



Power of humanity

Council of Delegates of the International Red Cross and
Red Crescent Movement

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Weapons and International Humanitarian Law (Resolution 7 of the 2013 Council of Delegates)

PROGRESS REPORT

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EXECUTIVE SUMMARY

Resolution 7 of the 2013 Council of Delegates commits the International Red Cross and Red Crescent Movement (Movement) to specific actions to address the humanitarian impact of certain weapons. The resolution invited the International Committee of the Red Cross (ICRC), in cooperation with other components of the Movement, to report to the Council of Delegates on its implementation. This fourth progress report covers the period from November 2019 to February 2022. It summarizes the key developments, reviews actions taken by the ICRC and National Red Cross and Red Crescent Societies (National Societies), and highlights future opportunities and challenges.

The ICRC and National Societies have continued influencing States to promote strict controls on **international arms transfers**, including on arms supply as a form of support to parties to armed conflicts. It also includes promoting adherence to and faithful implementation of the Arms Trade Treaty (ATT) and other arms transfer instruments, in line with States' obligation to ensure respect for international humanitarian law (IHL). With weapons continuing to flow into areas where serious violations of IHL are commonplace, the ICRC remains concerned about apparent tension between commitments assumed by States and actual practice.

There has been notable progress in implementation of the **Anti-Personnel Mine Ban Convention (APMBC)**, the **Convention on Cluster Munitions (CCM)** and **Protocol V to the Convention on Certain Conventional Weapons (CCW) on Explosive Remnants of War (ERW)**. Key obligations, such as risk education, clearance, and victim assistance, are progressively being met at the national level, and the number of States joining these treaties continue to grow.

The last two years have seen significant progress in the Movement's efforts to influence the positions, policies and practices of States and other stakeholders on the use of **explosive weapons with wide area effects in populated areas**. An increasing number of States explicitly recognize the grave humanitarian impact that heavy explosive weapons have when used in populated areas and the urgent need for concrete action to reduce such risk. These concerns have been expressed in multiple international arenas, including in the United Nations Security Council. Efforts to develop a political declaration on explosive weapons in populated areas are ongoing.

Recent years have seen significant progress in multilateral discussions on **autonomous weapon systems (AWS)**. A rapidly growing number of States now see the need for new, legally binding rules regulating AWS at the international level to address humanitarian, legal, ethical and security concerns. There is growing support for a two-tier approach in line with the ICRC's recommendations that prohibits unacceptable AWS and establishes limits on the development and use of all other AWS.

In addition, there has been growing acceptance in the international community that **cyber operations** are a reality in contemporary armed conflict, and that their use may lead to devastating humanitarian consequences, as reflected in the consensus report of the UN Open-Ended Working Group (OEWG) adopted in March 2021. Moreover, after years of only limited progress on the issue of the applicability of IHL to cyber operations, a landmark shift was achieved when the 2021 report of the UN Group of Governmental Experts mentioned IHL in the context of States' use of information and communication technologies.

Discussions in international forums on new technologies of warfare continued to provide opportunities to highlight the importance of **reviewing the legality of new means and methods of warfare**. But challenges remain, and ensuring that States conduct rigorous legal reviews will require the sustained efforts by the ICRC and National Societies.

Chemical and biological weapons remained high on the international agenda, given the repeated use of chemical weapons in specific contexts, as well as the use of nerve agents to poison individuals. The ICRC has continued to engage bilaterally and in multilateral forums to urge States and parties to armed conflicts to respect the absolute prohibitions on chemical and biological weapons.

Significant developments have also occurred in relation to the separate yet related humanitarian concerns about the development and use of **highly toxic chemicals as weapons for law enforcement**. In 2021, the Conference of the States Parties to the Chemical Weapons Convention (CWC) responded to concerns expressed by the ICRC since 2003, by clarifying that the aerosolized use of central-nervous-system-acting chemicals is inconsistent with law enforcement purposes as a “purpose not prohibited” under the CWC, and is therefore prohibited.

