
Perspectives

Is There A Strategy for Responsible U.S. Engagement on Cluster Munitions?

By

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Introduction

The topic of today’s session asks the question: “Is there a strategy for responsible U.S. engagement on a treaty involving cluster munitions?” “Responsible” in this case cannot be defined in the singular. The U.S. Government is not a single issue, special interest organization that can abdicate what is a set of responsibilities in the absolutist pursuit of a single cause. U.S. policy is a product of competing interests and competing responsibilities, of balance and of proportion. I will try to address my comments with that perspective in mind.

The most vocal proponents of a ban on cluster munitions fail to mention the very real costs and trade-offs that will be incurred in other areas if such a total ban were to come into effect, costs which will include a decrease in military effectiveness, strains within alliance structures, impediments to the formation of peacekeeping operations, the diversion of humanitarian assistance streams, and the very real likelihood that the weapons used in lieu of cluster munitions could also have significant adverse humanitarian consequences.

In the next ten minutes, I will try to very briefly outline the major U.S. responsibilities that factor into our policy approach on cluster munitions. This is not a transitory issue that somehow magically resolves itself next January. All who are interested in America’s role in the world should take note of this as they do calculations as to what the right balance should be.

Humanitarian Responsibility

No country has more to gain in establishing international norms to protect civilians during conflict than the U.S. Given the characteristics of current conflicts, it is critical that the U.S. be seen as doing all in its power to protect civilians. The U.S. has acknowledged that more can be done in regards to the threats posed to civilians by cluster munitions. There is a demonstrated record of improvements being made to targeting, reliability, precision, and information sharing of cluster munitions used by the U.S. The U.S. DoD’s current policy is that new types of munitions will have a 99% or better functioning rate in testing. There is an ongoing review of cluster munitions policy, which will make further improvements. The U.S. has also agreed to address the humanitarian effects regarding the use of cluster munitions in the framework of the Convention on Certain Conventional Weapons [CCM].

Yet any steps that are taken to expand humanitarian protections from cluster munitions must be kept in perspective. While I do not want to be dismissive of the harm done to any innocent civilian, we

all need to approach the figures being used by advocacy NGO's [Non-Governmental Organizations] on the issue of cluster munitions with a healthy degree of skepticism. I served as a relief worker in the UN [United Nations] during the 90's, have also walked cluster munitions strike areas in over half a dozen countries, and consider myself very privileged to manage the largest single resource stream in the world devoted to addressing the threats to civilians from conventional munitions. The U.S. Government takes a comprehensive, impact based approach to threats from landmines, small arms, abandoned ordnance, and other conventional munitions. From our work around the world, it is clear that cluster munitions do not represent a true global humanitarian "crisis." When used they can have profound adverse impacts; but these impacts are, when kept in perspective of the broader ban of threats, limited in scope, scale, and duration. The only exception to this being Laos. Last year there were not 400 confirmed casualties from cluster munitions, globally. The number of casualties from cluster munitions has been declining every year since 2003—even considering events in Lebanon. Using best available data, cluster munitions casualty figures are about 10% of the figure for landmine casualties, about 3% of total ERW [Explosive Remnants of War] casualties, and only a few hours worth of annual casualties generated by the illicit military grade small arms and light weapons.

The U.S. Government's humanitarian responsibilities related to the threat of conventional munitions extend well beyond the limits that Oslo treaty proponents would like to put on the debate. Last March an ammunition depot in Maputo, Mozambique exploded, killing and injuring more civilians in one hour than came to harm from cluster munitions across the world in one year. Earlier this month I was in Gërdec, Albania where I visited a munitions explosion site that produced more casualties in one day than have come to harm from cluster munitions in all of the Balkans in the past three years. The real looming global crisis resides in the threat from surplus, abandoned, and improperly stored conventional munitions—not cluster munitions. The attention given to cluster munitions runs the very real risk of diverting limited resources and attention away from areas where, if equal effort were applied, more lives could be saved. In the future, government officials could be faced with the very real dilemma of having to choose between funding political commitments made in a treaty that produce limited tangible results or breaking those commitments in order to fund projects with truly meaningful returns.

