



IN THEIR WORDS

Six armed non-State actors share their policies and practice with regards to protecting civilians from explosive weapons



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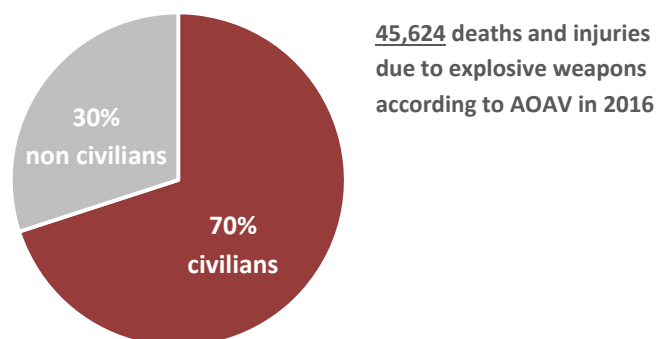
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INTRODUCTION

The use of explosive weapons¹, including improvised explosive devices (IEDs) by armed non-State actors (ANSAs) and the resulting civilian casualties, specifically when used in populated areas, is increasingly becoming a concern the international community is trying to grapple with.

To put the problem into context, Action on Armed Violence (AOAV) has been monitoring explosive violence and publishing a report yearly on its findings since 2011. In its 2016 report, Explosive Truths², AOA V reported 2,300 explosive weapons incidents leading to 45,624 deaths and injuries.

Most casualties of explosive weapons are civilians



- 70% of the casualties (deaths and injuries) were civilians, of which 89% occurred in populated areas.
- 46% of civilian casualties were a result of IEDs³—almost exclusively used by ANSAs⁴. In addition to IEDs, ANSAs accounted for 55% of all ground-launched explosive incidents, while air-launched explosive incidents attributed to ANSAs were only recorded in Libya and Turkey.
- 60 different ANSAs were recorded as having used explosive weapons in 2016.
- The ANSAs collectively accounted unambiguously for 55% of civilian casualties as a result of explosive weapons use.⁵
- Most concerning is that 77% of casualties caused by ANSAs were civilians. On the other hand, 60% of casualties caused by States were civilians.
- Five ANSAs accounted for 40% of all ANSA explosive weapons use in 2016. The most prolific users were the Islamic State group and unspecified Syrian rebels which together accounted for 30% of ANSA explosive weapons incidents, with the People’s Defences Forces/Kurdistan Worker’s Party (HPG/PKK) accounting for 4%, and the Houthi rebels and Al Shabaab accounting each for 3%.

¹ Action on Armed Violence (AOAV) defines an explosive weapon as any device which has a casing with a high-explosive filling. Explosive weapons include grenades, artillery shells, anti-personnel and other mines, missile or rocket warheads, various kinds of bombs, improvised explosive devices (IEDs) and cluster munitions. <https://aoav.org.uk/wp-content/uploads/2017/05/AOAV-Explosive-Monitor-2017v9.pdf>

² Dathan, Jennifer. 2017. Explosive Truths: Monitoring Explosive Violence in 2016. London: Action on Armed Violence, April.

³ IEDs are classified within the report as any explosive weapon not manufactured through a commercial process, although they can include conventional ordnance.

⁴ The breakdown provided for IEDs is as follows: Suicide bombings, including car bombs operated by suicide bombers, killed or injured 9,680 civilians; victim-activated IEDs, considered as de facto landmines, accounted for 74 incidents with an average of 2 civilians killed or injured per attack (approximately 148 civilians); and command-operated IEDs, which accounted for approximately 493 civilian casualties.

⁵ 1% of civilian casualties were caused by States and ANSAs, 35% were caused by States, while for 5% the actor responsible was unknown.

It is important to note that AOV records all attacks (incidents) using explosive weapons that occur worldwide and makes no assessment as to whether they occur within an armed conflict setting nor whether an incident is in compliance with IHL⁶.

