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Weapons and international humanitarian law
(Report on the implementation of Resolution 7 of the 2013 Council of
Delegates)

Progress report

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EXECUTIVE SUMMARY

Resolution 7 of the 2013 Council of Delegates called on States to take action on a wide range of weapons issues. The Resolution also committed all components of the International Red Cross and Red Crescent Movement (the Movement) to increase their efforts to implement the 2009 Movement Strategy on Landmines, Cluster Munitions and other Explosive Remnants of War (the Movement Strategy). This report summarizes key developments from November 2013 to November 2015, reviews action by the International Committee of the Red Cross (ICRC) and other components of the Movement, and highlights key opportunities and challenges for each weapons issue.

Significant progress has been made on **responsible arms transfers** following the entry into force of the Arms Trade Treaty in December 2014. As of 10 August 2015, 72 States had ratified or acceded to it. The ICRC and National Red Cross and Red Crescent Societies (National Societies) have continued to promote the adoption of effective controls on arms transfers. However, if the Arms Trade Treaty is to be effective, many more States must join it.

There has been a steady increase in the number of States adhering to treaties governing **anti-personnel mines, cluster munitions and explosive remnants of war**. At the Third Review Conference of the Anti-Personnel Mine Ban Convention in 2014, and the First Review Conference to the Convention on Cluster Munitions in 2015, States Parties adopted strong action plans with concrete commitments to fulfil their obligations under these Conventions. The ICRC continued to encourage full implementation of these treaties, while National Societies engaged in a range of activities to implement the Movement Strategy.

Global awareness of the humanitarian issues raised by the use of **explosive weapons in populated areas** has been growing. The ICRC has been implementing a multidisciplinary strategy involving its experts in protection, international humanitarian law (IHL), water and habitat, health, weapon contamination, armed forces and communication. In the coming years, the ICRC will be working towards making appropriate policy recommendations that build on the Movement's position.

Debates on the legal and ethical issues raised by **autonomous weapon systems** have expanded dramatically, and the ICRC has actively contributed to these debates, including by convening an international expert meeting in March 2014. In view of the current pace of technological developments, the components of the Movement should consider urging governments to assess the legal and ethical implications of these weapons.

The use of **armed unmanned aerial vehicles (or "drones")** continues, and the ICRC has remained actively engaged in relevant legal debates. With expanding acquisition and use of armed drones by various States, it is important to continue to monitor the humanitarian impact of armed drone attacks.

"Cyber weapons" and the hostile use of cyberspace are also drawing increasing attention. The ICRC has continued to engage in academic and public debates as well as bilateral dialogue with States. In the coming years, it will focus its attention on a number of areas, including developing a greater understanding of the humanitarian impact of cyber warfare.

Discussions of these new technologies of warfare have also brought renewed attention to States' obligation under Additional Protocol I, Article 36, to carry out rigorous **legal reviews of new weapons**. The ICRC has engaged in dialogue with a number of States in connection with its plan to update its *Guide to the Legal Review of New Weapons, Means and Methods of Warfare* in 2016.

Chemical and biological weapons have remained high on the agenda, in particular given the continued use of chemical weapons in Syria. The ICRC will continue to engage bilaterally and

in multilateral forums to urge States and parties to armed conflicts to ensure respect for the prohibition. The norm prohibiting the use of biological weapons remains strong, and the Eighth Review Conference of the States party to the Biological and Toxin Weapons Convention in December 2016 will provide an opportunity for components of the Movement to encourage States to consider measures to further strengthen the treaty.

INTRODUCTION

Resolution 7 adopted by the 2013 Council of Delegates calls on States and components of the Movement to take specific action on a range of weapons of humanitarian concern. This report summarizes the key developments over the past two years, including activities undertaken by the Movement. Further, it highlights future opportunities and challenges for each of the different fields.

The ICRC has submitted a separate report on the implementation of Resolutions 1 on nuclear weapons adopted by the 2011 and 2013 Council of Delegates.

Further information on the ICRC's analysis of the challenges under IHL posed by arms transfers, the use of explosive weapons in populated areas, new technologies of warfare and nuclear weapons can be found in the ICRC's report to the 32nd International Conference of the Red Cross and Red Crescent (International Conference) on IHL and the challenges of contemporary armed conflicts.

1. RESPONSIBLE ARMS TRANSFERS

Operative paragraph 1 of Resolution 7 "*calls upon* States to promptly sign and ratify the Arms Trade Treaty and to adopt stringent national control systems and legislation to ensure compliance with the Treaty's norms."

Key developments

The **Arms Trade Treaty (ATT)** was formally adopted by the UN General Assembly by a large majority of States on 2 April 2013. It was opened for signature at the UN in New York on 3 June 2013 and entered into force on 24 December 2014. As of 10 August 2015, 72 States had ratified or acceded to the ATT, and a further 59 States had signed but not yet ratified it.