Military Responsibility

Like it or not, the rules of physics and chemistry dictate that cluster munitions are the most effective conventional means to destroy many types of military targets spread over an area. They allow for the greatest dispersion of explosive force using the fewest number of projectiles. Using cluster munitions reduces the number of aircraft and artillery platforms that must be used to support a military mission. If a state were to eliminate use of cluster munitions, in order to provide the same level of support to its forces, it would have to spend significantly more money on new weapons systems, ammunition, and a larger logistics train.

Area targets are legitimate targets under international humanitarian law and will remain a feature on future battlefields. Cluster munitions are available for use by every combat aircraft in the U.S inventory; they are integral to every Army or Marine maneuver element and in some cases constitute up to 50% of tactical indirect fire support. U.S. forces simply can not fight by design or by doctrine without holding out at least the possibility of using cluster munitions. Similarly the technological evolution of this weapon continues which will result in a marked decrease in unexploded residue and enhanced safety to civilians.

The U.S. also has a responsibility to thoroughly consider all "what if" scenarios of any potential treaty. One key question that no treaty proponent has yet to answer is "What weapon will be used instead of cluster munitions?" Remember we are not making a policy decision between cluster munitions and nothing, but between cluster munitions and something. What else might that something be? Most militaries will [have to] return to increased use of massed artillery and rocket barrages, increasing the

destruction of all key infrastructure like bridges, roads, and dams. Is this a better humanitarian alternative? This question remains unexplored and unanswered.

Alliance Responsibilities

NATO [North Atlantic Treaty Organization] effectively deterred Soviet aggression for decades, brought peace to Bosnia and Kosovo, and has served as a platform for expanding democracy throughout all of Europe. And now cooperation within NATO is in the crosshairs of the Oslo treaty. The all-encompassing “criminalization” paragraphs contained in the current treaty text, specifically 1 (b) and 1 (c) dealing with assistance to states that possess cluster munitions, will significantly complicate cooperation within NATO. States who sign the Oslo treaty in its current version will be forced to prohibit participation with non-states party across a wide range of activities, reducing or eliminating opportunities for joint training, command, logistics, and intelligence sharing—the very functions that make NATO what it is. For this reason, 22 of 26 NATO states have expressed concerns about these two paragraphs.

Such “inter-operability” concerns are not limited to NATO and include UN peacekeeping missions and, potentially, the provision of emergency humanitarian assistance. All five permanent members of the UN Security Council are either outside of the Oslo process or are vocally opposed to its inter-operability clauses. Major troop contributing states like India, Bangladesh, and Pakistan are also not part of the Oslo process; and they are providing about 41,000 of the roughly 95,000 peacekeepers deployed today. Similarly, a strict reading of the Oslo text would suggest that barriers might exist which would prevent military forces from a non-state party from providing emergency humanitarian assistance to a state party, as was the case of U.S. Marines and Navy forces during the 2006 tsunami.

If needed, finding “work-arounds” to the inter-operability clauses of Oslo will be a task to fall to the next administration and require significant investment of political and human capital into an activity that will detract from other, arguably higher value diplomatic efforts.

Process Responsibilities

Oslo treaty proponents have cited as one of their justifications for undertaking negotiations outside of the CCW that venue’s slow pace and moderate agenda. They are right. The CCW process may be slow. And it IS a lot of work, and that IS exactly what is required if there is to be agreement between major military powers. The United States feels very strongly that the world is a better place if a venue exists where states, particularly major military powers, can come together and reach agreement by consensus.

The Oslo process holds forth another model. When the well-crafted media campaigns are stripped away, what exactly is that model; and is it better than the CCW? Well, the text has been written by a small group, in private, without outside vetting or extensive deliberation. The key state supporters of the process, Norway in this case, have established what is euphemistically referred to as a “sponsorship program” that pays states to participate. Over sixty states have taken advantage of this program. (I would note that of the states that care enough to spend their own money, roughly half want significant amendments to the text.). In this process NGO’s are given the same prominence as state delegations; and, as reported to us, these NGOs were allowed to heckle state delegations in plenary and surrounding venues, using funds provided by one state participant to attack the positions of other state participants. Is this the kind of international system that any administration wants to work in?

Conclusion

To go back to the central question that was provided for organizing this dialogue—yes there is a great deal that the United States CAN AND WILL do to reduce the humanitarian effects from cluster munitions. But the Oslo treaty is not just a “feel good moment” that can be joined and then forgotten

about. There are very real costs associated with this treaty, and truly responsible action dictates that all such costs are considered.