Since its launch in 2000, Geneva Call has been engaging ANSAs on explosive weapons use; first in relation to the anti-personnel landmine ban and later within the context of promoting adherence to international humanitarian norms more broadly. As a result of these efforts, 49 ANSAs⁷ from around the world have signed the *Deed of Commitment under Geneva Call for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action*⁸, while several others have adjusted their policies and practices with regards to the use of explosive weapons. Geneva Call is currently in the process of convincing another 19 ANSAs to publically commit to a ban of victim-activated anti-personnel mines and around 40 ANSAs to adherence to the basic rules of international humanitarian law, in particular the principles governing the conduct of hostilities, which include the use of explosive weapons in populated areas. Engagement involves a combination of advocacy, workshops, dissemination⁹, supporting actions taken by ANSAs to conform to international humanitarian norms, and monitoring and holding them accountable to commitments they've taken.

METHODOLOGY

The purpose of this paper is to draw together observations from a small sample of interviews made with ANSAs with regards to their explosive weapons use, including the use of IEDs, and to provide some initial steps that the international community—State, UN agencies, and international and non-governmental organizations (I/NGOs)—can take to address the challenge of reducing civilian casualties as a result of explosive weapons use by ANSAs. Leaders and authorized spokespersons from a total of six ANSAs from five conflict settings with whom Geneva Call has established relations were interviewed in face-to-face discussions from Asia, Latin America, Africa, and the Middle East.¹⁰ Two of the ANSAs already have modified their policies and practice regarding the use of explosive weapons following advocacy efforts conducted by Geneva Call; one by signing Geneva Call's *Deed of Commitment* banning anti-personnel mines. While none of the ANSAs have been listed in the top five worst perpetrators of civilian casualties as a result of explosive weapons use by AOV since it began compiling data in 2011, the majority have had cases where their use of explosive weapons caused civilian casualties.

ANSAs were selected according to a process of identifying which groups might be open to a discussion on what can be considered a sensitive topic as it is closely linked to their military strategies. Interviews were undertaken by Geneva Call's staff in charge of the respective ANSA's file. It was decided early on that Geneva Call would keep the ANSAs involved in the process confidential, in order to ensure as much as possible candid replies. The downside of this decision is that there can be no reference or comparison with regards to the contexts in which the ANSAs find themselves. Due to funding

⁶ The use of explosive weapons is not unlawful under IHL as long as the use does not intentionally target civilians, is not indiscriminate, is proportionate, and precautionary measures are taken.

⁷ See Annex III for a list of signatories.

⁸ The *Deed of Commitment* requires a total ban on the use, production, transfer and stockpiling of victim-activated anti-personnel mines and for signatories to facilitate mine action.

⁹ Geneva Call has produced a number of dissemination materials including a small booklet, a mobile phone application, quiz cards, and video clips. The link to its video on indiscriminate bombings can be found here: <https://www.youtube.com/watch?v=g-16YcuKk0k>.

¹⁰ One ANSA sent in a written reply following the face-to-face discussion, while another sent in a written reply which was followed by a face-to-face discussion.

constraints, Geneva Call was not able to interview, collect or conduct research on a wider number of ANSAs; nor was it able to independently verify the information provided by the ANSAs by cross-checking with other sources, so it may not reflect the full picture of the situation on the ground. The interview questions can be found in the annex.

OBSERVATIONS

It is important to remember that while some commonalities arose from the interviews—identified below, only a small sample size of ANSAs were interviewed, all of which are working with Geneva Call to enhance the protection of civilians in situations of armed violence and conflict. Thus, while they do not represent all ANSAs currently active, the responses shed some light on the perspectives of some of them. Further study is necessary in order to verify whether the observations can be applied towards a broader spectrum of groups.

In addition, it is important to note that none of the ANSAs shared written policies with regards to the protection of civilians from explosive weapons. Even when consulting Geneva Call’s on-line database of ANSA humanitarian policy documents, www.theirwords.org, with the exception of anti-personnel mine ban commitments, there is a real gap in terms of written policy to protect civilians from explosive weapons.

The ANSAs use commercially manufactured explosive weapons in addition to IEDs

It is a well-known fact that explosive weapons are a key component to the majority of ANSA arsenals.