1) INTRODUCTION

Resolution 7 on weapons and IHL, adopted by the 2013 Council of Delegates, calls on States and components of the Movement to take specific actions on a range of humanitarian concerns related to the development, use and availability of weapons.¹ It also “*invites* the ICRC, in cooperation with Movement partners, to report, as necessary, to the Council of Delegates on relevant developments under this Resolution”.

This is the fourth progress report on the implementation of Resolution 7, covering the period from November 2019 to February 2022.² For each weapons topic covered by the resolution, the present report reviews the key developments, describes the activities undertaken by the Movement and highlights future opportunities and challenges.

The ICRC has submitted a separate report to the 2022 Council of Delegates on the implementation of Resolution 4 on nuclear weapons, adopted by the 2017 Council of Delegates.

2) PROGRESS

A) 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 ICRC and National Societies have continued influencing States to promote stricter controls on international arms transfers, including on arms supply as a form of support to parties to armed conflicts. This also includes promoting adherence to and faithful implementation of the ATT and other arms transfer instruments, in line with States’ obligation to ensure respect for IHL. As of February 2022, the ATT counted 110 States Parties and 31 State signatories, with five States having joined the ATT since the 2019 Council of Delegates.

Movement action 2019–2022

ICRC

The ICRC continued to engage in discussions with a wide range of States and other stakeholders to promote accession to the ATT and encourage faithful implementation of the treaty in line with its humanitarian objective.

The ICRC participated in the ATT Conferences of States Parties in August 2020³ and August 2021,⁴ including by organizing and participating in side events. The ICRC also engaged actively in the

¹ “Weapons and international humanitarian law”, Resolution 7, Council of Delegates, CD/13/R7, 17–18 November 2013.

² The first progress report was submitted to the 2015 Council of Delegates, covering the period from November 2013 to November 2015; the second to the 2017 Council of Delegates, covering the period from December 2015 to October 2017; and the third to the 2019 Council of Delegates, covering the period from November 2017 to November 2019.

³ <https://www.icrc.org/en/document/statement-peter-maurer-president-international-committee-red-cross-icrc>

⁴ <https://www.icrc.org/en/document/statement-seventh-conference-arms-trade-treaty>

working groups of the ATT – notably on the topic of “serious violations of IHL” – participated in expert meetings and engaged in dialogue with civil society organizations active in this area.

The ICRC promoted more responsible arms transfers in the context of the EU Working Party on Arms Exports (COARM) and the African Union’s Silencing the Guns project, and engaged with States at the Seventh Biennial Meeting of States on the United Nations programme of action on small arms and light weapons, held in New York in July 2021.

The ICRC also intensified its work to promote responsible arms transfer practices in collaboration with National Societies participating in the Responsible Arms Transfers (RAT) project, including by establishing an online community to facilitate exchange on and analysis of the arms transfer regulations and practices of selected European States, with a view to promoting the identification and dissemination of good practices.

National Societies

The **Belgian Red Cross**, the **British Red Cross**, the **Bulgarian Red Cross**, the **Canadian Red Cross**, the **French Red Cross**, the **German Red Cross**, the **Italian Red Cross**, the **Netherlands Red Cross**, the **Norwegian Red Cross** and the **Swiss Red Cross** reported or are otherwise known to have contributed to the Movement’s effort to promote responsible arms transfer practices, including by holding bilateral meetings with States; organizing events; engaging diverse audiences, such as the arms industry and members of parliaments; submitting reports, examples and personal stories; and helping map States’ arms transfer practices. The **Norwegian Red Cross** continued its work with the ICRC to increase National Societies’ engagement on promoting effective implementation of the ATT under the RAT project.

Future opportunities and challenges

With weapons continuing to flow into areas where serious violations of IHL are commonplace, the ICRC remains concerned about the apparent tension between commitments made by States and actual practice. This tension threatens the credibility of hard-won arms transfer control instruments like the ATT.

