city, town or village. It can also be any other area containing a similar concentration of civilians or civilian objects, such as residential areas, market places, bus terminals or airports, busy roads, or refugee camps or columns.⁸

“In my previous report, I noted my increasing concern at the humanitarian impact of explosive weapons, particularly when used in densely populated areas. ... A common feature of explosive weapons is that they are indiscriminate within their zones of blast and fragmentation effect, which makes their use highly problematic in populated areas.

“Data collected by various organizations concerning a range of conflicts, including Afghanistan, Iraq, Somalia and Yemen, reveals substantial and ongoing civilian suffering caused by explosive weapons when they are used in populated areas.”

UN Secretary-General's Report on the Protection of Civilians in Armed Conflict, November 2010¹⁰

ways that may have greater or lesser deadly consequences for children. In modern conflicts, civilian deaths are estimated to make up 90%⁵ of all casualties. In some cases, explosive weapons are used deliberately to target civilians. In others, civilian casualties are seen as an unfortunate, but necessary, by-product of military strategy. Whichever is the case, human rights are being violated by the use of explosive weapons in populated areas, and states have a responsibility to protect their citizens, including children.⁶

In the past decade, there have been a number of initiatives to highlight and address the impact of conflict on children in countries such as the Democratic Republic of Congo and Sudan. There has been a degree of success, most notably regarding the release of children associated with armed groups and forces. Worryingly, however, little attention has been paid to the use of explosive weapons and their impact on children – although there has been growing attention paid to the impact of explosive weapons in populated areas.⁹

This general inattention to the impact of explosive weapons on children sets a dangerous precedent

and must be challenged. On the basis of estimates of civilian casualties, it is known that thousands of children were killed in 2009 as a direct consequence of the use of explosive weapons. Many more have died or will die because of the damage caused to health services and infrastructure. Many thousands more will have to live with the physical, mental, environmental and economic consequences of the use of explosive weapons throughout their childhoods and into adulthood. This devastating impact of explosive weapons on children in a number of conflicts is completely unacceptable.

Section 1 of this report describes the impact of explosive weapons on children and their communities. Section 2 outlines the international human rights and legal framework that could and should be implemented to protect children. In Section 3, Save the Children proposes three steps towards minimising the impact of explosive weapons on children and makes recommendations to the international community, governments and non-governmental organisations (NGOs).

I The impact of explosive weapons

The six countries where children were most threatened by the use of explosive weapons in 2009 were:

Afghanistan: Explosive weapons play a predominant role in the ongoing conflict between various insurgent groups and international and government forces, and this role is further explored below. In 2010, the use of explosive weapons, particularly IEDs, has continued to cause the loss of children's lives.

Occupied Palestinian territory: Children made up nearly one-third of civilian deaths in Operation Cast Lead, explored in further detail below, which ended on 18 January 2009 following 23 days of aerial and artillery bombardment and land operations in Gaza. In 2010 instances of the use of explosive weapons continued, particularly in the 'buffer zone' border area with Israel as well as the coastal area, resulting in child casualties.¹²

Pakistan: In 2009 the Pakistan military launched an offensive – including artillery bombardment – in Khyber Pakhtoonkhwa Province to drive out a Pakistan Taliban-linked insurgency. According to the Pakistan Institute for Peace Studies, 3,021 people

were killed and 7,334 – mostly civilians – were injured, mainly because of the increased use of IEDs in “insurgent and sectarian-related incidents of terrorism”.¹³ Furthermore, it is estimated that civilians made up 30% of those killed by air strikes from US-controlled drones.¹⁴

Somalia: Explosive weapons are used widely by both sides in the conflict between the Transitional Federal Government (supported by African Union troops) and insurgent groups. Intensification of the conflict from mid-February to the end of April 2010 left 1,000 dead (according to conservative estimates). The majority of these were civilians caught between shelling by both sides in a conflict being waged within a populated area.¹⁶ In the Dayniile hospital run by Médecins Sans Frontières on the outskirts of Somalia, women and children under the age of 14 made up 38% of those treated for war injuries, with 64% of war-wounded patients having sustained serious blast injuries.¹⁷

Sri Lanka: May 2009 saw the conclusion of the final offensive by Sri Lankan government forces against the Liberation Tigers of Tamil Eelam. Explosive weapons, particularly mortar shells, reportedly killed many civilians, including children.¹⁵

“I was eight years old when I lost my father in the war. I do not know to which group he belonged. My mother had already then lost her left leg from an explosive... In 2006 our area [Orozgane Khas in Oruzgan] was attacked by air by the US forces. An explosive hit our house and my mother died.”

15-year-old boy from Oruzgan, Afghanistan¹¹

Yemen: In August 2009, the government re-launched an offensive against insurgents in the north of the country. Artillery, drones and IEDs have killed 189 children and injured 155; 71% of these child casualties resulted from direct shelling of civilian areas by both sides.

In Afghanistan, Pakistan, Somalia and Yemen the ongoing use of explosive weapons still constitutes a significant threat to children.