Therefore, it is not surprising that all but one ANSA admitted to using explosive weapons. Perhaps more surprising is that of these, all admitted to using commercially manufactured devices, while three additionally use IEDs. The sixth ANSA declared that it prohibits the use of IEDs within its organization due to the danger posed to the manufacturer and transporter and made no mention of using commercially manufactured devices. Explosive devices are reportedly used offensively, while two also use them defensively—in the form of landmines for the most part. Four of the ANSAs use remote controlled devices, while two also use victim-activated devices. One of those who use explosive devices prohibits the use and manufacture of IEDs and victim-activated explosive devices. Another’s ANSA policy is only to use

IEDs and landmines for defensive purposes.

Protecting the civilian population and preventing collateral damage is an important factor

Protecting the civilian population and preventing collateral damage from the effects of their use of explosive weapons figured high within the priorities of all five ANSAs interviewed. Their stated policies and practice from the interviews reflect this. One specifically mentioned to avoid as much as possible the use of explosive devices in populated areas, and if possible moving away from these areas. This is perhaps not surprising since all ANSAs interviewed are working with Geneva Call to enhance civilian protection during situations of armed violence and conflict. This suggests that when humanitarian organizations obtain access to ANSAs to carry out their work, the ANSAs seem to be more sensitive to

the protection of civilians, including with regards to reducing civilian harm caused by explosive weapons and IEDs.

«Civilians are key to our movement, so we need to do everything to avoid harming them. We do not want to make them suffer.» -- ANSA respondent

Cultural, religious and/or humanitarian values guide explosive weapons use

Cultural and religious values, as well as international humanitarian law (IHL), were mentioned as guiding principles from which policies and practice are based within several of the organizations, although in one case they were not considered binding. Another ANSA felt that its organization went beyond IHL.

Good intelligence is key to preventing collateral damage

Four of the five ANSAs that use explosive weapons report undertaking a form of proportionality assessment, whether it was called this or not, prior to conducting attacks to determine the potential military gain versus the anticipated damage to civilians and civilian objects. The assessments are based on observation and intelligence gathering, sometimes over several days. As one ANSA noted, the more intelligence and knowledge of the reality of the conditions on the ground, the less explosives one has to use and the less collateral damage. This observation was gained over years of experience, and although not mentioned, likely with no small amount of collateral damage along the way.



The ANSAs reported that based on the assessment, to proceed or not, and if so, to plan the attack in damage to civilians and, in one case, to the the military benefit of using explosive devices in the collateral damage. One ANSA specifically mentioned opponent—as long as collateral damage was kept to damage was judged to be too high, either the attack adjusted (e.g. using non explosive forms of small alternative ‘secondary target that can achieve the chosen. This continued to be the case during the collateral damage was too high, including in one the attack would be called off.

a decision is made with regards to whether such a way as to minimize collateral environment. A decision is also made as to attack as compared to the anticipated using the same type of weaponry as their a minimum. In all cases, if the collateral would be called off, the choice of weapons arms and light weapons), or in one case, an same objective “more or less” would be attack—if it was found that the risk of case if the enemy was using human shields,

«During a 2011 confrontation, the enemy attacked and we replied, but immediately stopped the combat and bombing because the presence of civilians was too high.» -

- ANSA respondent

Measures are taken to reduce collateral damage, including avoiding use in populated areas

Precautionary measures that have been taken to reduce civilian casualties were identified as follows by the ANSAs interviewed:

- sending a warning by exploding a small tin,
- moving away from densely populated areas,
- using lighter weapons (non-explosives) if civilian casualties seem dominant,
- changing the timing of attack,
- using observers during the attack to ensure only military targets are reached when using mortars,
- mapping the location of mines and removing them if the ambush is unsuccessful,
- placing guards and lookouts to watch for civilians and warn them about the dangers of walking in mine affected areas,
- evacuating civilians to rear areas, and
- not using explosive weapons in urban areas.

«We do not use explosive weapons in populated areas unless we have no other military option to defend ourselves.» -- ANSA respondent

Learning from their own experiences is key to change in practice

All five ANSAs who admitted to using explosive weapons noted that learning from their experiences—both good and bad—was important and something that they strove to apply towards future actions. For one ANSA, it's tried to 'perfect' its use of explosive weapons so that force is not excessive and civilian effects are reduced. Another is trying to find alternatives to using explosive weapons, as in its words they are 'not safe enough for any party', while another moved from a position of no use to use in a 'localized' way because of the current high risk security situation.

