



CCW Meeting of High Contracting Parties

Statement by Katy Donnelly Deputy Permanent Representative to the Conference on Disarmament

Explosive Weapons in Populated Areas

24 November 2017

Thank you Mr Chair.

Reducing the humanitarian impact of the use of explosive weapons in populated areas is an urgent priority. We deeply regret that this important issue was not able to be discussed under an appropriate agenda item such as the one you had proposed on emerging issues of relevance to the Convention. The fact that we are not able to do so seems to be another illustration of the problem increasingly confronting the multilateral system - namely the failure of existing international institutions and fora to address contemporary issues of concern to at least some within their membership.

Mr Chair, we know that when explosive weapons with wide area effects are used in populated areas, some 9 out of 10 victims are civilians with injuries that may prove fatal or otherwise life-changing. Such attacks also have dire long-term consequences for civilians, including the destruction of schools, hospitals, houses, electricity grids, and water and sanitation systems. This damage affects access to education, health services and livelihood opportunities and is a key driver of displacement.

Statistics compiled by Action on Armed Violence, and cited in numerous publications including the Secretary-General's most recent report on the Protection of Civilians, show that some 32,088 civilian deaths and injuries were caused by explosive weapons in 2016 alone.

The task of reducing the humanitarian impact of the use of explosive weapons in populated areas will require a range of measures. At the 2016

World Humanitarian Summit New Zealand pledged to support a number of activities in this regard, including awareness raising, data collection, and the exchange of good practices and lessons learned in minimizing impacts on civilians when using explosive weapons in populated areas. We also pledged to continue looking for effective measures to strengthen respect for international humanitarian law, among them an international political declaration on the issue. New Zealand remains committed to these steps. We are also grateful for the work that has been done by a range of actors including the ICRC, the UN Office for the Coordination of Humanitarian Affairs, the International Network on Explosive Weapons, GICHD and AOA, as well as a number of States including Germany and of course the long-term leadership shown on this issue by Austria.

We highlight in this regard OCHA's recently revised compilation of military policy and practice, which provides a number of key observations that should form part of how we try to address this issue. Some of these observations are fundamental to ensuring compliance with International Humanitarian Law – for example, that a clear understanding of the “area effects” of different explosive weapon types is required in order to ensure that the choice of weapons is based, *inter alia*, on an understanding of these effects and the resultant civilian risk. Others are more practically focused, and include raising the command authority for the use of explosive weapons in populated areas, undertaking collateral damage estimation and battle damage assessments, and implementing civilian casualty tracking.

Noting that the CCW is often described as a unique forum for bringing together political and technical considerations, and for balancing humanitarian and military imperatives, we would welcome engagement on OCHA's compilation here.

The CCW is certainly an appropriate place to consider the challenges posed to the fundamental principles of international humanitarian law by the use of explosive weapons in populated areas. These principles include the prohibition against indiscriminate attacks, with the ICRC having highlighted that use in a densely populated area is one circumstance that could make the use of a certain weapon indiscriminate. Another central principle relates to disproportionate attacks, with the rule of

proportionality not limited to immediate or direct effects of a weapon but also to the reverberating effects. Even where the rules of distinction and proportionality are respected, IHL also requires that in the conduct of hostilities constant care be taken to spare the civilian population, individual civilians and civilian objects.

Mr Chair, for these reasons (among others) New Zealand supports the creation of a specific item on future CCW agendas to provide space for consideration of topics such as the use of explosive weapons in populated areas. In doing so we would emphasise that the CCW is not the only relevant forum. After all, the harm caused to civilians by such weapons cuts across many of the international community's agreed objectives as under consideration in other fora.

Sustainable development can be severely affected by conflict and by the use of explosive weapons in populated areas, including efforts to progress any of the Sustainable Development Goals, including poverty, hunger, health, education, gender equality, water and sanitation, and economic growth. Such weapons use may also run counter to the obligations and commitments contained in UN Security Council resolutions on the protection of medical and humanitarian personnel. It may also contribute to many of the six grave violations severely affecting children in times of war and is a challenge to the Safe Schools Declaration.

Mr Chair, addressing the harm to civilians by the use of explosive weapons in populated areas is a task that we must pursue with urgency and in all relevant fora. The UN Secretary General has highlighted that the international community appears to be suffering from a growing sense of fatigue, even resignation, in addressing the suffering of civilians in conflict – a malaise which is contributing to a “global protection crisis”. In this regard, we cannot afford to delay our response to the challenge posed by the use of explosive weapons in populated areas. For our part, New Zealand will continue to work with all interested States in any fora where progress may be made.

Thank you Mr Chair.