

# Explosive Weapons in Populated Areas

Belgian Study Center for Military Law and the Law of War

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ICRC

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## 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 in Populated Areas - Scope

- ▶ **“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



## Explosive Weapons in Populated Areas – Summary of the issue

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

EXPERT MEETING

### EXPLOSIVE WEAPONS IN POPULATED AREAS

HUMANITARIAN, LEGAL, TECHNICAL  
AND MILITARY ASPECTS

CHAVANNES-DE-BOGIS, SWITZERLAND  
24 TO 25 FEBRUARY 2015



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Explosive weapons in populated areas: The consequences for civilians



0:11 / 1:49

YouTube



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# Explosive Weapons in Populated Areas



**QUESTIONS?**



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