Incendiary weapons
Human Rights Watch

Background
Incendiary weapons, which produce heat and fire through the chemical reaction of a flammable substance, cause excruciating burns that are difficult to treat and lead to long-term physical and psychological injury. The weapons also start fires that can destroy civilian objects and infrastructure.

Protocol III to the CCW, adopted in 1980, prohibits certain uses of incendiary weapons, but its restrictions have failed to stop the civilian harm seen in Syria and elsewhere. The CCW protocol has two major loopholes. First, it prohibits the use of air-delivered incendiary weapons in “concentrations of civilians,” but has weaker regulations for ground-launched models, many of which have been used this year in Syria. Second, 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,” rather than on their effects.

Closing these loopholes, which would be legally if not politically straightforward, would create stronger rules for states parties and increase the stigma against incendiary weapons, influencing even actors outside the treaty.

Current context
Efforts to strengthen international law on incendiary weapons took a step backwards at the 2018 Meeting of States Parties to the Convention on Conventional Weapons (CCW). Taking advantage of the body’s consensus rules, Russia blocked the widely supported proposal to continue dedicated discussions of incendiary weapons at the CCW’s annual meeting in 2019. Meanwhile, in Syria, the Syrian-Russian military alliance renewed its use of this cruel weapon in or near civilian areas.

Since November 2012, Human Rights Watch has identified, through open-source material and interviews, almost 150 incendiary weapons attacks by the Syrian-Russian military alliance in Syria. In May–June 2019 alone, it identified 27 uses of incendiary weapons. The total number of attacks is likely much higher because some go unreported and others are not recorded by visual media so cannot be investigated.

To make these identifications, Human Rights Watch reviewed videos and photographs of incendiary weapons use that were taken by the general public, first responders, and activists. The organisation examined additional visual material and testimony from after attacks showing the effects of incendiary weapons as well as their remnants. Human Rights Watch also assessed a time series of satellite
imagery and identified extensive burn scars on agricultural land and near villages.

Most of the documented incendiary weapon attacks in 2019 took place in Idlib governorate. An attack on May 25 in Khan Sheikhoun, Idlib, for example, left approximately 175,000 square meters of burned farmland, according to Human Rights Watch’s analysis of satellite imagery. Human Rights Watch also documented this year six strikes in Hama governorate and one in the village of Tal Hadya near Aleppo. Ground-launched incendiary rockets account for almost all of the attacks recorded in 2019. Syria has not joined CCW Protocol III, but Russia is a party and legally bound by its provisions.

Since 2010, more than three dozen countries, along with the International Committee of the Red Cross, the UN Secretary-General, and non-governmental organisations, have called attention to the harm that incendiary weapons can cause to civilians, and many have called for revisiting CCW Protocol III.

That trend continued at the CCW’s 2018 annual meeting, which set aside dedicated time for discussion for the second year in a row. At least a dozen countries called for amendments to Protocol III, or at least a more in-depth review of its adequacy. Even states that did not favour strengthening the protocol expressed a willingness to keep the item on the CCW agenda. Russia’s veto, however, led to its removal for 2019.

Despite this setback, states remain free to express their views on incendiary weapons at First Committee and during other segments of the CCW’s November 2019 meeting. Indeed, they should intensify their work on the topic now so that they are prepared to take concrete action at the 2021 CCW Review Conference.

Recommendations

During First Committee, delegations should:
- Delegations should call for a formal review of Protocol III and amendments to address the negative humanitarian impacts of incendiary weapons; and
- Delegations should publicly condemn incendiary weapons use in Syria and urge the Syrian government and others to accede to the CCW and Protocol III.

Beyond First Committee, states should:
- At their annual meeting, CCW states parties should condemn incendiary weapon use and call for reviewing and strengthening Protocol III. They should set aside time in 2020 for in-depth discussions of the implementation and adequacy of Protocol III, with the eye to agreeing to a mandate to amend at the 2021 Review Conference.

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