Incendiary weapons
Human Rights Watch

Background
Calls to strengthen international law on incendiary weapons have intensified in recent years in light of the harm to civilians caused by the use of such weapons in Syria, Ukraine, Afghanistan, Gaza, and elsewhere. Incendiary weapons produce heat and fire through the chemical reaction of a flammable substance. They inflict excruciatingly painful burns that are difficult to treat and lead to long-term physical and psychological injury. The weapons also start fires that can destroy buildings and infrastructure.

Incendiary weapons are not a new problem. In 1972, Nick Ut photographed 9-year-old Kim Phuc running naked with burned skin hanging from her body after a South Vietnamese airstrike dropped napalm on her village. Public revulsion at such shocking injuries served as a catalyst for the adoption in 1980 of Protocol III to the Convention on Conventional Weapons (CCW), which prohibits certain uses of napalm and other incendiary weapons. A total of 112 countries, including all five permanent members of the UN Security Council, have joined Protocol III.

Current context
Despite this international law, incendiary weapons are still being used in armed conflict, often with disastrous consequences for civilians.

Human Rights Watch documented 57 incendiary weapon attacks by the Syrian Air Force between November 2012 and November 2014. On 26 August 2013, a devastating airstrike in Aleppo governorate killed more than three dozen civilians and wounded 44. An incendiary bomb fell on a secondary school courtyard and splashed a burning, napalm-like substance over its victims, most of whom were students. In March 2014, the UN Independent International Commission of Inquiry on the Syrian Arab Republic reported that government forces have also dropped incendiary materials in improvised “barrel bombs”.

In the second half of 2014, Human Rights Watch researchers documented the use of incendiary weapons in rocket attacks in Ilovaisk and Luhanskoe in eastern Ukraine. Residents reported that the strikes burned several homes. While researchers found fragments of ground-launched incendiary warheads at both sites, it was not possible to determine who was responsible for the attacks.

Although use of incendiary weapons has continued, it is usually accompanied by international condemnation. Stigmatisation of these weapons seemed to contribute to changes in Israel’s policy and practice, exemplified by its apparent decision not to use white phosphorus in Gaza in 2014 after Israel’s previous use of this weapon in 2009 attracted widespread international criticism.
At the international level, during the November 2014 Meeting of CCW States Parties, 12 countries voiced concerns about the use of incendiary weapons: Austria, Croatia, Cuba, France, Germany, Mexico, the Netherlands, Pakistan, Palestine, South Africa, Switzerland, and the United States. Repeating language from the previous year, the final report of this annual meeting “noted the concerns raised by a number of High Contracting Parties over the allegations of use of incendiary weapons against civilians.”

Recent use of incendiary weapons demonstrates the urgent need for action, while increasing concern presents an opportunity to strengthen international law governing the use of these weapons. All countries that have not yet done so should join Protocol III. States parties should agree to review the protocol, which has not been re-evaluated since its adoption 35 years ago. The CCW protocol prohibits the use of air-delivered incendiary weapons in “concentrations of civilians,” but it has weaker regulations for ground-launched models. Furthermore, many states parties believe the current definition does not cover multipurpose munitions, such as white phosphorus, because the definition is based on the purpose for which they were “primarily designed”. Since 2010, a large number of states have expressed willingness to reconsider the protocol, and some have called for its strengthening.

- Delegations should call for a review of Protocol III and amendments to address the negative humanitarian impact of incendiary weapons.

**Beyond First Committee:**
- CCW parties should approve a mandate to review the text of Protocol III and, at the 2016 Review Conference, agree to amend the protocol to address the negative humanitarian impact of incendiary weapons. A comprehensive ban on incendiary weapons would have the most far-reaching humanitarian benefits. At a minimum, the protocol should be strengthened to prohibit use of all incendiary weapons within or near concentrations of civilians (regardless of whether the weapons are air dropped or ground launched) and to include an effects-based definition that encompasses white phosphorus and other multipurpose munitions.
- As a state party to Protocol III, Ukraine should investigate instances or allegations of use of incendiary weapons and determine who was responsible.
- All states should report on their current practices and policies with respect to incendiary weapons and indicate their position on the call for strengthening international law governing the weapons.

**Recommendations for governments**

**During First Committee:**
- Delegations should publicly condemn the use of incendiary weapons in Syria and Ukraine and urge the Syrian government to accede to the CCW and its Protocol III.

**Human Rights Watch**
A misfired Grad 9M22S rocket equipped with a 9N510 incendiary warhead found near Ilovaisk, Ukraine on October 12, 2014.

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