« More and more progress has been made in perfecting the use so that the force is not excessive and the effects are not so much for the civilians, but for the intended objective.» -- ANSA respondent

The ANSAs feel responsible for collateral damage caused by their use of explosive weapons

All five ANSAs using explosive weapons said they felt responsible for civilian casualties and damages to civilian property as a result of their use of explosive weapons and identified cases where reparations were provided as a result. Depending on the organizations' resources and capacity, at a minimum it conveys its regrets to the victims and their families, while others undertake symbolic gestures¹¹, rebuild houses, replace livestock, provide monetary compensation¹², or provide medical care or rehabilitation services for victims or their families.

Only one ANSAs spoke about sanctioning members for their misuse of explosive weapons. It admitted that when mistakes happen, the organization balances the type of sanction imposed with the desire of not having the member leave the organization.

¹¹ For example, one ANSA reported that if a single woman dies because of a military action, the combatant who caused the death must marry the woman although she is dead.

¹² In one reported case, a combatant poorly manipulated a grenade that exploded and killed a pregnant woman. The organization paid financial compensation to the widower so that he could marry another woman.

« We have always assumed responsibility for what we have done well and also for the mistakes we have committed. » -- ANSA respondent

CONCLUSIONS

The above observations from the interviews suggest that there are some steps that could be taken by the international community of States, UN agencies and I/NGOs to reduce the civilian toll caused by the use of explosive weapons by at least some ANSAs.

Facilitate space for humanitarian advocacy on the protection of civilians from explosive weapons

States should facilitate I/NGO humanitarian advocacy efforts aimed at protecting civilians from the use of explosive weapons by ANSAs. Geneva Call's success in being able to talk to ANSAs about their policies and practice towards protecting civilians from explosive weapons and advocate towards changing policies and practice to enhance civilian protection should be taken as a viable solution in addressing explosive weapons harm caused by many ANSAs.

Approach the issue from the angle of enhancing the protection of civilians

UN agencies and I/NGOs should focus on protecting civilians both from immediate and long-term impacts, specifically in populated areas, when conducting advocacy efforts with regards to the use of explosive weapons, as it would likely resonate with many ANSAs. Framing the need for change through a humanitarian lens to reduce collateral damage should help open doors and build receptiveness for a change in practice among many ANSAs.

Focus on the use of explosive weapons in general

UN agencies and I/NGOs should focus on the use of explosive weapons as a whole, irrespective of the form of manufacture, or specific types of devices in their advocacy efforts with ANSAs. Most likely ANSA policies and practice will relate to the use of all explosive devices irrespective of how they are manufactured, although some differences have been made with regards to landmines, victim-activated devices, and mortars. It therefore makes sense to address explosive weapons use in general or with regards to a specific weapon type, rather how they are manufactured.

Build on existing cultural, religious and humanitarian values to protect civilians

UN agencies and I/NGOs advocacy towards reducing and addressing civilian harm as a result of explosive weapons use can be strengthened through framing the discussion from the angle of the respective cultural, religious and humanitarian values of the specific ANSA. This might be especially relevant if the ANSA rejects IHL.

Promote good practice towards minimizing the impact of all explosive devices on the civilian population, specifically in populated areas

UN agencies and I/NGOs should promote good practice to reduce the impact of explosive weapons on the civilian population. More information on good practices should be compiled and shared widely to show that it can and has been done in different contexts.

GENEVA CALL'S NEXT STEPS

The work that went into this paper is only an initial analysis of ANSAs' policy and practice with regards to explosive weapons.

- Geneva Call will be continuing such work with other ANSAs, amongst them those identified as the worse perpetrators.
- It will also continue to advocate for the protection of civilians from explosive weapons amongst ANSAs. It will do this through its ongoing work to advocate for the anti-personnel mine ban, as well as for adherence to the basic rules of IHL amongst ANSAs.
- As such it stands by its commitment made during the World Humanitarian Summit to encourage ANSAs to refrain from using explosive weapons in densely populated areas.