The ICRC and National Societies should continue to urge States to adhere to the ATT and promote faithful implementation of the treaty in line with its humanitarian objective. This includes working together to monitor the application of the ATT, deepen the understanding of States’ arms transfer practices and support authorities’ efforts to universalize and strengthen implementation of the ATT.

B) 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”.

Key developments

As of February 2022, the APMBBC counted 164 States Parties and one State signatory. The CCM counted 110 States Parties and 13 States Signatories, with four States having joined the treaty since the 2019 Council of Delegates. Protocol V of the CCW on ERW counted 96 States Parties.

To ensure full universalization and implementation of the APMBBC in the period 2020–2024, States Parties adopted the Oslo Action Plan in November 2019. To make further progress towards the universalization and implementation of the CCM for the period 2021–2026, States Parties adopted the Lausanne Action Plan in September 2021.

Movement action 2019–2022

ICRC

The ICRC pursued efforts to promote the universalization and implementation of the treaties governing landmines, cluster munitions and ERW. Activities included working with National Societies to foster adherence to and implementation of these instruments; sharing the Movement's concerns, positions and advice in the treaties' meetings and in universalization and implementation mechanisms; and providing legal assistance to States in developing national legislation to meet their international obligations, including by developing a national implementation checklist for the CCM and the APMBC.⁵ Landmines, cluster munitions and ERW were among the topics discussed at ICRC-organized national and regional IHL seminars.

The ICRC participated in the annual meetings of States party to the APMBC and to the CCM, headed in most instances by the president or vice-president. ICRC experts also attended these events, as well as meetings of States party to Protocol II (amended) and Protocol V to the CCW.

The ICRC led and coordinated the Movement's efforts to influence the outcomes of the Fourth Review Conference of the States Parties to the APMBC in November 2019,⁶ and of the two parts of the Second Review Conference of the CCM, held in November 2020 and September 2021,⁷ with a view to ensuring the treaties' humanitarian objective and purpose were observed.

The ICRC also took action to influence the outcome of the Sixth Review Conference of the CCW in November 2021, notably by submitting a working paper to the conference which included recommendations with respect to CCW Protocol II (amended) on mines other than anti-personnel mines, and CCW Protocol V on ERW.⁸

The ICRC undertook preventive mine-action activities in many countries or contexts. In 2018, the ICRC carried out initiatives to address the threat posed by weapon contamination in 51 contexts. These included projects carried out by the ICRC, and in many contexts, activities implemented by National Societies with technical and financial support from the ICRC, such as training in risk awareness and safer behaviour, data collection and information management. The ICRC also worked with national authorities to help strengthen their ability to undertake humanitarian mine and ERW clearance and risk-reduction measures in accordance with international standards and with the proper health-care response when accidents involving explosives occur during such activities.

The ICRC continued to assist people with disabilities, including victims of mines, cluster munitions and ERW, through its Physical Rehabilitation Programme. The programme helps reduce the barriers to obtaining appropriate care by helping develop national capacities and by directly providing people with physical rehabilitation services. The ICRC has also strengthened its other efforts to facilitate the full participation of people with disabilities in their communities, for example by helping them gain or regain access to education, undertake activities to support their livelihoods and participate in sports. In 2021, despite the impact of the COVID-19 pandemic, more than 300,000 people with physical disabilities, among them nearly 30,000 landmine survivors, benefited from physical rehabilitation services and education and other social inclusion services run or supported by the ICRC in 41 countries. In addition, the ICRC has been developing a framework to enhance governance of the rehabilitation sector in order to sustain service provision, by exploring potential partnerships with development organizations. Mental health and psychosocial support has also gradually been integrated into the programme, with a view to helping people with disabilities to overcome the trauma of their experience and promote their independence, social well-being and self-reliance. In 2020, 2,685 people, including hospitalized weapon-wounded patients in facilities supported by the ICRC,

⁵ <https://www.icrc.org/en/publication/checklist-domestic-measures-implement-antipersonnel-mine-ban-convention>

⁶ <https://www.osloreviewconference.org/fileadmin/APMBC-RC4/Fourth-Review-Conference/Statements/7c-ICRC-27Nov2019.pdf>

⁷ <https://www.icrc.org/en/document/vice-president-cluster-munition-2nd-review-conference>

⁸ <https://www.icrc.org/en/document/icrc-sixth-review-conference-convention-certain-conventional>

benefited from such support, which was adapted to their culture and their individual psychological and physical recovery and rehabilitation needs.