In a snapshot study between April and September 2006, Landmine Action found that in 1,836 incidents across 58 countries, explosives killed 6,115 people, 69% of whom were civilians, and 12,670 were wounded, 83% of them civilians. The organisation drew five observations from this snapshot:

- The use of explosive weapons was geographically widespread but intensive in a few countries.
- Incidents of explosive violence normally produce multiple deaths and injuries.
- Explosive weapons kill and injure significant numbers of people who are not combatants. They make up the majority of all casualties.
- Attacks with explosive weapons in populated areas are linked to elevated levels of civilian harm.
- In attacks in populated areas, civilians make up 83% of those killed and 90% of those injured.¹⁸

Child fatalities

The UN Secretary-General's 2010 annual report on Children in Armed Conflict stated that during 2009 explosive weapons were responsible for child casualties in 13 of the countries listed.¹⁹ However, because the use and impact of explosive weapons is not systematically recorded, it is impossible to calculate exactly how many children are killed or injured by them.

There is very little age-disaggregated information about civilian deaths, but where there is – for example, in Gaza, Iraq and Afghanistan – evidence suggests that children make up a substantial proportion of civilian casualties.

In Gaza, by the end of the 23-day Israeli bombardment in January 2009, 1,172 civilians had been killed (out of a total of 1,409 Palestinians). Nearly one-third of the civilian deaths were of children, and a further 860 children were injured.²⁰ Of the 353 children who were killed, 66% were killed by missile attacks (air and ground), half of which were carried out by drones, and 16% of the children died as a result of artillery shelling.²¹

According to information brought together by Iraq Body Count between 2003 and 2008, where it was possible to determine the weaponry used, 19% of child fatalities were caused by gunfire, 16% by suicide bombs and 16% by air attacks (both with and without ground fire). Of the total civilian deaths attributable to gunfire, deaths of children make up 5%; for suicide bombs, 12%; for air strikes without ground fire, 39%; and for air attacks with ground fire, 28%.²² This indicates that, in the Iraq war at least, air attacks killed a far greater proportion of children among the total numbers of civilians killed than any other type of weapon. This trend seems to have been reflected in Afghanistan in 2009, where, according to the UN, 38% of children who died as a result of armed conflict were killed in airstrikes, whereas airstrikes were the cause of only 15% of total civilian deaths.²³

Although aerial attacks saw the highest *proportion* of child deaths within the civilian casualties that they caused, IEDs accounted for the highest *numbers* of children killed in Iraq. The use of IEDs, including those targeted at civilians, is increasing, especially in Afghanistan and Pakistan, as is the explosive power of these devices.²⁴ In 2009, 67% of all civilian deaths recorded by the UN Assistance Mission in Afghanistan were attributed to anti-government elements and 25% to pro-government forces. During that year, the proportion of civilian deaths attributable to pro-government forces, as well as the total number of civilian casualties, fell as a result of a NATO directive to minimise civilian deaths.²⁵ This trend continued in the first half of 2010, with a fall to 12% of civilian casualties being attributed to pro-government forces.²⁶

As a result of the 1997 Mine Ban Treaty, and the work of ‘mine action’ organisations, the risk to children from anti-personnel mines has decreased.²⁷ However, in 2008 there were still 5,197 new casualties from mines, explosive remnants of war and victim-activated IEDs in 75 countries. Where the age was known, children accounted for 41% of civilian casualties.²⁸ In Afghanistan, children make up almost 50% of all casualties from unexploded ordnance.²⁹

Physical injury

Because children are smaller and their bodies more delicate, blasts from explosive weapons can result in more complex injuries to their organs and tissue.³¹ Their pliable ribs offer less protection and make them more prone to abdominal injuries,³² and their wounds are often more difficult to treat. Chest injuries caused by blunt-force impact are a common cause of death in children subjected to an explosive blast.³³

As well as being killed, thousands of children are left with physical disabilities from the use of explosive weapons. They include those who have lost their sight, hearing, limbs and/or organs, and/or have suffered burns, internal injuries and/or injuries to their spinal cord.³⁴ As their bodies are still growing,

rehabilitating children is a long and complicated process – for example, because prosthetic limbs have to be replaced as the child grows.

Disabilities resulting from explosive weapon injuries have a long-term impact, often forcing children to drop out of school, causing social exclusion and reducing their ability to earn a living when they are older. Children with disabilities are more vulnerable to exploitation, abuse and destitution. Disabled girls are less likely to be considered marriageable and boys may be seen as failures when they are unable to fulfil family expectations that they will become a breadwinner.³⁵

Psychological damage

As well as physical injury, explosive weapons cause long-term psychological distress in children. In the weeks following the 2008/09 Israeli offensive in Gaza, 23% of children between the ages of 5 and 14 wet their beds and 21% had difficulty concentrating at school.³⁷ In Northern Ireland, over one-third of those seeking trauma counselling after the Omagh bomb of August 1998 were children.³⁸ Trauma at a critical time in their psychological development can cause children to drop out of education and can lead to mental illness, substance abuse and social problems.³⁹

“When I looked to the side I saw that a shell fell very near to our house, and hit the ground with force, and blasted with a loud sound. With the sound I felt something hit my leg. When I looked down I saw there was a lot of blood oozing out of my leg. I started screaming for somebody to come and pick me up. When I saw blood I was so frightened that I cannot tell you. I was unconscious. After I regained consciousness my neighbour took me to the hospital. I was the only one injured. But several shells were fired. Most of the shells fell on the open ground while some fell on houses.”