In the ATT, States set agreed common global standards for the transfer of conventional arms, their parts and components, and ammunition, with the express purpose of reducing human suffering. The ATT requires States Parties to integrate considerations of respect for IHL, among other criteria, into their arms transfer decisions, thereby responding to the Movement's and the International Conference's repeated calls on States to make respect for IHL one of the important criteria on which arms transfer decisions are assessed.¹ Indeed, a key principle underpinning the ATT, and explicitly recognized in its preamble, is the recognition of each State's duty under the Geneva Conventions to respect and ensure respect for international humanitarian law. The ATT also recognizes the duty of States to respect and ensure respect for human rights.

Movement action 2013-2015

The ICRC and National Societies have continued to promote public awareness of the human cost of poorly regulated transfers of arms and ammunition and the adoption of effective controls

¹ See, in particular, Resolution 2, "4-year action plan for the implementation of international humanitarian law," Objective 5 of the 31st International Conference, 1 December 2011.

on such transfers at the global level based on respect for IHL, notably through the following activities:

Both in the lead-up to and in the aftermath of the adoption of the ATT, many National Societies appealed to relevant national institutions and organized events such as seminars. By way of example, the Bulgarian Red Cross held seminars, aimed at encouraging effective control on small-arms and light-weapons proliferation.

Several National Societies reported having organized events to raise public awareness. Among them, the New Zealand Red Cross ran a campaign to raise awareness of the ATT, in collaboration with Oxfam and Amnesty International. It also organized a public seminar at Victoria University of Wellington and made basic information on the ATT available to the public on its website. The Belgian Red Cross also organized many events, including university conferences. Some National Societies, such as the Portuguese Red Cross and the Netherlands Red Cross, published articles on the topic, notably on their websites.

The ICRC organized meetings on the ATT for member States of the Economic Community of West African States (ECOWAS), Regional Centre on Small Arms (RECSEA) and the Caribbean Community (CARICOM), and promoted the ATT in regional meetings on IHL implementation for States in East Asia and South-East Asia, Eastern Europe and Central Asia, and Latin America. The ICRC and the Norwegian Red Cross co-hosted two workshops in Geneva to assist National Societies in promoting ratification and implementation of the ATT, in September 2013 and June 2015.

The ICRC was a high-level participant at the ATT signing ceremony in New York on 3 June 2013, in an ATT panel during the UN General Assembly and in a special session of the UN Security Council on preventing the illicit trade in small arms and light weapons in September 2013.

European National Societies such as the French Red Cross, Finnish Red Cross and British Red Cross encouraged their governments to ratify the ATT, notably by sending letters to their ministries.

In August 2015, the ICRC attended the First Conference of States party to the ATT, in Cancún, Mexico, where it stressed the importance of transparency and cooperation for effective implementation of the ATT in accordance with its object and purpose.

The ICRC has prepared a number of publications to raise awareness of the ATT's requirements and its humanitarian underpinnings. These include a video, an updated practical guide on applying IHL criteria in arms transfer decisions and an overview of the ATT's requirements from a humanitarian perspective.²

Future opportunities and challenges

With weapons continuing to flow into areas of acute crisis where serious violations of IHL and human rights law are ongoing, the ATT's entry into force has provided an historic opportunity for the Movement to support the global shift towards responsible arms transfer practices. If the ATT is to be effective in ensuring that weapons do not end up in the hands of those who would use them to commit war crimes and other serious crimes, many more States must join the ATT, notably those involved in the arms trade.

² ICRC, practical guide on *Arms transfer decisions: Applying international humanitarian law and human rights law criteria*, ICRC, Geneva, forthcoming; ICRC, *Understanding the ATT from a humanitarian perspective*, ICRC, Geneva, forthcoming.

Components of the Movement should therefore urge broad adherence of States to the ATT and faithful implementation of its obligations, as appropriate and according to their capacities, and take into account States' duty to ensure respect for IHL. National Societies can use the above-mentioned ICRC publications in their activities to promote the ATT. A number of National Societies have already indicated their commitment to continue monitoring proper application of ATT in their countries and supporting their governments' efforts to strengthen universal accession and implementation.

In addition, governments that are party to regional agreements establishing controls on conventional arms³ should be encouraged to fully implement them.

The ICRC will continue to promote the ATT and, where relevant, regional instruments at regional and national seminars on IHL implementation planned by the ICRC in 2016, as well as at other events.