National Societies

The **Armenian Red Cross Society, Azerbaijan Red Crescent Society, Belgian Red Cross, British Red Cross, Colombian Red Cross, Croatian Red Cross, Italian Red Cross, Lebanese Red Cross, Moroccan Red Crescent, Myanmar Red Cross Society, Netherlands Red Cross, Norwegian Red Cross, Pakistan Red Crescent, Red Crescent Society of Tajikistan, Red Crescent Society of the Islamic Republic of Iran, Red Cross Society of Bosnia and Herzegovina, Swiss Red Cross, Syrian Arab Red Crescent, Ukrainian Red Cross Society, Viet Nam Red Cross and Yemen Red Crescent Society** have reported or are otherwise known to have contributed to the Movement's efforts to promote the norms of IHL applicable to landmines, cluster munitions and ERW, conduct activities aimed at reducing the impact of weapon contamination, and/or to provide victims of weapons with comprehensive assistance.

The National Societies organized meetings and other activities with governments and other relevant bodies and organizations, including at the 2020 and 2021 International Mine Awareness Day. Some National Societies also helped coordinate outreach to other National Societies, including through the drafting of letters, briefing papers and research on key issues related to the legal frameworks governing landmines, cluster munitions and ERW.

The **Croatian Red Cross** organized a range of community-based activities on mine risk education, including photo exhibitions, theatre performances, panel discussions and other awareness-raising activities. It also continued to promote the construction of children's play areas under the Playgrounds without Mines project. The **Myanmar Red Cross Society** continued to implement a risk awareness and safety behaviour programme, which provides Red Cross volunteers with training on how to avoid and manage the risk of landmines and unexploded ordnance.

Future opportunities and challenges

Despite the progress made since the 2019 Council of Delegates, there remain a range of challenges to reducing the dangers and addressing the ongoing suffering caused by anti-personnel mines, cluster munitions and ERW, including operational challenges, notably related to access to affected people and communities. These challenges have, to some extent, been compounded by the COVID-19 pandemic. In implementing the Movement Strategy, components of the Movement should consider focusing as a priority on:

- ensuring States continue to faithfully implement their obligations under the APMBC, the CCM and Protocol V to the CCW on ERW, including by implementing the 2019 Oslo Action Plan and the 2021 Lausanne Action Plan, and mobilizing sufficient resources
- ensuring States party to CCW Protocol V, the APMBC and the CCM that are in a position to do so provide assistance and cooperation to affected States in implementing these treaties
- promote the universalization of the above-mentioned treaties, bearing in mind that several States not yet party still possess substantial stockpiles of anti-personnel mines and/or cluster munitions, that there were reports of use of these weapons by some States and by non-State armed groups in recent years, and that ERW continue to claim high numbers of civilian victims every year.

C) 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”.⁹

Key developments

The last two years have seen significant progress in the Movement’s efforts to influence the positions, policies and practices of States and other stakeholders on the use of explosive weapons in populated areas.

An increasing number of States explicitly recognize the grave humanitarian impact heavy explosive weapons have when used in populated areas and the urgent need for concrete action to reduce such risk. These concerns have been expressed in multiple international arenas. Efforts to elaborate a political declaration on explosive weapons in populated areas are ongoing.

Movement action 2019–2022

ICRC

On 27 January 2022, the ICRC president presented to the Geneva diplomatic corps and officials in capitals around the world a major new ICRC report entitled *Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas*.¹⁰ The report represents the most comprehensive and in-depth analysis ever conducted on this subject by the ICRC. It provides detailed practical recommendations to political authorities and armed forces on measures to strengthen the protection of civilians from the use of explosive weapons in populated areas and to facilitate respect for IHL. It supports the Movement’s urgent call for action to avoid the use of explosive weapons with a wide impact area in populated areas.

