

CLUSTER BAN NEWS

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Edition 1

Editorial: Make it Better, Not Worse

For most people, there are few—if any—opportunities in life to really make a difference—especially on a global scale, and especially when thousands and thousands of lives are at stake. This Dublin Diplomatic Conference on Cluster Munitions is without question such an opportunity.

More than 100 governments are gathered in Dublin, along with hundreds of representatives of non-governmental organizations united under the banner of the Cluster Munition Coalition, as well as the International Committee of the Red Cross, and UN agencies. They all have a common purpose: to get rid of cluster munitions in order to better protect civilians both during and after armed conflict.

The draft treaty text is strong, though there is plenty of room for improvement. But there is also a risk that the treaty might be weakened through exceptions to the ban, or delays, or loopholes in the ban—especially regarding the ban on assistance with prohibited acts.

Some governments are still struggling to answer this question: What is a cluster munition that causes unacceptable harm to civilians? The answer is simple: it is a weapon that has indiscriminate wide area effect and leaves behind

a large number of pieces of unexploded ordnance. Unless all such weapons are prohibited by the new Cluster Munitions Convention, we will have collectively failed in our common effort.

Likewise, a transition period in which banned weapons—that all agree cause unacceptable harm—can still be used is fundamentally at odds with the goals of the Oslo Process and the purpose of the treaty. And allowing State Parties to assist others with the use of banned cluster munitions during joint military operations would make a mockery of the treaty.

One of the most heartening aspects of the negotiations of the Mine Ban Treaty in Oslo in 1997 was that the treaty text got stronger, not weaker. This was only possible because government delegates stayed focused on the humanitarian objective, and did not subvert the greater humanitarian good to narrow, short-term military considerations.

We have high hopes that governments will again rise to the challenge, and working with civil society, deliver a gift to the world: a comprehensive ban treaty that also meets the needs of survivors and affected communities.



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Cluster Ban or Bust!

For the past two weeks a little blue bus emblazoned with “Ban Cluster Bombs” has been touring around Ireland and Northern Ireland on an awareness raising campaign. According to the Ban Bus blog (www.thebanbus.org), its mission is “to build a strong foundation of support for a ban in Ireland” ahead of the May 2008 treaty negotiations, a “make or break” opportunity to create a new international law against cluster bombs.

The Ban Bus initiators are two long-time campaigners: Australian photographer John Rodsted and Norwegian development expert Mette Eliseussen. With the support

of Handicap International (a field NGO that engages in both clearance and victim assistance), they have been working with NGOs in the Irish Cluster Munition Coalition to spread support for the cluster bomb treaty. As John and Mette explain, they “want the Irish people to be proud of their country and its role in creating a strong treaty.”

Using a poorly programmed GPS, the Ban Bus headed off to Kilkenny for its first engagement, but after being directed to a field 200 kilometers away the team decided



to pull out a map and follow the road signs. When they finally arrived at their location, John spoke about his experiences documenting the impact of cluster

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Key Question: What are your expectations for the Dublin Conference?



As a campaigner from a country where cluster bombs were used, I expect delegates will continue to **be steadfast, regardless of any diplomatic pressure from countries that are bent on derailing progress made so far**. Governments can make history and send a clear and unequivocal message to cluster victims that they want a new lease on life for them, one that would ensure their basic rights as human beings are respected, including, but not limited to, their right to livelihood, a secure environment, and adequate care and assistance. —*Abu-bakarr Sheriff, Sierra Leone Action Network on Small Arms*

The Conference is the opportunity to **demonstrate the international community's commitment to protecting human lives**. Since the beginning of the Oslo Process, the vast majority of countries from my region—Latin America—have shown great engagement toward international humanitarian law. I am confident that the global effort by these countries and so many others can have a greater impact than any superpower. —*María Pía Devoto, Association for Public Policies (Argentina)*



I do hope we get a powerful treaty that will be an additional framework for survivor assistance along with instruments such as the UN Convention on the Rights of Persons with Disabilities. But **those texts are only the beginning**. Through my work in the field, I see a pressing need for integrated and in-depth thinking as well as coordination between key actors helping survivors, their families, and communities. I call on all government representatives to pledge financial resources and to open their hearts to help survivors. —*Ny Nhar, Jesuit Service Cambodia*