16-year-old boy from Upper Mohmand Agency, Federally Administrated Tribal Areas, Pakistan, describing events of November 2008³⁰

“One day when I came home from duksi [Quranic school] I found our house had been hit by a [mortar shell]. The house was pulverised. My mother and father were killed. I think my four brothers were killed as well – I saw pieces of their hands and legs near the part of the house that we used for resting. I am in such shock I barely know who I am.”

14-year-old boy from the Medina district of Mogadishu, Somalia, whose family was killed by a mortar shell in late September 2009. The same boy had been injured by another mortar strike that killed three of his friends the previous month.³⁶

Impact on education, health services and economic development

Explosive weapons destroy hospitals, health centres and schools, and make them too dangerous and difficult for children to get to. In northern Mogadishu in July 2009, for example, a paediatric hospital and three health clinics were closed because of an escalation in fighting and the use of mortars and other explosives. The facilities had been conducting 2,500 outpatient consultations per week and treating 400 malnourished children.⁴⁰

In Iraq, between 2003 and 2007, deaths caused indirectly by violence – where people died because, for example, hospitals and other healthcare facilities had been destroyed – were estimated to make up 63% of total deaths from violence.⁴¹

As well as not being able to get healthcare, children are afraid to go to school, parents stop sending them and teachers are afraid to go to work – with long-term consequences for children and their communities. In Afghanistan, between 1 January and 30 June 2009, at least 60 students and teachers were killed and 204 wounded in security incidents.⁴²

Attacks on schools

On 27 April 2009, 12 children were killed when a bomb hidden in a football exploded near the compound wall of a girls' school in Dir, in Pakistan's Khyber Pakhtoonkhwa Province.⁴⁵ The use of schools by armed forces and groups makes them more vulnerable to attack, as does military involvement in their reconstruction. Again in Pakistan, on 3 February 2010, four schoolgirls, three US soldiers and a Pakistani soldier were killed when a convoy of aid workers, journalists and US soldiers were bombed on their way to reopen a school. At least 131 people, most of them schoolgirls, were injured and their school was badly damaged.⁴⁶ In Afghanistan, there is also evidence that schools built by US-supported provincial reconstruction teams (PRTs) are more likely to be attacked, increasing the risk to children and teachers in those schools.⁴⁷

“Years of lost schooling and vocational skills will take equivalent years to replace and their absence imposes a greater vulnerability on the ability of societies to recover after war.”

Graça Machel, Report to the UN on the Impact of Violence on Children, 1996

During the first four months of 2010, 106 attacks on schools in Afghanistan were recorded and in the first half of 2010 around 400,000 children were left out of school because of ongoing conflict, threats and attacks.⁴³ Schools that have been attacked either deliberately or unintentionally can remain closed for years. Recent reports show that attacks using explosive weapons are increasing, especially in Afghanistan and Pakistan.⁴⁴

As well as having a long-term impact on individual children’s lives, the use of explosive weapons stalls, and often reverses, a country or community’s economic development. Following Israel’s Operation Cast Lead in Gaza, the cost of damage was estimated at US\$659.3 million, 84% of which was for damage to housing, agriculture and

businesses.⁴⁸ Landmine Action estimated the cost of contamination with cluster munitions in Lebanon following the 2006 conflict to be between US\$153.8 million and \$233.2 million.⁴⁹

Explosive weapons also cause environmental damage. The UN Environment Programme found that Operation Cast Lead had caused hydrocarbon contamination at industrial sites, and sewage contamination around broken storage tanks, sewage treatment plants and along the coastline.⁵⁰ Environmental degradation has also caused concern in other places where explosive weapons have been used, most notoriously in Fallujah, Iraq, where investigations are taking place into an increase in the number of babies born with congenital abnormalities following the 2004 siege.⁵¹



Ghassan, 15, lost his legs in an Israeli missile attack in the occupied Palestinian territory in January 2009.

2 The international humanitarian and legal framework

The first Hague Peace Conference declaration in 1899 stated that “the attack or bombardment of towns, villages, habitations or buildings which are not defended, is prohibited”.⁵² However, it took the heavy civilian toll of the second world war, where estimates put civilian casualties at double those of military losses,⁵³ to galvanise the world into making comprehensive efforts to address the impact of conflict on civilians. This was done through the Universal Declaration of Human Rights and adoption of the 1949 Geneva Conventions. The proliferation and fragmentation of armed groups, and the availability of new, highly technical weapons, present new challenges. However, these challenges do not render existing international humanitarian and human rights laws and weapons conventions obsolete.