In the past two years, the ICRC has continued to call on States and parties to armed conflict to avoid, as a matter of policy, the use of heavy explosive weapons in populated areas.¹¹ Moreover, the ICRC has engaged actively in the diplomatic process towards a political declaration to address the problem, including through comments and written submissions. The ICRC collaborates closely with others on this issue, including States, international organizations, research institutes and civil society organizations.

The ICRC has also presented the Movement’s call in the media and through other communication channels. In May 2020, the ICRC’s director-general and UN leaders issued a joint appeal on the use of explosive weapons in populated areas and COVID-19. The ICRC has also produced a short film and taken part in various awareness-raising activities on the topic.

The ICRC has continued its dialogue on the use of explosive weapons in populated areas with States and armed forces on both the policy and operational levels, either as a separate topic or in the context of the broader topic of urban warfare. In partnership with National Societies, the ICRC has carried out activities to coordinate and strengthen collaboration within the Movement on this issue, including organizing webinars and drafting briefing notes and key messages.

National Societies

The **Belgian Red Cross, British Red Cross, Canadian Red Cross, French Red Cross, Italian Red Cross, Netherlands Red Cross, and Norwegian Red Cross** reported or are otherwise known to have raised awareness of the harm caused by the use of heavy explosive weapons and/or promoted the Movement’s position, including through bilateral dialogue with governments and

⁹ The ICRC’s has had this position since 2011: see ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, report to the 31st International Conference of the Red Cross and Red Crescent, 31IC/11/5.1.2, ICRC, Geneva, October 2011, p. 42: <https://www.icrc.org/eng/assets/files/red-cross-crescent-movement/31st-international-conference/31-intconference-ihl-challenges-report-11-5-1-2-en.pdf>.

¹⁰ https://www.icrc.org/en/download/file/229018/ewipa_explosive_weapons_with_wide_area_effect_final.pdf

¹¹ The ICRC reiterated this call in several high-level statements, including in the UN General Assembly’s First Committee, the UN Security Council open debate on the protection of civilians, and the UN Security Council open debate on war in cities in January 2022.

parliamentarians, training sessions with armed forces, written and oral submissions, statements and presentations, discussions in national IHL committees, and/or other dissemination activities.

Several National Societies provided comments to governments on the process of developing a political declaration on explosive weapons. In April 2020, ten National Societies¹² issued a joint letter calling on their authorities to support a strong and meaningful political declaration that commits States to avoiding the use of heavy explosive weapons in populated areas as a matter of policy and good practice.

The Norwegian Red Cross co-organized, with the ICRC and the International Federation of Red Cross and Red Crescent Societies (IFRC), an informal Movement consultation to draft a resolution and Movement action plan on war in cities – including crucial references to explosive weapons in populated areas – for the consideration of the 2022 Council of Delegates.

Future opportunities and challenges

The use of heavy explosive weapons in populated areas continues to have significant humanitarian consequences. National Societies play a key role in assisting victims and in responding to those humanitarian consequences.

The ongoing process towards a political declaration provides a crucial opportunity for external engagement. Likewise, the process to draft a resolution and Movement action plan on war in cities provides an arena for continued coordination and discussion among National Societies on this issue. The recommendations contained in the ICRC report *Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas* therefore constitute a key Movement resource for strengthened and more targeted outreach.

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

i) Autonomous weapon systems

Key developments

Recent years have seen significant progress in multilateral discussions on AWS, which began in the Human Rights Council and have continued over the past eight years at the CCW. A rapidly growing number of States now see the need for new, legally binding international rules regulating AWS, in order to address humanitarian, legal, ethical and security concerns. There is growing support for a two-tier approach of prohibiting unacceptable AWS and establishing limits on the development and use of all other AWS, which is in line with the ICRC’s recommendations.

