



ICRC

**Meeting of the High Contracting Parties to the
Convention on Prohibitions or Restrictions on the Use of Certain
Conventional Weapons which may be Deemed to be Excessively Injurious
or to Have Indiscriminate Effects (CCW)**

21-23 November 2018

**Statement of the International Committee of the Red Cross (ICRC) under
Agenda item 10 'Emerging Issues'**

Thank you, Mr Chairperson,

I am taking the floor on the issues of explosive weapons in populated areas and developments in science and technology.

On **explosive weapons in populated areas**, the ICRC welcomes the large number of States that spoke on this issue, and in particular those that went beyond expressing concern to suggesting concrete practical measures to address this grave humanitarian problem.

The use of heavy explosive weapons in populated areas continues to have devastating effects on civilians. These effects are not limited to civilians and civilian objects present in the vicinity of the attack, but are often widespread in both space and time and affect a much larger part of the population, in particular when essential services such as water and sanitation, electricity, and healthcare, are disrupted due to damage or destruction to critical civilian infrastructure. These effects are foreseeable and preventable. And warring parties must adapt their policies and practices regarding the choice of weapons in populated areas to minimize civilian harm.

Since 2011 the ICRC has been calling on States and parties to armed conflict to avoid the use of explosive weapons with a wide impact area in densely populated areas due to the significant likelihood of indiscriminate effects, and despite the absence of an express prohibition for specific types of weapons.

This avoidance principle suggests a presumption of non-use of such weapons due to the high risk of harm to civilians, which could be reversed if sufficient mitigation measures could be taken to reduce such risk to an acceptable level.

The ICRC welcomes all efforts aimed at addressing this pressing humanitarian issue, including by means of a political declaration, an aim towards which many States, under the leadership of Austria and Ireland, and also civil society, are working.

We are also thankful for Germany's "EWIPA Talks" initiative, to which we were pleased to contribute, together with the GICHD. The workshops held last June and September in the context of this initiative helped raise awareness and clarify key aspects of the issue of EWIPA. We welcome the Working Paper submitted by Germany outlining the essence of these discussions, and the paper's call for better compliance with relevant IHL rules.

The severe consequences on civilians – both direct and indirect – of the use of explosive weapons in populated areas in recent and ongoing armed conflicts raise serious questions regarding how States and parties to armed conflicts are interpreting and applying international humanitarian law (IHL) rules regarding the choice of weapons when conducting hostilities in populated areas, in particular the prohibitions of indiscriminate and disproportionate attacks. We invite High Contracting Parties to share how they are interpreting and operationalizing these rules in the context of warfare in populated areas, and to share their relevant policies and practices. This will help to identify good practices and facilitate better compliance with IHL in the choice of weapons in urban warfare.

Allow me also to address one aspect of Germany's working paper:

The paper calls on States to "look to minimise the use of explosive weapons with a wide impact area in populated areas as far as feasible", which reflects in part the IHL rule on precautions in attack. While this call is commendable, the ICRC would have wished it to be stronger. The devastating humanitarian impact the use of heavy explosive weapons in densely populated areas has, the high likelihood that they will have indiscriminate effects, and that their use will fall foul of IHL rules on distinction and proportionality, demonstrate the need to avoid the use of such weapons altogether.

The (non-exhaustive) compilation of good practices in Germany's working paper provides a good basis for further discussion. In particular, it demonstrates the need for strict limitations on the use of explosive weapons with wide area effects. We look forward to a continued dialogue on this topic in the CCW, including in a possible open-ended informal working group next year.

We heard some delegations yesterday and today question whether the CCW is an appropriate forum to discuss explosive weapons in populated areas. In the ICRC's view, this issue is pertinent for the CCW as it concerns the use of certain weapons, namely explosive weapons that have wide area effects, and which are prone to indiscriminate effects due to their inherent characteristics and the particular environment in which they are used. As such, explosive weapons in populated areas is not merely a question of how these weapons are used. Open and transparent discussion in an inclusive forum with broad membership, such as the CCW, is needed to address their significant humanitarian consequences.

Mr. Chairperson,

On **Developments in Science and Technology**, the ICRC is pleased to see the attention given to the implications of wider developments in science and technology for the CCW, and in this respect we welcome the Working Paper submitted by India and Switzerland, and building on the July 2018 report by the UN Secretary General on "Current developments in science and technology and their potential impact on international security and disarmament efforts."

The ICRC has long been attentive to assessing the implications of new weapons technologies, their compatibility with international humanitarian law, and the humanitarian concerns they may bring. These considerations were part of the ICRC's efforts in the late 1970's to promote specific legal regulation of weapons that are excessively injurious or having indiscriminate effects – which preceded adoption of the CCW – as well its work towards the prohibition of blinding laser weapons, and more recently in calling for limits on autonomy in weapon systems.

Dual-use science and technology developments – whether in robotics, artificial intelligence, information and communication technology, chemistry, biology, directed energy technology, or materials technology – are not, in themselves, cause for concern.

However, it is critical to monitor whether their military application in new weapon systems, and for new means of injury and destruction, might raise new risks of indiscriminate effects on civilians, and

unnecessary suffering for combatants. Here the CCW has a clear role to play, both in assessing the impact of military technology developments on existing Protocols, and in assessing new weapon technologies that may raise novel concerns not yet addressed by the CCW, as is the case with autonomous weapon systems.

To conclude, the ICRC reiterates its remarks made at the General Assembly First Committee almost thirty years ago (in 1991), which seem particularly relevant here today: “Both the ICRC and disarmament specialists work for a common goal, namely, that of preventing the potentially disastrous effects of the use in war of unrestrained technological development.” We look forward to continuing to support each other in this endeavour.

Thank you.