2. LANDMINES, CLUSTER MUNITIONS AND OTHER EXPLOSIVE REMNANTS OF WAR

Operative paragraph 2 of Resolution 7 "*requests* that all components of the Movement increase their efforts – according to their respective capacities – to implement the 2009 Movement Strategy on Landmines, Cluster Munitions and other Explosive Remnants of War, and in particular to promote the norms of international humanitarian law applicable to these weapons, to conduct activities aimed at reducing the impact of weapon contamination, and to provide victims of weapons with comprehensive assistance, and *requests* that the components of the Movement provide information on the implementation of the Movement Strategy to the ICRC for monitoring and reporting purposes, in accordance with Resolution 6 of the 2009 Council of Delegates."

In addition, operative paragraph 3 of Resolution 7 "*encourages* National Societies, to the extent possible, to participate in the Third Review Conference of the Anti-Personnel Mine Ban Convention in Maputo, Mozambique in 2014, and in the First Review Conference of the Convention on Cluster Munitions in 2015, and to use the periods leading up to these events as opportunities to advance the relevant objectives of the Movement Strategy."

Key developments

Over the past two years there has been a steady increase in the number of States adhering to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (APMBC), the Convention on Cluster Munitions (CCM), and Protocol V on Explosive Remnants of War (ERW) of 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).

The **CCM** had 93 States Parties as of 10 August, nine of which have joined since the 2013 Council of Delegates. Overall, implementation has been impressive, particularly in the area of stockpile destruction: 22 States Parties have already destroyed 1.16 million stockpiled cluster munitions containing nearly 140 million submunitions – representing over 80 per cent of reported stockpiles – in conformity with the deadlines to complete destruction of all stockpiles established by the CCM. Clearance of cluster-munition remnants is also progressing, with five States Parties having declared compliance with their clearance obligations and the eleven

³ See EU Council Common Position Defining Common Rules Governing Control of Exports of Military Technology and Equipment, 2008; ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials, 2006; Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition and All Parts and Components That Can Be Used for Their Manufacture, Repair and Assembly (Kinshasa Convention), 2010 – not yet in force.

other affected States Parties making progress towards this goal. At the CCM's First Review Conference, held in Dubrovnik, Croatia in September 2015, States Parties took stock of progress made in the universalization and implementation of the CCM and adopted a strong action plan for the coming years.

At the Third Review Conference of the **APMBC** in 2014, States Parties adopted the "Maputo Action Plan for the period from 2014 to 2019, in which they notably affirmed their ambition to ensure that by 2025: their respective time-bound obligations under the APMBC would be completed; there would be no new anti-personnel mine victims; and mine survivors would benefit from full and equal participation in their societies. Since the 2013 Council of Delegates, the number of States Parties has increased by 1 and now stands at 162. An important development relevant to universalization of the APMBC was the announcement by the United States of America in 2014 of its new policy on anti-personnel mines, under which it is taking a number of steps with the aim of eventually acceding to the APMBC, including ending its production and acquisition of new anti-personnel mines and prohibiting the use of anti-personnel mines by its forces everywhere except the Korean peninsula.

Protocol V of the CCW, which establishes responsibilities for protecting civilians from the dangers posed by **ERW**, now has 87 States Parties, with three having joined the Protocol in 2014.

Overall, the norms set out by these treaties remain strong, with many States Parties condemning or expressing serious concern in response to reports that anti-personnel mines and cluster munitions have been used in several ongoing conflicts. The increased linkages between these treaties and the United Nations Convention on the Rights of Persons with Disabilities has helped combine efforts in a more holistic approach to addressing the barriers facing those who live with disabilities and impairment.

Movement action 2013-2015

ICRC

The ICRC continued its efforts to encourage adherence to and full implementation of the IHL treaties governing landmines, cluster munitions and ERW. Among other activities, in June 2015 it co-organized, with the government of Zambia, a workshop on the CCM for States in southern Africa, and in 2014-15 presented the requirements of the CCM at six regional workshops for CCM signatory States organized by the United Nations Development Programme.

In 2013 and 2014, the ICRC and the Commission of the African Union held workshops on mine clearance and victim assistance for government experts from some 20 African Union Member States. At the workshops, recommendations were adopted for addressing weapon contamination and the humanitarian needs of affected people. Mines, cluster munitions and ERW were also discussed at a number of ICRC-organized national and regional IHL seminars. Legal assistance, including ICRC-developed model legislation, was provided to several countries to help them develop the national laws required by the CCM and the APMBC.

The ICRC directly implemented preventive mine-action activities in 31 contexts. Among other things, it provided expert guidance, training and technical know-how to government bodies responsible for mine action. It also gave support to National Societies for their mine-action programmes and safety training to help them reduce the dangers they face while working in weapon-contaminated areas.