Movement action 2019–2022

ICRC

The ICRC engaged in extensive bilateral dialogue with governments and other stakeholders, participated actively in diplomatic and expert meetings on AWS, and conducted public communication. In 2020, the ICRC co-published a report with the Stockholm International Peace Research Institute (SIPRI) containing five key recommendations for establishing limits on autonomy in weapon systems to ensure human control over the use of force.

¹² These National Societies were: the **Austrian Red Cross, Belgian Red Cross, Iraqi Red Crescent Society, Irish Red Cross, Italian Red Cross, Netherlands Red Cross, Norwegian Red Cross, Spanish Red Cross, Swedish Red Cross** and **Swiss Red Cross**. The **Lebanese Red Cross** also shared the letter with their authorities.

In a major speech delivered in May 2021, the ICRC's president announced the ICRC's recommendation that all States adopt new, legally binding rules to regulate AWS, including rules prohibiting "unpredictable" AWS and AWS designed or used to apply force against people and imposing strict limits on the design and use of all other AWS.¹³ The recommendations, which have already gained significant support, were a refinement of the ICRC's long-standing position on the need for international limits on AWS to address humanitarian concerns. They are based on the ICRC's engagement with States, militaries, civil society and other experts, as well as its own analyses.

The ICRC also worked with National Societies to raise awareness and assist with advocacy and communication efforts on AWS within the Movement. Together with the Norwegian Red Cross, the ICRC developed and disseminated a Q&A on AWS and co-organized briefings for National Societies and an online workshop for the 2022 Council of Delegates.

National Societies

The **Australian Red Cross, Austrian Red Cross, Belgian Red Cross, British Red Cross, Canadian Red Cross, Finnish Red Cross, French Red Cross, Netherlands Red Cross, New Zealand Red Cross, Norwegian Red Cross, Red Cross of Serbia and Swedish Red Cross** reported or are otherwise known to have raised awareness of the humanitarian concerns related to AWS and/or promoted the ICRC's position, including through dialogue with governments and parliamentarians, training sessions and other meetings with representatives of armed forces, organizing and participating in conferences and expert meetings, written and oral comments as part of ongoing national and international law and policy processes, and outreach to students.

The **Norwegian Red Cross** also co-organized the online workshop on AWS for the 2022 Council of Delegates.

Future opportunities and challenges

Momentum is building among States, and the Movement has a unique opportunity to shape an international response that effectively addresses the humanitarian, legal and ethical concerns raised by AWS. While the decisions taken in late 2021 in the framework of the CCW were missed opportunities for taking concrete steps towards the adoption of new, legally binding rules on AWS, there is growing support for action among a majority of States. The ICRC and National Societies can therefore play an important role in mobilizing support for initiatives that aim to effectively address the humanitarian concerns raised by AWS in a timely manner.

The Council of Delegates workshop, held on 3 February 2022, demonstrated National Societies' widespread interest in the challenges of AWS in all geographic regions and the impressive array of activities carried out by many National Societies in recent years. Discussions suggested that there would be support for collective Movement action based on a common Movement position and that this objective should be further explored.

ii) Cyber operations during armed conflict

Key developments

There has been growing acceptance in the international community that cyber operations are a reality in contemporary armed conflict, and that their use may lead to devastating humanitarian consequences, as reflected in the consensus report by the UN OEWG adopted in March 2021. After years of limited progress on the issue of the applicability of IHL to cyber operations, a landmark shift was achieved when the UN Group of Governmental Experts mentioned IHL in its May 2021 consensus report in the context of States' use of information and communication technologies. This same report also recognized the need to deepen the understanding of how and when IHL applies to the use of information and communication technologies and underscored that recalling the applicability of IHL by no means legitimized or encouraged conflict. In 2021, a new OEWG was

¹³ <https://www.icrc.org/en/document/peter-maurer-role-autonomous-weapons-armed-conflict>

formed, which is expected to continue its work until 2025, when it is due to report back to the UN General Assembly.