International humanitarian law

International humanitarian law recognises the right of states to protect themselves, but is premised on the principle of protection, and therefore outlaws some methods and means of warfare. The key principle relating to the use of explosive weapons and their impact on civilians is that a distinction must be made between military and civilian people and goods. In essence, this bans the use of indiscriminate weapons as well as the indiscriminate use of any weapons. Avoiding indiscriminate attacks requires the following to be observed:

- *Precautionary* measures need to be taken to verify that targets are not civilians or civilian objects, to minimise civilian casualties and damage, and to provide effective advanced warning where circumstances permit.⁵⁴

- Attacks must *discriminate* and must be strictly limited to military objectives.⁵⁵ It is not permissible to target civilians not participating in hostilities or to target civilian objects where they do not make an effective contribution to military action or offer a definite proportional military advantage. This includes objects that are indispensable to civilian life, such as sewage treatment plants, hospitals and aquifers.
- Any attack must be *proportionate* and not cause “incidental loss of civilian life, injury to civilians or damage to civilian objects that would be excessive in relation to the concrete military advantage anticipated”.⁵⁶

Although in many instances the use of explosive weapons in populated areas appears to be indiscriminate under international humanitarian law, it can be difficult to prove because of the lack of information and transparency about the impact of explosive weapons on civilians.

Children’s rights

*Every child has the right to life and state parties shall ensure to the maximum extent possible the survival and development of the child.*⁵⁷

While the primary responsibility rests with states – as signatories to the UN Convention on the Rights of the Child 1989 (UNCRC) and other treaties and conventions – every adult shares a responsibility to uphold children’s rights. Importantly, as the UNCRC does not allow the rights set out within it to be derogated, they must be adhered to during times of conflict and other national emergencies. The use of explosive weapons in populated areas and their

impact upon children should also be considered in light of the growing international human rights – and, more specifically, child rights – framework. In 1997, the UN Security Council appointed a Special Representative on Children and Armed Conflict with the mandate to promote and protect the rights of all children affected by armed conflict. A key part of the duties of the Special Representative is to assist the UN Secretary-General in compiling the information for his or her annual report to the Security Council on children in armed conflict.

Monitoring and Reporting Mechanism

In 2005, the UN Security Council's resolution 1612 established a mechanism to monitor and report six grave violations of children's rights in armed conflict. These violations are: the killing or maiming of children; the recruitment or use of child soldiers; attacks on schools or hospitals; rape or other grave sexual violence against children; the abduction of children; and the denial of humanitarian access to children. Initially the mechanism was activated only in countries with active conflict where children were being recruited. Since Security Council resolution 1882 was passed in 2009, the mechanism can now be triggered by reports of killing or maiming, or reports that children are victims of rape or serious sexual violence. The resolution states that the Security Council is:

Deeply concerned that children continue to account for a considerable number of casualties resulting from killing and maiming in armed conflicts including as a result of deliberate targeting, indiscriminate and excessive use of force, indiscriminate use of landmines, cluster munitions and other weapons and use of children as human shields ...

The Secretary-General's 2010 report to the Security Council on Children in Armed Conflict was the first since the expansion of the trigger mechanism. Although incidents of killing and maiming were mentioned in different country contexts, for others reporting was less detailed. Information on Pakistan, for example, has no mention of killing and maiming or the use of explosive weapons, despite the Pakistan

military's 2009 offensive in Khyber Pakhtoonkhwa Province. Furthermore, although a great breadth of information is included in the annual reports, describing the impact of explosive weapons on children, explosive weapons have not been singled out in these reports as a particular concern. Highlighting concerns over the use of explosive weapons in future reports could encourage inclusion of the issue in country level action plans, agreed with armed actors.

Experience from the establishment of existing weapons frameworks

The first weapons convention to mention the category of explosive weapons was the 1980 Convention on Conventional Weapons (CCW). This convention is aimed at banning or restricting the use of specific types of weapons considered to cause unnecessary or unjustifiable suffering to combatants, or which affect civilians indiscriminately. It has five protocols, which regulate in turn weapons that cause non-detectable fragments, landmines, incendiary weapons, blinding laser weapons and the risk of unexploded ordnance. The CCW places obligations on states to record and report on where explosive weapons have been used, of what types and in what quantities. However, these obligations are concerned with the longer-term risk of items left unexploded rather than the risk to civilians at the time of attacks. Many of the CCW's rules are subject to various exemptions, and the failure of the CCW to address effectively the issue of anti-personnel mines resulted in the 1997 Mine Ban Treaty.

Throughout the 1980s and 1990s, public attention was drawn to the catastrophic impact of landmines on civilians, especially in post-conflict situations. The impact on children resonated strongly, particularly through the intervention of Youth Ambassadors of the International Campaign to Ban Landmines, such as Song Kosal. In 1989, aged six, while working in the rice paddies with her mother on the Thai-Cambodian border, she stepped on a landmine, which resulted in the amputation of her right leg. She became a Youth Ambassador at the age of 12.⁵⁸

“The facts, I think, over the last few years have changed people’s minds. The fact that a third of the people who are most affected by cluster munitions have been children; the fact that literally thousands of people are killed not only in the process of war but in many cases a long time after the war has been in operation because sub-munitions lie around unexploded.”

Foreign Office Minister, Chris Bryant, announcing the UK government’s decision to sign the UN Convention on Cluster Munitions in 2009⁵⁹

In 1996, after signatories to the CCW were unable to agree a ban, governments and NGOs meeting in Ottawa set a goal of developing, within one year, a treaty prohibiting antipersonnel landmines outright. The Mine Ban Treaty (MBT) was adopted and signed by 122 governments in 1997, and entered into force two years later. The core commitments are to never “develop, produce, otherwise acquire, stockpile, retain or transfer” antipersonnel mines, as well as victim-activated devices, and to clear mines in their territory (or provide assistance for others to do so).