The ICRC's physical rehabilitation assistance –both the physical rehabilitation programmes (PRP) and the Special Fund for the Disabled (SFD) – continued to strengthen national physical

rehabilitation services, with the aim of improving the accessibility and quality of these services and developing local capacities to ensure their sustainability. In 2014, the ICRC's PRP assisted 112 projects in 27 countries and one territory, providing 6,530 prostheses and 277 orthoses to mine/ERW survivors, and ensured access to appropriate physical therapy for 11,558 mine/ERW survivors, among other forms of assistance. The PRP group also cooperated with the relevant authorities in several countries on the development and implementation of a national plan of action for the provision of physical rehabilitation services. As regards the SFD, in 2014 it ensured the continuity of support for physical rehabilitation services for the disabled, providing technical, financial and material assistance to centres formerly supported by the ICRC in 17 countries (nine in Africa, six in the Americas, and one each in Tajikistan and Viet Nam).

National Societies

National Societies also engaged in a range of activities to implement the Movement Strategy by actively promoting adherence to and implementation of the above-mentioned treaties, for example through IHL training sessions and awareness campaigns. National Societies advocated for national laws to ban landmines and cluster munitions in Afghanistan, Bulgaria, Colombia, Iraq, Lebanon, Mali, Nepal, and Sierra Leone.

In March 2015, the Red Cross of Viet Nam, along with the Norwegian Red Cross and the ICRC, hosted a workshop to further the implementation of the Movement Strategy in South-East Asia. It was attended by nine National Societies from South-East Asia and other regions, as well as the ICRC and the International Federation of Red Cross and Red Crescent Societies. The workshop adopted a regional plan of action and identified focal points for follow-up and further coordination.

On the operational side, National Societies – some with support from the ICRC and assistance from partner National Societies – have continued to provide first aid and physical rehabilitation services. They are also involved in data collection on victims and survivors and information campaigns on victims' rights. Many also engage in risk reduction activities. More than 20 National Societies have maintained their involvement in risk-education projects and programmes to help victims and/or their families take up income-generating activities.

One example is in Colombia, where over 10,000 victims of anti-personnel mines and other ERW have been recorded. The Colombian Red Cross has played an important role in assisting populations living in weapon-contaminated areas, including those located in conflict zones. In 2012 alone, it reached out to over 6,000 beneficiaries through a range of mine-action programmes.

Future opportunities and challenges

The coming years will present a number of challenges to efforts to definitively put an end to new casualties and ongoing suffering caused by anti-personnel mines, cluster munitions and ERW. In accordance with the Movement Strategy, components of the Movement should, as appropriate, consider giving priority to:

- reminding States party to the APMB and CCM to live up to the commitments they made in the Maputo and Dubrovnik action plans;
- using the opportunity of the 2016 CCW Review Conference to advance the universalization and implementation of Protocol V on ERW, and to re-examine how to address the humanitarian consequences of anti-vehicle mines;
- reminding States to remain fully committed to implementing their obligations under the above-mentioned treaties, including through the mobilization of sufficient resources;
- promoting universal adherence to the above-mentioned treaties, bearing in mind that a number of States not yet party still possess substantial stockpiles of anti-personnel

mines and/or cluster munitions, that there have been reports of use of these weapons by some States and non-State actors in recent years, and that ERW continue to claim high numbers of civilian victims every year;

- working to ensure that national legislation and regulations to implement the above-mentioned treaties are consistent with the object and purpose of the treaties and do not weaken their humanitarian goals;
- working to overcome the lack of or poor access to services faced by many victims, particularly those living in remote or rural areas;
- working to overcome delays faced by some States Parties in completing their clearance obligations under the APMBC; in many countries these delays are contributing to the civilian population's existing vulnerabilities and its inability to sustain their livelihood, due to land denial.

3. EXPLOSIVE WEAPONS IN POPULATED AREAS

Operative paragraph 4 of Resolution 7 of the 2013 Council of Delegates *“calls upon* States to strengthen the protection of civilians from the indiscriminate use and effects of explosive weapons, including through the rigorous application of existing rules of international humanitarian law, and to avoid using explosive weapons with a wide impact area in densely populated areas.”

The Movement's call echoes the ICRC's position on explosive weapons in populated areas, first published in its report on IHL and the challenges of contemporary armed conflicts presented to the 31st International Conference in 2011, in which it stated that “due to the significant likelihood of indiscriminate effects and despite the absence of an express legal prohibition for specific types of weapons, the ICRC considers that explosive weapons with a wide impact area should be avoided in densely populated areas.”

Key developments

Over the past two years, global awareness of the humanitarian issues raised by the use of explosive weapons in populated areas has been growing. Recent armed conflicts have confirmed that there is a strong likelihood of indiscriminate effects when explosive weapons with wide-area effects are used against military objectives located in densely populated areas. Such use is a major cause of civilian death and injury, and of damage to civilian homes and critical infrastructure, with consequent disruption to essential services, such as health care and water distribution, and displacement of the civilian population.

The ICRC has continued to raise its concern publicly about these consequences and make known its position in various forums, including the UN General Assembly and CCW meetings.