Movement action 2019–2022

ICRC

Over the past two years, the ICRC broadened and deepened its engagement on cyber operations during armed conflicts. The ICRC shared its concerns about the human costs of cyber operations and its positions on the applicability of IHL to those operations with States bilaterally and in multilateral forums, notably the UN Group of Governmental Experts, the OEWG and the UN Security Council. The ICRC also organized numerous State consultations, bilateral dialogue meetings, regional workshops and expert meetings.

In May 2020, the ICRC's president added his name to a list of more than 40 international leaders calling on the world's governments to work together to assert in unequivocal terms that cyber operations against health-care facilities are unlawful and unacceptable. The ICRC has also explored, in collaboration with the **Australian Red Cross**, the possibility of creating a digital red cross and red crescent emblem in the cyber domain.¹⁴

The ICRC continued to assess, and contribute to an increased understanding of, the humanitarian challenges posed by cyber operations, including by establishing in June 2021 a global advisory board, chaired by the ICRC's president, on the international legal and policy framework protecting civilians from digital threats during conflict;¹⁵ forming a partnership with the Geneva Academy; publishing in June 2021 an expert report entitled *Avoiding Civilian Harm from Military Cyber Operations during Armed Conflicts*;¹⁶ updating the Cyber Law Toolkit annually;¹⁷ and producing various other publications.

National Societies

The **Belgian Red Cross, British Red Cross, Canadian Red Cross, French Red Cross, and Red Cross of Serbia** reported or are otherwise known to have raised awareness of the human costs and IHL implications of cyber operations, including through meetings with governments, training sessions for armed forces, organizing conferences on cyber operations and IHL, and outreach to students.

Future opportunities and challenges

Given the prominence of hostile cyber operations in governmental and public debate, and the potential human cost of cyber operations, it will be important for the Movement continue to engage with States and the public to emphasize the importance of IHL for the protection of civilians, civilian infrastructure and civilian data against cyber harm during armed conflicts. Future meetings of the OEWG provide opportunities to further these aims.

iii) Legal review of new weapons

Key developments

Each State party to Protocol I additional to the Geneva Conventions 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. Legal reviews flow from the obligation to ensure respect for IHL and are a critical measure for ensuring that a State's armed forces can conduct hostilities in accordance with their international obligations.

Ongoing discussions about new technologies of warfare, particularly AWS, have underlined the importance of robust legal reviews and continue to provide an opportunity to discuss the challenges of reviewing the legality of new technologies.

Movement action 2019–2022

¹⁴ <https://blogs.icrc.org/law-and-policy/2021/09/16/legal-protection-digital-emblem/>

¹⁵ <https://www.icrc.org/en/document/global-advisory-board-digital-threats>

¹⁶ <https://www.icrc.org/en/document/avoiding-civilian-harm-from-military-cyber-operations>

¹⁷ https://cyberlaw.ccdcoe.org/wiki/Main_Page

ICRC

The ICRC has continued to emphasize the importance of rigorous and multidisciplinary standing legal review mechanisms. The ICRC's expertise with respect to legal reviews continues to be sought by States and various other stakeholders. The ICRC also engaged in dialogue with several States regarding their policy and practice on weapons reviews. It is finalizing its update to *A Guide to the Legal Review of New Weapons, Means and Methods of Warfare*, including to reflect the normative development of and State practice on the legal review and address the challenges of conducting legal reviews of new technologies of warfare.

National Societies

The **French Red Cross** reported to have engaged in activities aimed at analysing the obligation to conduct legal reviews regarding AWS. The **Swedish Red Cross** was invited by the Swedish reviewing authority to give a presentation in October 2021 on a gender perspective on legal reviews of new weapons.

Future opportunities and challenges

Establishing and strengthening legal review mechanisms remains a challenge. Too few States currently have these mechanisms in place, and too little is known about how reviews are carried out.

