Background

In recent years, calls have intensified for strengthening international law relating to incendiary weapons in light of the harm to civilians from the use of the weapons in Syria, Afghanistan, Gaza, and elsewhere. Incendiary weapons produce heat and fire through the chemical reaction of a flammable substance. These weapons cause extremely painful burns that are difficult to treat, and start fires that can destroy buildings and infrastructure.

Incendiary weapons are not a new concern. Many still remember Nick Ut’s black and white photograph taken in 1972 of 9-year-old Kim Phuc running naked with burned skin hanging from her body after a US-backed South Vietnamese airstrike dropped napalm on her village. In the decade that followed, public revulsion at the shocking injuries napalm inflicted in Southeast Asia helped motivate the adoption in 1980 of a Convention on Conventional Weapons (CCW) protocol addressing the use of napalm and other incendiary weapons. A total of 107 countries have joined Protocol III on incendiary weapons, including all five permanent members of the UN Security Council.

Current context

Yet it is deeply disturbing that children today are still suffering from these weapons. In November 2013, Human Rights Watch published research based on field investigations, witness accounts, and a review of extensive video and photo evidence that showed that the Syrian Air Force had carried out at least 56 incendiary weapons attacks over the previous year. While it was not possible to comprehensively document the harm that these incendiary weapons inflicted, Human Rights Watch found that at least 41 civilians were killed and 71 wounded by the weapons in four of the attacks.¹

In one particularly devastating attack in Aleppo governorate on 26 August 2013, airstrikes using incendiary weapons killed more than three dozen civilians, mostly secondary school students who were leaving early after an incendiary bomb fell on a nearby apartment building. The bomb that fell on the school courtyard splashed a burning, napalm-like substance over its victims.

At the 2013 session of First Committee many countries expressed concern at the use of chemical weapons in Syria, but only a few – France, Ireland, as well as the European Union – condemned the use of incendiary weapons. At their last annual meeting in November 2013, a dozen CCW states parties condemned the use of incendiary weapons in Syria: Austria, Canada, Croatia, Ecuador, France, Germany, Ireland, Lithuania, Netherlands, Norway, Switzerland, and the United States.
The final report of the 2013 CCW meeting “noted the concerns raised by a number of High Contracting Parties over the allegations of use of incendiary weapons against civilians.” Syria is not party to the protocol, though, and the government’s use of incendiary weapons shows the urgent need to bring all countries on board.

The recent use of incendiary weapons also demonstrates the need for CCW states parties to revisit Protocol III, as it has become evident that the protocol is not meeting its objectives more than 30 years after its adoption. Since 2010, Human Rights Watch has been calling for the protocol to be revised. The CCW protocol bans the use of air-delivered incendiary weapons in areas with “concentrations of civilians.” A complete ban would have the most humanitarian benefits and provide the strongest protections for civilians (see recommendations).
Recommendations for governments

During First Committee:
- Delegations should publicly condemn Syria’s use of incendiary weapons and urge the Syrian government to join the Convention on Conventional Weapons and its Protocol III on incendiary weapons.
- They should express support for a review of the text of CCW Protocol III and for amendments to address more comprehensively the negative humanitarian impact of incendiary weapons.

Beyond First Committee:
- CCW Protocol III parties should revise the protocol to ban incendiary weapons. If that is not possible at this point, then parties should prohibit the use of all incendiary weapons within or near concentrations of civilians under all circumstances, regardless of whether the weapons are dropped from the air or launched from the ground.
- Parties should also amend the protocol to adopt an effects-based definition of incendiary weapons that encompasses multipurpose munitions, including white phosphorus, based on their substantial incendiary effects and not the purpose for which they are primarily designed.
- All states should report on their current practices and policies with respect to incendiary weapons.

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