The issue of explosive weapons in populated areas featured prominently in the reports of the UN Secretary-General on the protection of civilians in armed conflict in 2013 and 2015. Non-governmental organizations (NGOs), including those under the umbrella of the International Network on Explosive Weapons have also played an important role in raising awareness of the human costs of using explosive weapons in populated areas.

Movement action 2013-2015

The ICRC has been implementing a multidisciplinary strategy on explosive weapons in populated areas, involving its experts in protection, IHL, water and habitat, health, weapon contamination, armed forces and communication. The ICRC is taking an evidence-based approach to this issue, notably through: documentation by a select number of its field delegations of the immediate and long-term incidental effects on civilians and civilian

infrastructure of the use of explosive weapons in populated areas; analysis of the foreseeable design-dependent effects of certain explosive weapons, based on their technical characteristics; and dialogue with armed forces on relevant military policy and practice.

In February 2015, the ICRC convened a meeting of experts on the humanitarian, legal, technical and military aspects of explosive weapons in populated areas. It brought together government experts from 17 States and 11 other experts, including weapons experts, and representatives of UN agencies and NGOs. A report on the meeting was published in June 2015,⁴ together with an infographic highlighting the direct and indirect effects of explosive weapons for civilians.

The ICRC participated in expert meetings on this issue organized by the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), the government of Norway in Oslo in June 2014 and the government of Austria in Vienna in September 2015, among other events.

In November 2014, the Norwegian Red Cross organized a seminar on urban warfare, focusing on operational and legal issues and addressing, notably, the use of explosive weapons in populated areas.

Future opportunities and challenges

With hostilities increasingly being conducted in populated areas, attention to the high costs to civilians of the use of explosive weapons in such environments is likely to continue to grow in the coming years, including on international and national policy agendas. The ICRC will continue to work on this issue in accordance with its strategy, with the ultimate aim of making appropriate policy recommendations that build on the Movement's position.

As a priority, among other steps, the ICRC will continue to:

- document and raise awareness of the effects of the use of explosive weapons in populated areas, including their reverberating effects on essential services and on the well-being of the civilian population;
- engage in dialogue with armed forces on existing military policies and practices relevant to the choice of means and methods of warfare in populated areas, in particular explosive weapons that have wide-area effects, with a view to identifying possible best practices aimed at minimizing the effects of these weapons on civilians and civilian objects;
- engage in dialogue with States and other stakeholders on the basis of the Movement's position and on the relevant IHL rules, with a view to determining whether there is a need to clarify the interpretation of these rules as they apply to the use of explosive weapons in populated areas.

National Societies can contribute to these efforts, as appropriate and according to their capacities, by raising awareness of the humanitarian consequences of the use of explosive weapons in populated areas and by encouraging their governments to take up the Movement's position on these weapons.

4. NEW TECHNOLOGIES OF WARFARE

Operative paragraph 5 of Resolution 7 of the 2013 Council of Delegates *calls upon* States to fully consider the potential humanitarian impact of new and developing technologies of warfare, including remote-controlled, automated and autonomous weapon systems and "cyber

⁴ ICRC, *Explosive Weapons in Populated Areas: Humanitarian, Legal, Technical and Military Aspects – Report of the ICRC Expert Meeting, Chavannes-de-Bogis, Switzerland, 24-25 February 2015*, ICRC, Geneva, 15 June 2015.

weapons,” and to subject these weapons to rigorous legal reviews in accordance with the obligation set forth in Additional Protocol I (Article 36).”

The following sections present key developments, Movement action and future opportunities and challenges for each of the following themes: autonomous weapon systems, armed unmanned aerial vehicles, cyber weapons and legal reviews of new weapons.

4.1 Autonomous weapon systems

Key developments

Debates on the technical, legal, ethical, military and international-security issues raised by autonomous weapon systems have expanded dramatically in recent years in various diplomatic, military, scientific, academic and public forums. These have included two informal meetings of experts on “lethal autonomous weapon systems” convened by the States party to the CCW in May 2014 and April 2015 to consider the range of issues raised by these weapons. A proposal supported by a number of States for the formalization of such meetings in 2016, through the establishment of a Group of Governmental Experts, was to be considered at the Meeting of the States party to the CCW in November 2015.

The legal and ethical implications of “lethal autonomous robotics” have also been discussed in the UN Human Rights Council, against the backdrop of the April 2013 report on that topic by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions. In the report, the Special Rapporteur called for a moratorium on the development of these weapons. The collective of NGOs under the banner of the Campaign to Stop Killer Robots, whose efforts have helped bring the attention of States to the issue of autonomous weapon systems, has continued to advocate for negotiating a ban on “fully autonomous weapon systems” via a new Protocol to the CCW. Similarly, in July 2015, prominent scientists and researchers in robotics and artificial intelligence called for a ban on “offensive autonomous weapons beyond meaningful human control.”