The applications in warfare of new technologies raise novel and challenging questions, including regarding the legal review of new weapons, means and methods of warfare. Notably, new technologies of warfare can pose challenges to the determination of whether and when a legal review is required, which legal rules apply and how they should be applied. They may also call into question the adequacy and effectiveness of the review mechanism itself. These challenges should be carefully considered and must be addressed by States to ensure that legal reviews serve the purpose for which they were devised. Discussions about AWS and cyber operations provide an opportunity to improve awareness of the importance of legal reviews, give practical guidance on how to conduct them, and encourage transparency. The ICRC will continue to engage with States, bilaterally and in multilateral forums, and foster exchanges of experience on weapons review mechanisms and procedures.

E) 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 CWC currently has 193 States Parties; only four States have yet to join the treaty. The use of chemical weapons is also prohibited by customary IHL. Nevertheless, over the past ten years, the world has witnessed repeated use of chemical weapons in Syria, use of chemical weapons in Iraq and use of nerve agents to poison individuals in several incidents around the world. The use of chemical weapons has been widely condemned.

In relation to separate humanitarian concerns about the development and use of highly toxic chemicals as weapons for law enforcement – an issue highlighted publicly by the ICRC since the First Review Conference of the CWC in 2003 – the 2021 Conference of States Parties finally clarified that the aerosolized use of central-nervous-system-acting chemicals is inconsistent with law enforcement purposes as a “purpose not prohibited” under the CWC, and is therefore prohibited.

The Biological Weapons Convention currently has 183 States Parties. The norm prohibiting the use of biological weapons, which is part of customary IHL, remains strong.

Movement action 2019–2022

ICRC

The ICRC participated in the Conference of the States Parties to the CWC. The ICRC, in its statements, has condemned the use of chemical weapons, highlighted the need for States to improve response capacities to assist victims of chemical weapons, and urged States to limit their use of toxic chemicals as weapons for law enforcement to riot control agents only.¹⁸

In May 2020, the ICRC published a Q&A on its positions, including in relation to the use of toxic chemicals as weapons, entitled *The Use of Weapons and Equipment in Law Enforcement*,¹⁹ which gathered significant attention outside the ICRC.

National Societies

The **Belgian Red Cross** and **Norwegian Red Cross** reported to have expressed the Movement's concerns and positions on biological and chemical weapons, including through outreach to governments and dialogue with armed forces and civil society organizations. The **Belgian Red Cross** systematically included chemical and biological weapons in several IHL dissemination activities.

Future opportunities and challenges

The ICRC will continue to engage bilaterally and in multilateral forums to urge States and parties to armed conflicts to respect the absolute prohibitions on chemical and biological weapons, and to build further support among States for its position on the use of toxic chemicals as weapons for law enforcement.

Conclusion

Progress has been made since 2019 on the full range of weapons issues covered by Resolution 7, backed by the various initiatives of the ICRC and National Societies. The ICRC will continue to devote resources to these issues, with a focus on improving implementation of legal obligations and respect for existing prohibitions and restrictions on weapons of humanitarian concern, and on influencing discussion on the legal and humanitarian implications of new and emerging technologies of warfare. It will continue to support National Societies in their activities to promote and further develop the Movement's positions.

¹⁸ <https://www.icrc.org/en/document/prohibition-chemical-weapons-26th-conference>

¹⁹ <https://www.icrc.org/en/document/use-weapons-and-equipment-law-enforcement-operations>

Annex: Abbreviations

APMBC	Anti-Personnel Mine Ban Convention
ATT	Arms Trade Treaty
AWS	autonomous weapon systems
BWC	Biological Weapons Convention
CCM	Convention on Cluster Munitions
CCW	Convention on Certain Conventional Weapons
COARM	EU Working Party on Arms Exports
CWC	Chemical Weapons Convention
ERW	explosive remnants of war
ICRC	International Committee of the Red Cross
IFRC	International Federation of Red Cross and Red Crescent Societies
IHL	international humanitarian law
OEWG	Open-Ended Working Group
RAT project	Responsible Arms Transfers project
SIPRI	Stockholm International Peace Research Institute
UN	United Nations