The MBT succeeded because a number of NGOs and governments worked together and led on the issue. Compliance with the treaty has been good, and NGOs continue to play a strong role

in monitoring and encouraging states to comply with the treaty.

In 2008, following a meeting in Oslo, 94 states signed the UN Convention on Cluster Munitions (CCM), designed to address concerns about the impact of cluster munitions on civilians. One of the main concerns highlighted was their impact on children, not just following conflict but also at the time of use. The CCM refers specifically to collecting relevant data and providing assistance to cluster munitions victims – including medical care and rehabilitation, and psychological support, including for social and economic inclusion. It also refers to concerns about the impact of cluster munitions on children as well as to Security Council resolution 1612.



Children in a makeshift camp for internally displaced people in Yemen.

3 Conclusion

The success of the Ottawa and Oslo processes – resulting in two conventions banning the use of particular weapons that have a devastating humanitarian impact on civilians – provide two key lessons:

1. Strong evidence and understanding of the civilian impact, especially as it relates to children, will be vital to persuading people to address concerns about the use of explosive weapons in populated areas.
2. Collaboration between NGOs, states and others will be necessary to ensure success in stigmatising the use of explosive weapons in populated areas (stigmatisation being a crucial step for future deterrence).

There are already existing monitoring mechanisms and debates that can be used and strengthened to support a closer examination of the impact on children of the use of explosive weapons in populated areas. States have a responsibility to review their own use of explosive weapons. It is also in their own interest, as noted by former ISAF Commander General McChrystal in June 2009, when he indicated that reducing civilian casualties was “essential to our credibility”.⁶⁰

The limited information available shows that the use of explosive weapons in populated areas has a disproportionate and especially damaging impact on children. The international community, and individual states in particular, should take the following three steps:

- ensure that transparent and open monitoring and reporting of the use of explosive weapons is undertaken to inform better responses.

- strengthen existing systems already in place that deal with aspects of the use of explosive weapons in populated areas.
- implement the spirit of international humanitarian law and relevant international human rights law.

Ensure transparent monitoring and reporting

Under international humanitarian law, states have an obligation to ensure that they do not use any weapons indiscriminately.⁶¹ A core element of this obligation is that those engaged in armed conflict must ensure that attacks are proportionate. Unless states monitor and record the use and impact of explosive weapons in populated areas, on top of military effect, it is difficult to see how they are fulfilling their obligations to judge discrimination and proportionality adequately. This reporting must include significant information about the location, the type and number of weapons used, and the harm or estimated harm caused to civilians, disaggregated by age, gender, ethnicity, type of injury and, as far as possible, the name of each individual.

Under the Convention on Conventional Weapons (CCW), states have accepted a minimum obligation to record and retain all information regarding minefields, mine areas, booby-traps and other devices (including IEDs) and also commit to record and retain information on the use of all types of explosive ordnance.⁶² However, in order for states to fulfil the rights of victims and survivors and

provide appropriate assistance, an obligation since developed under the Convention on Cluster Munitions (CCM), a mechanism is needed to capture the transparent and comprehensive reporting of *all* uses of explosive weapons in populated areas. This is essential to ensure the fulfilment of children's rights to development, assistance when disabled, and to recovery and reintegration when they are victims of armed conflict.⁶³ In order to provide an accurate picture, all available information from a variety of sources (including medical and humanitarian staff, and mortuaries) must be transparent, integrated and cross-referenced.⁶⁴

Strengthen existing systems

The success of the Monitoring and Reporting Mechanism (MRM) in reducing the recruitment of children into armed forces and groups demonstrates that it is a process that can work and can help to persuade people to follow alternative strategies.⁶⁶ Furthermore, it is a mechanism that already provides some information about the impact on children of explosive weapons in populated areas. If this system were strengthened, it could provide an important source of information to a general system of monitoring explosive weapons use in populated areas, reducing the possibility of

duplicated effort. However, in order to ensure comprehensive reporting and monitoring of all six violations, including those where explosive weapons have been used, information from a variety of sources, including children and their communities, must be included. Adequate resources must be provided to respond to violations, and victims and survivors should be provided with appropriate assistance, including social and economic rehabilitation and care.

The Protection of Civilians team in the UN Office for the Coordination of Humanitarian Affairs (OCHA) should be resourced to carry out a greater examination of the use of all explosive weapons in populated areas. It has already been identified as an issue of particular concern in the UN Secretary-General's May 2009 and November 2010 Protection of Civilians reports and has also been included in the July 2010 statement on the Protection of Civilians by the Emergency Relief Coordinator. OCHA is well placed to undertake a further examination and develop policy recommendations relating to the issue of explosive weapons use in populated areas for the UN Secretary-General's 2012 report. There is also a need for the UN as a whole to develop a collective policy for all UN actors engaged in work relating to explosive weapons and their use in populated areas.