Whole families, whole communities are affected by cluster bombs. I am convinced that all women and all mothers would share my opinion: **it is high time to stop the killing and maiming of our children and husbands**. States must take responsibility. —*Dušica Vučković, Ban Advocate, Wife of cluster munition survivor Slađan Vučković (Serbia)*



I would expect that all countries participating in the Dublin Conference will **negotiate in good faith**, paying special attention to the humanitarian sufferings caused by cluster munitions. In addition to all of us present here, thousands of civil society members worldwide are asking for a complete and immediate ban. —*Motoko Mekata, Japan Campaign to Ban Landmines*

Victim Assistance: No More Empty Promises

Throughout the Oslo Process, states have expressed unequivocal support for clear and comprehensive victim assistance (VA) provisions. They have repeatedly emphasized the importance of Article 5 and reiterated the need to strengthen its requirements to ensure that the needs of cluster munition survivors—the vast majority of whom are civilians—in over 24 countries are adequately addressed.

Although preventing further civilian cluster munition victims and providing support to those already affected is the main reason for the treaty's development, implementation and reporting obligations for VA in the draft Convention text are vague and almost non-existent.

The Dublin Conference presents states with an opportunity to heed the oft-repeated calls for the articulation of specific

implementation measures on VA.

The new Convention should include stronger emphasis on developing and executing measurable national plans—with priorities and timeframes—as well as methods to monitor and measure progress in their implementation.

Each affected state should determine the content of programs, timeframes, and priorities, as they are best suited to address their population's particular needs. However, these should be developed with the main stakeholder at the table—the victims of cluster munitions.

To ensure efficient use of resources and effective implementation, treaty provisions on VA should also be linked with existing human rights frameworks including the UN Convention on the Rights of Persons with

Disabilities. Sixteen of the 21 states intervening on VA at the Wellington Conference in February called for strong articulation of human rights principles in Article 5.

The needs of victims of cluster munitions should stay at the core of negotiations in Dublin, which should result in strong VA language protecting the rights of cluster munition victims and including them fully into all areas of their communities. —*Tracey Begley (Survivor Corps)*

Quick Facts

→280 civil society campaigners from 64 countries are registered to attend the Dublin Conference.

→128 states are registered to attend the Dublin Conference. Of those, 109 are registered as participants and 19 as observers.

Keep the “C”: Prohibition on Assistance

The prohibition on assistance provision, Article 1(c) of the draft treaty text, is essential to achieving the goals of the Cluster Munitions Convention. This provision forbids States Parties from “assisting, inducing, or encouraging” states not party with any act prohibited under the treaty. Some states have claimed that the provision must be deleted or severely weakened because of concerns that it will have negative implications for joint military operations with states not party that continue to possess and retain the right to use cluster munitions. The purpose of the convention, legal precedent, and practical solutions to the problem, however, all argue for keeping the provision.

The purpose of the treaty is to minimize the humanitarian harm caused by cluster munitions. To advance that goal, states who are party to this treaty should not in any circumstances support allied use of the prohibited weapons. The 1(c) provision will not only make it logistically more difficult for states not party to use the weapon if their allies no longer provide assistance, but states not party are also likely to feel constricted in their use out of respect for their allies’ legal obligations.

Strong legal precedent in weapons

conventions supports the inclusion of the prohibition on assistance provision. The Mine Ban Treaty and Chemical Weapons Convention have identical obligations, and the Environmental Modification Treaty’s requirement is virtually the same. At least four other weapons treaties (the Nuclear Non-Proliferation Treaty, Seabed Arms Control Treaty, Biological Weapons Convention, and Comprehensive Nuclear Test Ban Treaty) include similar provisions. To exclude or gut the provision would be to ignore the lessons learned from the development of international humanitarian law over the past few decades, and would jeopardize the impact of the Cluster Munitions Convention.

“Mere participation” in joint military operations, even with states not party..., is not prohibited.

