ICRC & RC/RC Movement position:

“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”
“Explosive weapons”:
Activated by the detonation of a high explosive substance creating blast and fragmentation effect.

“In (densely) populated areas”:
Any concentration of civilians (city, town, village, IDP camps, etc.)
“with a wide impact area”:

- Large destructive radius of the individual munition (eg. large bombs or missiles);

- Lack of accuracy of the delivery system (eg. unguided indirect fire weapons); or

- Designed to deliver multiple munitions over a wide area (eg. multiple rocket launchers).
SCOPE OF THE DISCUSSION EXCLUDES:

- Explosive weapons already prohibited or limited by international law (e.g. anti-personal mines, cluster munitions)

- Direct attacks against civilians and civilian objects: clearly prohibited
The use of explosive weapons with a wide-area effect, even when aiming at a legitimate military target, raise concern regarding the extent of civilian casualties and damages to civilian objects, including critical infrastructure, when used in populated areas.
IHL: indiscriminate attacks

(a) those which are not directed at a specific military objective;

(b) those which employ a method or means of combat which cannot be directed at a specific military objective; or

(c) those which employ a method or means of combat the effects of which cannot be limited as required by [IHL];

and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

(Article 51.4, AP I)
IHL: Area bombardments

“attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects”

(Article 51.5, AP I)
IHL: disproportionate attacks

“attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”

(Article 51.5, AP I)
IHL: Reverberating effects

All the foreseeable (indirect) effects must be taken into account in the proportionality assessment;

Standard of the reasonably well-informed person in the circumstances making a reasonable use of the information available.
IHL: Precautions in attack

- Take feasible precautions in the **choice of means and methods of attack** [to avoid or minimize collateral damage];
- Refrain from deciding to launch any attack which may be expected to cause [excessive collateral damage];
- **Cancel or suspend** an attack if it becomes apparent that the objective is not a military one or is subject to special protection or that the attack may be expected to cause [excessive collateral damage];
- **Effective advance warning**.

(Article 57, AP I)
IHL Challenges

- Urban warfare is a challenge for armed forces;
- Enemy hiding in cities does not suspend the obligation of attacker to fully respect IHL: no reciprocity;
- Importance of the precautions against the effects of attack (Article 58, AP I)
Explosive Weapons in Populated Areas

2015

February Expert Meeting – public report + infographic on humanitarian consequences
Explosive Weapons in Populated Areas

QUESTIONS?