“I would urge Member States, United Nations actors and international and non-governmental organizations to consider the issue of explosive weapons closely, including by supporting more systematic data collection and analysis of the human costs of their use. This is essential to deepening the understanding of the humanitarian impact of such weapons and to informing the development of policy and practice that would strengthen the implementation of international humanitarian and human rights law.”

UN Secretary-General's Report on the Protection of Civilians in Armed Conflict, November 2010⁶⁵

“More research is needed on the harm caused by explosive weapons in areas where civilians are present. However, there is already enough tragic experience to encourage serious reflection on the military use of such weapons in such circumstances when measured against the enormous human suffering they cause. I urge the Council to begin a dialogue on ways to tackle this emerging problem.”

Sir John Holmes, OCHA Emergency Relief Coordinator, July 2010⁶⁷

Implement international humanitarian law

With the rise in the numbers of non-state armed actors and the proliferation of increasingly deadly IEDs, it is vital that governments maintain their authority in understanding and responding to the use of explosive weapons in populated areas to ensure that international humanitarian law is upheld.

It is also in the interest of states to reduce the use of explosive weapons more broadly, as part of a process aimed at stigmatising their use by non-state

actors as well. This can only be done with authority if states also examine their own use of explosive weapons. The decreasing number of civilian casualties caused by pro-government forces in Afghanistan shows that the risk to civilians can be reduced through concerted action.

Given the evidence about the impact of explosive weapons use in populated areas on children and other civilians, a strong presumption against the use of any explosive weapon in a populated area should be implemented and monitored by all armed actors.



14-year-old Sokhaila from Afghanistan lost her sight in one eye from a bomb explosion.

4 Recommendations

States, NGOs, international organisations and other relevant bodies must respond to the mounting facts and take action to reduce the impact of explosive weapons on children and other civilians.

Transparent monitoring and reporting

- The UN Security Council should allocate to an appropriate UN body the mandate to create a mechanism that serves to ensure open and accurate monitoring and reporting of loss of life, injury, impact on infrastructure and environmental damage when explosive weapons are used. Information should be disaggregated by age, gender, nationality and ethnic group.
- Governments should review their policies and practices regarding the use of explosive weapons in populated areas and make the results public.

Strengthen existing mechanisms

- Resources to strengthen UN Security Council resolution 1612 on the Monitoring and Reporting Mechanism at country task-force level should be prioritised, as should child and community participation.
- The Security Council should ask the UN Office for the Coordination of Humanitarian Affairs (OCHA) Protection of Civilians team to report on the extent and impact of the use of all explosive weapons in populated areas in its report for 2012.

Steps to improve adherence to the spirit of international humanitarian law

- States and non-state actors should publicly commit themselves to operating with a strong presumption against the use of explosive weapons in populated areas in all conflicts in which they are involved.

Endnotes

Executive summary

¹ UN Secretary-General's Report, *Children and Armed Conflict*, 13 April 2010 (S/2010/181)

Introduction

² UNICEF, *Children in Conflict and Emergencies*: (http://www.unicef.org/protection/index_armedconflict.html) accessed 21 November 2010

³ 'US nightmare – hi-tech missiles the enemy wasn't meant to have', *Guardian*, 26 July 2010

⁴ Conversations with mine and bomb disposal expert, anonymous

⁵ UNICEF, *Children in Conflict and Emergencies*: (http://www.unicef.org/protection/index_armedconflict.html) accessed 21 November 2010

⁶ UNHCR, *Safeguarding humanitarian space: a review of key challenges for UNHCR*, February 2010

⁷ Action On Armed Violence, *Explosive violence: the problem of explosive weapons*, 2009; p. 4

⁸ UNIDIR, *Use of Explosive Weapons in Populated Areas some Questions and Answers*, July 2010. In the Convention on Certain Conventional Weapons 1980, the term 'concentration of civilians' is used and defined along similar lines in Protocol III Article 1(2).

⁹ There have been brief mentions in the Machel Study 10-year strategic review; the July 2009 update made to the Human Rights Council by the UN Secretary-General's Special Representative on Children and Armed Conflict; and the UN Security Council's Protection of Civilians report, May 2009.

¹⁰ UN Secretary-General, Report on the protection of civilians in armed conflict, 11 November 2010 [S/2010/579] paragraphs 48–51

I The impact of explosive weapons

¹¹ UNHCR, *Voices of Afghan children – A study on asylum-seeking children in Sweden*, June 2010; p. 23

¹² Al Mezan, 'Israeli Aircraft Attack East Khan Younis; Injures Child', 19 November 2010, accessed on 29 November 2010: http://www.google.co.uk/search?source=ig&hl=en&rlz=1G1GGLQ_ENFR329&q=Israeli+Aircraft+Attack+East+Khan+Younis%3B+Injures+Child&btnG=Google+Search&aq=f&oq=

¹³ Pakistan Institute for Peace Studies, *Pakistan Security Report, 2009*: <http://san-pips.com/>

¹⁴ New America Foundation, *The Year of the Drone, 2010*, <http://counterterrorism.newamerica.net/drones>, accessed 21 November 2010, in which total deaths were estimated at between 372 and 632

¹⁵ *The Times*, 29 May 2009, <http://www.timesonline.co.uk/tol/news/world/asia/article6383477.ece>, accessed 21 November 2010. During the month of January 2009, 2% of reported civilian deaths were through gunfire and 80% through shelling, and in February 2009 15% of civilians were killed through gunfire and 64% through shelling.