Views on autonomous weapon systems, including the ICRC’s views, continue to evolve as a better understanding is gained of current and potential technological capabilities, the military purpose of autonomy in weapons and the resulting issues regarding compliance with IHL and ethical acceptability.

Movement action 2013-2015

Since raising the issue for the first time at the 31st International Conference in 2011, the ICRC has further developed, and published, its views on autonomous weapon systems.⁵ It has actively contributed to shaping debates about autonomous weapon systems, notably by calling on States to focus discussions on weapons that have autonomy in the critical functions of selecting and attacking targets and that exist or are currently being developed, and by highlighting its concerns regarding the use of such weapons in accordance with IHL. The ICRC has also raised questions regarding the acceptability of autonomous weapon systems under the principles of humanity and the dictates of public conscience.

In March 2014 the ICRC convened an expert meeting bringing representatives from 21 States together with independent experts for a discussion of the key technical, military, legal and

⁵ See e.g. ICRC, “Autonomous weapon systems – Q&A,” 12 November 2014, <https://www.icrc.org/en/document/autonomous-weapon-systems-challenge-human-control-over-use-force>.

ethical issues. It presented a summary report of the meeting to the first CCW informal meeting of experts in May 2014, and published a full report in November 2014.⁶

The ICRC also actively participated in the 2014 and 2015 CCW informal meetings of experts, engaged in dialogue with individual States to promote its views and participated in an expert group convened by the UN Institute for Disarmament Research, among other expert meetings in the period from 2013 to 2015.

Some National Societies have also been active on this topic. For example, in March 2014 the Canadian Red Cross Society held a discussion on “*Killer Robots: The Future of Weaponry & International Humanitarian Law*.” In February 2015 the Australian Red Cross promoted the Movement’s views on autonomous weapon systems in its contribution to an inquiry by the Senate Foreign Affairs, Defence and Trade References Committee into the potential use of unmanned air, maritime and land platforms by the Australian Defence Force.

Future opportunities and challenges

In view of the current pace of technological developments, the components of the Movement should, as appropriate and according to their capacities, consider urging governments to urgently assess the legal and ethical implications of autonomous weapon systems.

Discussions among government experts in the CCW meetings in 2014 and 2015 have shown that there is broad agreement that effective human control over the critical functions of weapon systems must be retained, whether for legal, ethical or policy reasons. Continued expert discussions on autonomous weapons among States Parties in the lead-up to the Fifth Review Conference of the CCW in November 2016 present the opportunity for States to set specific limits on autonomy in weapon systems, so as to ensure that effective human control is maintained over the use of force.

In 2016, the ICRC plans to convene a second expert meeting on autonomous weapon systems to more closely examine existing and emerging autonomous weapon systems, and the legal and ethical limits on the loss of human control over the use of force in weapon systems. It will also continue to contribute to informing discussions of these issues at the CCW meetings and elsewhere.

4.2 Armed unmanned aerial vehicles (drones)

Key developments

Over the past two years there has been increasing interest in the use of armed unmanned aerial vehicles (or “drones”). Proliferation of these systems has been rapid, with 90 countries now known to be developing or acquiring drone technology. A significant proportion of these countries possess armed drones or drones capable of being armed. At the same time there is growing attention from the international community to the implications of the use of armed drones, in particular the humanitarian implications, the legal issues under IHL and international human rights law, as applicable, and the wider consequences for international security.

Movement action 2013-2015

The ICRC has remained actively engaged bilaterally with States and multilaterally in debates and discussions on drones, in particular in relation to questions regarding the applicability of

⁶ ICRC, *Autonomous Weapon Systems: Technical, Military, Legal and Humanitarian Aspects – Expert Meeting*, Geneva, Switzerland, 26 to 28 March 2014, November 2014.

IHL and international human rights law, in different situations where armed drones may be used, notably in cases of extra-territorial use of force.

In May 2013, the ICRC published an interview with its President outlining the institution's position on the use of drones in armed conflict and other situations of violence.

The ICRC also presented its views at a panel discussion convened by the Human Rights Council on "Ensuring use of remotely piloted aircraft or armed drones in counterterrorism and military operations in accordance with international law, including international human rights and humanitarian law."⁷

Future opportunities and challenges

With expanding acquisition and use of armed drones by various States, it is important to continue to monitor the humanitarian impact of armed drone attacks. Such knowledge may help develop the ICRC's understanding and position on armed drones further. The ICRC will continue to share its views about the use of armed drones in appropriate forums.

4.3 Cyber weapons

Key developments

Another issue receiving increasing international attention is the hostile use of cyberspace, which is of growing concern for the security of governments, individuals, businesses and the media. It includes the development by States of offensive military cyber capabilities and the potential for increasing the number of cyber attacks in armed conflict.