States’ concerns with the practical effects of the provision on joint operations are overstated. Government legal experts frequently reconcile states’ different legal frameworks without fracturing alliances. States have approached interoperability

problems under the Mine Ban Treaty, for example, in two ways. First, several states parties have national declarations and laws addressing potential criminal responsibility of soldiers in joint operations. Second, they have engaged in extensive discussions about what the prohibition on assistance means. Most Mine Ban Treaty states parties have made clear that “mere participation” in joint military operations, even with states not party that stockpile antipersonnel mines, is not prohibited.

Finally, recent actions of the United States, the main ally with which challengers of the provision are concerned, suggest that the military utility of cluster munitions is declining. The United States has publicly said that it has not used cluster munitions in Afghanistan since 2002 or in Iraq since 2003.

The assistance provision as it currently stands in Article 1(c)—which is critical to the purpose of the treaty and which is based on extensive legal precedent—will not interfere with joint operations to the extent some states claim. —*Simon Conway (Landmine Action UK), Bonnie Docherty (Human Rights Watch), and James Turton (Austcare)*

Cluster Ban or Bust!

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munitions in Afghanistan, Kosovo, Lebanon, and elsewhere. He showed his photographs along with bomb clearance gear provided by Handicap International. Mette laid out information as well as badges and stickers for people to take. The Irish Lebanese Cultural Foundation organized the event, which had a small, but quality turnout including the mayor of Kilkenny.

In Limerick, the Ban Bus stopped at the local university where John and Mette spoke to a full house of students and other interested locals.

In Galway, the Ban Bus shared the stage at the city museum with Aine Bonner, an Irish

reporter whose investigations broke the story of the Irish Pension Fund’s investment in companies linked to the production of cluster bombs and other weapons. Her piece triggered nationwide attention and in March 2008 the Irish pension fund announced its intent to divest from cluster munitions. A few weeks later, the New Zealand Superannuation Fund made a similar announcement that was no doubt influenced by Ireland’s decision (as well as by the negative publicity received during the Wellington Conference on Cluster Munitions in February 2008).

Upon return from its tour, the Ban Bus brought one simple message back from the people of Ireland to the government delegates gathered in Dublin: Cluster Ban or Bust!! —*Mary Wareham (Oxfam New Zealand)*



**BAN
CLUSTER
BOMBS**

**MAKE
IT HAPPEN**



Announcements

TODAY

Photo Exhibition: Make It Happen, 1.30-2pm, 3rd Floor Patio, Croke Park

Lunchtime Talk: A New Treaty on Cluster Munitions: Perspectives from Lao PDR, 2-3pm, Ash Suite, Croke Park

TOMORROW

Panel Debate: Looking Survivors in the Eye: What Will Make Victim Assistance Really Work, 1-2pm, Ash Suite, Croke Park

ICRC Event: 2-3pm, Ash Suite, Croke Park

Ms. Simona Beltrami
Ms. Rachel Good
Ms. Amélie Chayer
Ms. Roos Boer
Ms. Sarah Njeri

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Cluster Ban News is a product of the Cluster Munition Coalition. We welcome comments or feedback, including letters to the editor or commentaries, from all delegates to the Dublin Conference on Cluster Munitions. These can be provided to us at the Cusack Suite or by emailing clusterbannews@gmail.com.

The World is Watching: Global Day of Action

Campaigners in over 50 countries hosted events to coincide with the CMC's second Global Day of Action Against Cluster Munitions on 19 April 2008.

Argentina, Australia, Austria, Azerbaijan, Bangladesh, Belgium, Brazil, Cambodia, Canada, Chile, Croatia, Denmark, Fiji, Finland, France, Gambia, Germany, Ghana, India, Ireland, Italy, Japan, Kenya, Kosovo, Lebanon, Luxembourg, Mali, Mexico, Nepal, the Netherlands, New Zealand, Nigeria, Norway, Pakistan, Philippines, Poland, Senegal, Sierra Leone, Somalia, South Africa, Spain, Sudan, Sweden, Switzerland, Syria, Tajikistan, Turkey, Uganda, USA, UK, Vanuatu, and Zambia.

See more photos at <http://www.flickr.com/photos/clustermunitioncoalition>



Ireland



Senegal



New Zealand



Turkey



Japan



South Africa



Germany



Croatia



India