¹⁶ 'Chaos in Somalia as Fighting Intensifies and Death Toll Rises', *New York Times*, 23 April 2010: <http://www.nytimes.com/2010/04/23/world/africa/23somalia.html> accessed May 2010.

¹⁷ 'MSF, Somalia: Civilians continue to bear brunt of Mogadishu warfare', 5 August 2010: <http://www.somali.msf.org/2010/08/mogadishu-civilian-casualties/> accessed November 2010

¹⁸ Action On Armed Violence, *Explosive violence: the problem of explosive weapons*, 2009; pp. 22–25

¹⁹ UN Secretary-General, *Annual Report on Children and Armed Conflict*, 13 April 2010 (S/2010/181). In total 23 countries are mentioned in the report. The 13 countries are Afghanistan, Chad, Iraq, Lebanon, Myanmar, Nepal, occupied Palestinian territory (OPT), Somalia, Colombia, India, Philippines, Sri Lanka and Yemen. Notably the reporting on Pakistan did not mention the killing and maiming of children notwithstanding the intensification of the conflict in the then-named North Western Frontier Province.

²⁰ Defence for Children International and Al Mezan Center for Human Rights: 'Bearing the Brunt: Child Rights Violations during Operation Cast Lead', September 2009

²¹ Ibid.

²² Madelyn Hsiao-Rei Hicks, MD, MRCPsych, Hamit Dardagan, Gabriela Guerrero Serdán, MA, Peter M Bagnall, MRes, John A Sloboda, PhD, FBA and Michael Spagat, PhD, 'The Weapons That Kill Civilians – Deaths of Children and Noncombatants in Iraq, 2003–2008', *The New England Medical Journal*, 16 April 2009. Although accuracy in measuring civilian casualties is difficult, progress has been made in bringing together informative data.

²³ UN Secretary-General, *Annual Report on Children and Armed Conflict*, 13 April 2010, S/2010/181, paragraph 48. The figures

included in the report are 131 deaths from airstrikes, 128 deaths from IEDs and 55 deaths from mines. This falls short of the total number of recorded child deaths in the UNAMA 2009 report by 31. If 345 is taken to be the total number of child casualties, the 131 deaths from airstrikes represent 38% of total child deaths; if 314 is taken to be the total number of child deaths, then airstrikes account for 42% of child deaths.

²⁴ Alec D Barker, *Improvised Explosive Devices in Southern Afghanistan and Western Pakistan 2003–2009*, New America Foundation Policy Paper April 2010

²⁵ UNAMA, *Protection of Civilians in Conflict Report 2009*, January 2010

²⁶ UNAMA, *Mid Term Review Protection of Civilians in Conflict*, August 2010

²⁷ Machel Study 10 year Strategic Review, 'Children and conflict in a changing world', 2009 pg 21

²⁸ Landmine and Cluster Munition Monitor Fact Sheet, *Landmines and Children*, March 2010. The figures are 1,184 out of a total of 4,214.

²⁹ ICRC, *Children in War*, 2009

³⁰ Amnesty International, "As If Hell Fell On Me": *The Human Rights Crisis in Northwest Pakistan*, April 2009; p. 55

³¹ Action On Armed Violence, *Explosive violence: the problem of explosive weapons*, 2009, p. 29

³² Centre for Disease Control and Prevention, *Blast Injuries fact sheets for professionals: Pediatrics*: <http://www.bt.cdc.gov/masscasualties/blastinjury-pediatrics.asp>, accessed 25 June 2010

³³ Ibid, accessed 25 June 2010. This is partly due to the fact that their chest walls are more compliant.

³⁴ William Boyce, *Adaptation of Community Based Rehabilitation in Armed Conflict*, accessed 21 November 2010: http://www.lcd-enar.org/files/Boyce,%20William_adaptation_of_community_based_rehabilitation_in_areas_of_armed_conflict.doc

³⁵ ICRC, *Children in War*, 2009; p. 24

³⁶ Human Rights Watch, *Harsh War, Harsh Peace: Abuses by al-Shabaab, the Transitional Federal Government, and AMISOM in Somalia*, 19 April 2010; pp. 37–38

³⁷ Fafo Institute for Applied International Studies and UNFPA, *Life in the Gaza Strip six weeks after the armed conflict 27 Dec 2008–17 Jan 2009, Evidence from a household sample survey*, March 2009. Results are based on a sample of 1,832 households covering all of Gaza. See also, OCHA Special Focus, *Locked In: The Humanitarian Impact of Two Years of Blockade on the Gaza Strip*, August 2009.