ANNEXES

Annex I: Questionnaire addressed to selected ANSAs

1. What are the types of explosive weapons used by your organization (IED's or commercial \ victim activated or remote controlled)? Which do you use more of? Why?
2. What policies does your organization have with regards to using explosive weapons in attacks? What is your organization's practice with regards to use of explosive weapons?
3. Do you adapt your use of explosive weapons (type/method/means) depending upon your specific target and the location?
4. How does your organization evaluate the military benefit of an action compared to anticipated damage to civilians/civilian objects? Which internal policy or rules govern your proportionality analysis? Do you refer to a specific instrument (IHL/Deed of Commitments/other)? Do you consider them binding?
5. Does your organization take precautionary measures with the aim of reducing the impact on civilians in populated areas? If so, what?
6. If during an attack it appears civilian casualties might be higher than anticipated, are safety measures (fail-safe mechanisms) employed? If so what?
7. Are post attack assessments made and have lessons been learned to inform future attacks? Have there ever been good practices identified that can be more broadly applied?
8. Have there ever been changes in your policy on the use of explosive weapons? If yes, what led to such changes?
9. Does your organization take responsibility for collateral damage (e.g. damage to civilian life/objects) caused by the use of explosive weapons?
10. In case of civilian casualties, are measures taken by your organization to ensure assistance for victims? If so, what measures?

Annex II: Deed of Commitment under Geneva Call for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action

WE, the (NAME OF THE NON-STATE ACTOR), through our duly authorized representative(s),

Recognising the global scourge of anti-personnel mines which indiscriminately and inhumanely kill and maim combatants and civilians, mostly innocent and defenceless people, especially women and children, even after the armed conflict is over;

Realising that the limited military utility of anti-personnel mines is far outweighed by their appalling humanitarian, socio-economic and environmental consequences, including on post-conflict reconciliation and reconstruction;

Rejecting the notion that revolutionary ends or just causes justify inhumane means and methods of warfare of a nature to cause unnecessary suffering;

Reaffirming our determination to protect the civilian population from the effects or dangers of military actions, and to respect their rights to life, to human dignity, and to development;

Resolved to play our role not only as actors in armed conflicts but also as participants in the practice and development of legal and normative standards for such conflicts, starting with a contribution to the overall humanitarian effort to solve the global landmine problem for the sake of its victims;

Accepting that international humanitarian law and human rights apply to and oblige all parties to armed conflicts;

Acknowledging the norm of a total ban on anti-personnel mines established by the 1997 Ottawa Treaty, which is an important step toward the total eradication of landmines;

NOW, THEREFORE, hereby solemnly commit ourselves to the following terms:

1. TO ADHERE to a total ban on anti-personnel mines. By anti-personnel mines, we refer to those devices which effectively explode by the presence, proximity or contact of a person, including other victim-activated explosive devices and anti-vehicle mines with the same effect whether with or without anti-handling devices. By total ban, we refer to a complete prohibition on all use, development, production, acquisition, stockpiling, retention, and transfer of such mines, under any circumstances. This includes an undertaking on the destruction of all such mines.
2. TO COOPERATE IN AND UNDERTAKE stockpile destruction, mine clearance, victim assistance, mine awareness, and various other forms of mine action, especially where these programs are being implemented by independent international and national organizations.
3. TO ALLOW AND COOPERATE in the monitoring and verification of our commitment to a total ban on anti-personnel mines by Geneva Call and other independent international and national organizations associated for this purpose with Geneva Call. Such monitoring and verification

include visits and inspections in all areas where anti-personnel mines may be present, and the provision of the necessary information and reports, as may be required for such purposes in the spirit of transparency and accountability.

4. TO ISSUE the necessary orders and directives to our commanders and fighters for the implementation and enforcement of our commitment under the foregoing paragraphs, including measures for information dissemination and training, as well as disciplinary sanctions in case of non-compliance.
5. TO TREAT this commitment as one step or part of a broader commitment in principle to the ideal of humanitarian norms, particularly of international humanitarian law and human rights, and to contribute to their respect in field practice as well as to the further development of humanitarian norms for armed conflicts.
6. This Deed of Commitment shall not affect our legal status, pursuant to the relevant clause in common article 3 of the Geneva Conventions of August 12, 1949.
7. We understand that Geneva Call may publicize our compliance or non-compliance with this Deed of Commitment.
8. We see the desirability of attracting the adherence of other armed groups to this Deed of Commitment and will do our part to promote it.
9. This Deed of Commitment complements or supercedes, as the case may be, any existing unilateral declaration of ours on anti-personnel mines.
10. This Deed of Commitment shall take effect immediately upon its signing and receipt by the Government of the Republic and Canton of Geneva which receives it as the custodian of such deeds and similar unilateral declarations.