While cyber warfare has not led to dramatic humanitarian consequences to date, the potential for cyber attacks against transportation systems, electricity networks, dams and chemical or nuclear facilities raises the prospect of high levels of civilian casualties and/or damage to civilian objects.

All this has brought increasing international attention to the core issue of ensuring that the limits imposed by IHL on the conduct of hostilities are applied and respected in cyberspace.

Movement action 2013-2015

Building on a position set out in its report on IHL and the challenges of contemporary armed conflicts presented to the 31st International Conference, the ICRC has continued to engage in academic and public debates as well as bilateral dialogue with States to better understand this new technology of warfare, the potential humanitarian consequences and the impact on the interpretation of IHL.

The ICRC contributed as an observer to the group of experts that drafted the *Tallinn Manual on the International Law Applicable to Cyber Warfare*, published in 2013. The primary aim of the ICRC was to ensure that the Manual would reflect existing obligations under IHL and uphold the protection IHL affords to the victims of armed conflict.

Future opportunities and challenges

⁷ ICRC, "Ensuring the use of drones in accordance with international law." Statement at the Human Rights Council on 22 September 2014, <https://www.icrc.org/en/document/ensuring-use-remotely-piloted-aircraft-or-armed-drones-counterterrorism-and-military>

In the coming years, with a view to further informing legal and policy debates, the ICRC will focus its discussions with States on:

- developing a greater understanding of the potential humanitarian impact of cyber operations;
- clarifying how IHL applies in cyberspace, including what constitutes an attack in cyberspace for the purpose of IHL;
- considering the measures that can be taken to safeguard essential civilian infrastructure from the effects of cyber attacks.

4.4 Legal review of new weapons

Key developments

Ongoing debates about autonomous weapon systems, cyber weapons and other new technologies of warfare have brought renewed attention to the obligation of States to carry out legal reviews of new weapons.

Each State party to Additional Protocol I (AP I) is required by Article 36 to determine whether the use of any new weapon, means or method of warfare that it develops or acquires would, in some or all circumstances, be prohibited by international law. Even for States not party to AP I, legal reviews of new weapons are critical to ensuring that their armed forces are capable of conducting hostilities in accordance with their international obligations.

In CCW discussions about autonomous weapon systems in 2014 and 2015, a number of States proposed increasing transparency regarding the development of these weapons, including by sharing experiences of legal reviews of new weapons and potentially developing best practices for legal review mechanisms.

Movement action 2013-2015

In the context of international discussions on new technologies of warfare, and notably at the CCW informal meetings of experts on autonomous weapon systems in 2014 and 2015, the ICRC recalled the obligation to review the legality of new weapons and urged States that had not already done so to establish standing procedures to carry out rigorous and multidisciplinary reviews.

In September 2015, the ICRC and the British Red Cross participated in an Article 36 weapons review forum organized by the UK Ministry of Defence with government experts from Australia, Belgium, Canada, Denmark, France, Germany, the Netherlands, Norway, Ireland, Sweden, Switzerland and the United States of America.

The ICRC has engaged in dialogue with a number of States regarding their policy and practice on weapons review, in connection with its plan to update its *Guide to the Legal Review of New Weapons, Means and Methods of Warfare* in 2016.⁸

Future opportunities and challenges

Despite the rapid developments in new technologies of warfare, the obligation under Article 36 of AP I, and the many calls made by past International Conferences,⁹ today only a small

⁸ ICRC, *A Guide to the Legal Review of New Weapons, Means and Methods of Warfare: Measures to Implement Article 36 of Additional Protocol I of 1977*, ICRC, Geneva, 2006.

⁹ Final goal 1.5 of the Plan of Action for the years 2000-2003, 27th International Conference of the Red Cross and Red Crescent, Geneva, 31 October to 6 November 1999; Agenda for Humanitarian Action, Final Goal 2.5, 28th International Conference of the Red Cross and Red Crescent, Geneva, 2-6 December 2003; Resolution 3,

number of States are known to have established standing mechanisms to assess the legality of new weapons. The growing attention being paid by governments and the public to new technologies of warfare presents an opportunity for components of the Movement to remind each State of its obligation to review the legality of new weapons and to recall past commitments made at International Conferences on this issue.

For this purpose, the ICRC plans to intensify its engagement with States, bilaterally and in multilateral forums such as CCW meetings. The ICRC will also promote, wherever possible, exchanges of experiences in relation to weapons-review mechanisms and procedures. National Societies should, as appropriate and according to their capacities, urge their respective governments to establish weapons-review procedures or mechanisms if they have not yet done so and to share their experiences of developing such mechanisms with other governments, and with the ICRC insofar as possible.