³⁸ Goretti Horgan, *The particular circumstances of children in Northern Ireland*, November 2005, The Children's Law Centre: <http://www.childrenslawcentre.org/ParticularCircumstancesofChildreninNorthernIreland-GorettiHorgan.htm> accessed 1 July 2010

³⁹ Kathleen Kostelny and Michael Wessells, 'Psychological Assessment of Education in Gaza and Recommendations for Response', UNESCO, 2010

⁴⁰ MSF, 'In Somalia, majority of North Mogadishu population flees as fighting escalates', 7 July 2009: http://www.msf.org/msfinternational/invoke.cfm?objectId=55303E6A-15C5-F00A-250C2185B1B03213&component=toolkit.pressrelease&method=full_html

⁴¹ UNDP, *Global Burden of Armed Violence Report*, 2008, pp. 40, 46 and 47, in which the conservative estimate of total number of deaths for the period 2003–07 is given as 347,000.

⁴² UNESCO, *Education Under Attack*, 2010

⁴³ UNICEF, *Humanitarian Action Mid-Year Review*, 2010

⁴⁴ UNESCO, *Protecting Education from Attack*, 2007 and UNESCO, *Education Under Attack*, 2010

⁴⁵ Zahid Hussain, 'Many Reported Dead as Pakistani Army Attacks Taleban Near Swat', *The Times*, April 27, 2009: <http://www.timesonline.co.uk/tol/news/world/asia/article6174174.ece> accessed on 21 November 2010

⁴⁶ Save the Children, *The Future is Now*, 2010

⁴⁷ Care, *Knowledge on Fire: Attacks on Education in Afghanistan*, 2009

⁴⁸ EUNIDA, *Final Report: Damage Assessment and Needs Identification in the Gaza Strip*, March 2009

⁴⁹ Crowther, Greg, *Counting the cost – the economic impact of cluster munition contamination in Lebanon*, Landmine Action, 2008. The estimate was made done by calculating the cost of lost agricultural production, cost of clearance and risk-reduction activities and the cost of deaths and injuries.

⁵⁰ UNEP, *Environmental Assessment of the Gaza Strip following the escalation of hostilities in December 2008–January 2009*, 2009

⁵¹ In April the World Health Organisation announced an investigation into reports of significantly increased levels of babies born with congenital abnormalities following the 2004 siege. Skynews, 'WHO to probe rise in Iraq's deformed babies', 1 April 2010 <http://news.sky.com/skynews/Home/World-News/Birth-Deformities-In-Fallujah-Iraq-World-Health-Organisation-Vows-To-Study-Rise-In-Deformed-Babies/Article/201003415590225> accessed 5 July 2010.

2 International humanitarian and legal framework

⁵² 1899 Hague Convention II article 25: http://avalon.law.yale.edu/19th_century/hague994.asp

⁵³ Michael N Schmitt, '21st Century Conflict: Can the law survive?', *Melbourne Journal of International Law*, Vol. 8, 2007; p. 446

⁵⁴ Article 57, Additional Protocol I to the Geneva Conventions 1977

⁵⁵ Article 52, Ibid

⁵⁶ Article 51(5)(b) and Article 57(2)(a)(iii), Ibid

⁵⁷ UN Convention on the Rights of the Child 1989, Article 6

⁵⁸ Information from the International Campaign to Ban Landmines website: <http://www.icbl.org/index.php/icbl/About-Us/Ambassadors/kosal>, accessed 21 November 2010

⁵⁹ SOS Children's villages, *UK bans child-luring bombs*, 2010: <http://www.soschildrensvillages.org.uk/charity-news/archive/2010/03/uk-bans-child-luring-bombs> accessed 21 November 2010

3 Conclusion and recommendations

⁶⁰ New York Times, 'US Report finds errors in Afghan Strikes', 2 June 2009. This statement was made during his confirmation hearing before the Senate Armed Services Committee: <http://www.nytimes.com/2009/06/03/world/asia/03military.html> accessed on 21 November 2010.

⁶¹ Article 51 Additional Protocol I to the Geneva Conventions 1977

⁶² CCW APII Article 9 [1 & 2] and CCW Protocol V Article 4

⁶³ UN Convention on the Rights of the Child, Articles 6, 23 and 39 respectively

⁶⁴ Oxford Research Group, Iraq Body Count and Colonel Richard Iron, 'In Everyone's Interest: Recording All the Dead, Not Just Our Own', *British Army Review*, Summer 2010

⁶⁵ UN Secretary-General, Report on the protection of civilians in armed conflict, 11 November 2010 [S/2010/579] paragraphs 48–51

⁶⁶ Save the Children, *Full of Promise*, 2009

⁶⁷ Statement by John Holmes, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator for the Security Council, Security Council Open Debate on the Protection of Civilians in Armed Conflict, 7 July 2010

Devastating Impact

Explosive weapons and children

The nature of conflict has changed. As well as governments' use of explosive weapons in populated areas, recent decades have seen a rising number of non-state actors using more sophisticated explosive weapons.

The impact of these weapons on children is devastating. Children are being killed, suffering physical injuries and psychological damage, and seeing their healthcare services, education and futures destroyed.

So far however, the international community has paid little attention to the plight of children resulting from the use of these weapons. This report looks at the devastating impact of explosive weapons on children, and outlines the international human rights and legal framework that should be implemented to protect children.

Save the Children proposes three steps to reduce the impact of explosive weapons on children – involving better monitoring and reporting, and strengthening adherence to the spirit of international law – and makes recommendations for action by the international community, governments and non-governmental organisations.



Save the Children

savethechildren.org.uk