Annex III: List of Signatories to the Deed of Commitment under Geneva Call for Adherence to a Total Ban on Anti-Personnel Mines and for Cooperation in Mine Action

Burma/Myanmar

- Arakan Rohingya National Organization/Rohingya National Army (ARNO/RNA)
- Chin National Front\Army (CNF/A)
- Lahu Democratic Front (LDF)
- National Unity Party of Arakan/Arakan Army (NUPA/AA)
- Palaung State Liberation Front / Taan National Liberation Army (PSLF/TNLA)
- Pa'O Peoples Liberation Organization/Pa'O Peoples Liberation Army (PPLO/PPLA)

Burundi

- Conseil National pour la Défense de la Démocratie-Forces de Défense de la Démocratie (CNDD-FDD)

India

- Kuki National Organisation (KNO)
- National Socialist Council of Nagaland-Khole Kitovi (NSCN-KK)
- National Socialist Council of Nagalim - Isak Muivah (NSCN-IM)
- Zomi Re-unification Organisation (ZRO)

Iran

- Democratic Party of Iranian Kurdistan (PDKI)
- Free Life Party of Kurdistan (PJAK)
- Komala Party of Iranian Kurdistan (KPIK)
- Komala Party of Kurdistan
- Komalah – The Kurdistan Organization of the Communist Party of Iran (Komalah-CPI)
- Kurdistan Democratic Party – Iran (KDP-Iran)
- Kurdistan Freedom Party (PAK)

Iraq

- Kurdistan Regional Government – Erbil
- Kurdistan Regional Government - Sulaimanyia

Philippines

- Moro Islamic Liberation Front / Bangsamoro Islamic Armed Forces (MILF/BIAF)
- Revolutionary Workers Party of Mindanao/Revolutionary People's Army (RPM-M/RPA)
- Revolutionary Workers Party of the Philippines/Revolutionary Proletarian Army – Alex Boncayo Brigade (RPM-P/RPA-ABB)

Somalia

- Banadiri
- Hiran Patriotic Alliance/Somalia Reconciliation and Restoration Council (HPA/SRRC)
- Jowhar Administration
- Juba Valley Alliance (JVA)
- Puntland State of Somalia

- Rahanweyn Resistance Army (RRA)/SRRC (faction of Col. Hassan Mohamed Nur “Shatigudud”)
- Rahanweyn Resistance Army (RRA) (faction of Sheikh Adan “Madobe”)
- Somali African Muki Organization (SAMO)/SRRC/Nakuru
- Somali National Front (SNF)/SRRC
- Somali Patriotic Movement (SPM)/SRRC (faction of General Aden Abdullahi Nur “Gabyow”)
- Southern Somali National Movement (SSNM)/BIREM
- Southern Somali National Movement (SSNM)/SNA/SRRC
- Transitional National Government (TNG)
- United Somali Congress/Somali National Alliance (USC/ SNA)/SRRC
- USC/North Mogadishu/SRRC
- USC/SNA/SRRC/Nakuru
- USC/Somali Salvation Army (SSA)

Sudan

- Justice and Equality Movement (JEM)
- Sudan Liberation Movement/Army – Abdel Wahid al-Nur (SLM/A-AW)
- Sudan Liberation Movement/Army – Minni Minnawi (SLM/A-MM)
- Sudan People’s Liberation Movement/Army (SPLM/A)¹³
- Sudan Peoples’ Liberation Movement – North (SPLM-N)

Syria

- Democratic Self-Administration in Rojava / People’s Protection Units / Women’s Protection Units (YPG-YPJ)
- Hazzm Movement

Turkey

- People’s Defences Forces/Kurdistan Worker’s Party (HPG/PKK)

Western Sahara

- Popular Front for the Liberation of Saguia el Hamra and Rio de Oro (Polisario Front)

¹³ SPLM/A signed the Deed of Commitment in 2001 before the country divided into Sudan and South-Sudan.