The ICRC will continue to gather information on existing legal review mechanisms, with a view to updating its *Guide to the Legal Review of New Weapons, Methods and Means of Warfare*, which it plans to publish at the end of 2016. The updated Guide will provide a valuable tool for States seeking to establish weapons-review procedures.

5. CHEMICAL AND BIOLOGICAL WEAPONS

Operative paragraph 6 of Resolution 7 of the 2013 Council of Delegates “*calls upon* States to uphold the prohibition of chemical and biological weapons, including by adhering to and ensuring the faithful implementation of the relevant treaties, observing customary international humanitarian law, monitoring developments in science and technology that have the potential for misuse, and acting to prevent the re-emergence of chemical and biological weapons and their use.”

Key developments

The **Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC)** is now almost universal, with 191 States Parties. In the past two years Syria and Myanmar have joined the treaty.

The strength of the IHL norm prohibiting the use of chemical weapons, which is also part of customary law, has been tested in recent years, notably by the confirmed use of chemical weapons in Syria, which was broadly condemned and led to the establishment of UN–Organisation for the Prohibition of Chemical Weapons joint missions to Syria – in 2013-2014 to oversee the destruction of stockpiled chemical weapons, and in 2015 to identify those responsible for the use of chemical weapons, including the use of chlorine or any other toxic chemicals as weapons.

Regarding the use of toxic chemicals as weapons for law enforcement, a growing number of States party to the CWC have made known their national policies limiting such use to riot-control agents only, as called for by the ICRC since early 2013 and consistent with the overwhelming practice of States to date. Several States party to the CWC have also called for formalized discussions on this issue in the meetings of the Organisation for the Prohibition of Chemical Weapons.

“Reaffirmation and implementation of international humanitarian law: Preserving human life and dignity in armed conflict,” 30th International Conference of the International Red Cross and Red Crescent Movement, Geneva, Switzerland, 26-30 November 2007, para. 19.

The **Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BWC)** now has 173 States Parties, with Andorra, Mauritania and Myanmar having joined the treaty in the past two years.

The norm prohibiting the use of biological weapons, which is also part of customary IHL, remains strong. There have been no reports of the use of biological weapons. Naturally occurring infectious disease outbreaks, such as the 2014 Ebola pandemic in West Africa, have remained the greatest biological threat. However, such international public health emergencies have also come as a reminder of the potential consequences that could result from the deliberate spread of disease.

Annual meetings of States party to the BWC in 2014 and 2015 have sought to reach common understandings and promote effective action to strengthen the BWC, with a focus on reviewing developments in science and technology, promoting national implementation and reinforcing the BWC's assistance mechanisms in the event biological weapons are used.

Movement action 2013-2015

The ICRC has continued to raise concerns about the use of chemical weapons in Syria in multilateral forums, including at the Conference of the States party to the CWC in December 2013 and December 2014, where it recalled the absolute prohibition on the use of chemical weapons and that any such use constitutes a serious violation of IHL. In April 2015 the ICRC's Vice-President marked the 100th anniversary since the first use of chemical weapons in the First World War with a speech calling for increased efforts to completely eliminate all weapons of mass destruction – chemical, biological and nuclear.

The ICRC has continued to promote its position that the use of toxic chemicals as weapons for law enforcement must be limited to riot-control agents only, notably at the annual CWC Meetings of States Parties, and during policy and legal discussions convened by other organizations.

The ICRC has participated in the annual Meetings of Experts and States party to the BWC in 2014 and 2015, in particular to provide updates on its efforts to develop an operational capacity for chemical, biological, radiological and nuclear response. The ICRC has also participated in discussions about the implications of developments in science and technology for the norms prohibiting chemical and biological weapons.

In 2014 and 2015, the ICRC continued to promote national implementation of the CWC and the BWC, notably in Africa and South-East Asia.

Future opportunities and challenges

The ICRC will continue to engage bilaterally and in multilateral forums to urge States and parties to armed conflicts to ensure respect for this absolute prohibition. Meanwhile, increased efforts are needed by States, at the national level and within the framework of the CWC, to address the dangers raised by the development of toxic chemicals as weapons for law enforcement. The ICRC will continue to promote its position that any such use must be limited to riot-control agents only and will call on States to confirm national policies to this effect whilst initiating multilateral discussions on this issue within the framework of the CWC.

The 8th Review Conference of the BWC in December 2016 will provide an opportunity for components of the Movement to promote universal adherence to the Convention. States Parties should also be encouraged to consider measures to further strengthen the treaty,

including through agreeing means to monitor developments that could threaten the norm prohibiting biological weapons.

6. CONCLUSION

Much has been accomplished in the last two years to implement Resolution 7, but much more remains to be done to fulfil the Resolution's calls.

The ICRC will continue to support National Societies in the coming years in their activities to promote the Movement's positions on weapons of humanitarian concern, with a particular focus on implementation of the Movement Strategy and on the work to promote the ATT.