United Nations General Assembly
70th session

First Committee

General debate on all disarmament
and international security agenda items [agenda items 88 to 105]

Statement of the

International Committee of the Red Cross

15 October 2015

This statement will soon be available, in all six official UN languages,
on the ICRC website:

www.icrc.org
The 70th anniversary of the United Nations this year offers the opportunity to reflect on progress made in advancing “disarmament and the regulation of armaments” as called for by the UN Charter. To these reflections, the ICRC brings its perspective as a humanitarian organization mandated to protect and assist the victims of armed conflicts and to prevent suffering by promoting and strengthening international humanitarian law (IHL), also known as the law of armed conflict or the laws of war.

A defining feature of armed conflicts of the last 70 years -- indeed of the last century -- has been the use of weapon systems capable of delivering massive explosive force from afar and over a wide area. Large bombs and missiles, indirect fire weapon systems including mortars, rockets and artillery, as well as multi-barrel rocket launchers have served armies well in open battlefields. But when used against military objectives located in populated areas, they are prone to indiscriminate effects, with often devastating consequences for civilians, as we continue to witness in ongoing armed conflicts. The use in populated areas of improvised explosive weapons by non-State armed groups also leads to tremendous suffering. In addition to causing immediate death, injury and destruction, explosive weapons in populated areas have significant “reverberating” effects on civilians, which are made worse when hostilities are protracted. Collateral damage to critical civilian infrastructure, such as water and electrical facilities and supply networks severely disrupts essential services on which the civilian population depends for its survival, including the provision of health care. This in turn further threatens the lives and health of civilians, provoking their displacement.

It seems therefore clear that the use of explosive weapons that have a wide impact in densely populated areas should be avoided due to the significant likelihood of indiscriminate effects. This issue concerns all States, not just those currently engaged in armed conflicts, since the types of weapons of concern are found in the arsenals of most armed forces. In light of the extensive civilian harm being witnessed today, there is a need for States to explain how they are ensuring that their armed forces respect IHL in their choice of weapons when conducting hostilities in populated areas. The ICRC invites States to make known their relevant policies and practices, including any restrictions that apply to the use in populated areas of certain explosive weapons due to their inherent inaccuracies or other area effects. This would help to inform debates about this important humanitarian issue, assist parties to armed conflicts who endeavour in good faith to comply with the law, and ultimately lead to a better protection of civilians in populated areas.

The very first resolution adopted by the General Assembly nearly 70 years ago aspired to “the elimination from national armaments of atomic weapons and of all other major weapons adaptable to mass destruction”. But 70 years on, in stark contrast to chemical and biological weapons which have been comprehensively prohibited, nuclear weapons remain the one weapon of mass destruction not yet subjected to a global ban. The status quo is made all the more unacceptable by the fact that today there is unprecedented awareness of the catastrophic humanitarian consequences of any use of nuclear weapons, as explicitly recognized by the States party to the Non-Proliferation Treaty (NPT) in 2010. The three international conferences on the humanitarian impact of nuclear weapons, held in Oslo, Nayarit and Vienna in 2013 and 2014, heard evidence of suffering on an unimaginable scale that would be caused by the use nuclear weapons, in terms of their immediate and long-term effects on people, societies, health-care systems and the environment. And most recently, the ICRC and the Japanese Red Cross Society published the shocking finding that, 70 years after the atomic bombings of Hiroshima and Nagasaki, Red Cross hospitals are still treating many thousands of survivors for the long-term effects of radiation exposure.

This compelling evidence of the tremendous human costs of nuclear weapons led the International Movement of the Red Cross and Red Crescent to conclude that it is difficult to envisage how any use of nuclear weapons could be compatible with IHL. On this basis, the Red Cross and Red Crescent Movement has called on States to negotiate a legally binding
international agreement prohibiting the use of and completely eliminating nuclear weapons, based on existing commitments and international obligations.

During times of international instability, it may be tempting for some States to view nuclear weapons as a tool of security. But weapons that risk catastrophic and irreversible humanitarian consequences cannot seriously be viewed as protecting civilians or humanity as a whole. A large majority of States today recognize that the humanitarian impact of nuclear weapons can no longer be ignored and must underpin all nuclear disarmament efforts. Earlier this year, the ICRC’s President, Peter Maurer, appealed to all States to establish a time-bound framework for negotiating a legally binding agreement to prohibit the use of and eliminate nuclear weapons, and to consider the form that such an agreement could take. And to nuclear-armed States, in the meantime, to reduce the role of nuclear weapons in their military doctrine and to reduce the number of nuclear weapons on high alert, in accordance with existing commitments, so as to diminish the risks of intentional or incidental use of nuclear weapons. We repeat these calls here today.

Linked to the risk of use of nuclear weapons are concerns over the weaponization of outer space. While the Outer Space Treaty clearly prohibits the placement of weapons of mass destruction in orbit, it does not expressly apply such prohibition to other weapons, although virtually all States support the prevention of an arms race in outer space. What is certain is that any hostile use of outer space in armed conflict – that is, any use of means and methods of warfare in, from, to or through outer space – must comply with IHL, in particular its rules of distinction, proportionality and precautions in attack. It is important to stress that, by asserting that IHL applies to outer space warfare, the ICRC is in no way condoning the weaponization of outer space, which recurring resolutions of the General Assembly have sought to prevent. The point is that warfare in outer space would not occur in a legal vacuum.

Yet respecting IHL in outer space warfare would be very challenging because most space-based satellites or other systems used for military purposes also integrate civilian functions. Attacks against such highly integrated “dual-use” systems through kinetic or non-kinetic means can entail significant humanitarian consequences for up to millions of civilians on the ground, for example by disrupting health-care and other essential services that depend on space-based communication systems. Furthermore, kinetic attacks against space objects are particularly prone to creating a myriad of debris that could remain orbit for decades and impair the peaceful use of outer space. The wide-ranging consequences of space warfare for civilian populations must be carefully weighed by States when considering limits to military uses of outer space.

Likewise, in stating that cyberwarfare must comply with IHL, the ICRC is by no means encouraging the hostile use of cyber space in armed conflict, but is merely stressing that if cyber means are employed, they must comply with IHL. In this respect, the ICRC welcomes the fact that in its 2015 report, the United Nations Group of Governmental Experts on Developments in the Field of Information and Telecommunication in the Context of International Security noted “the established international legal principles, including, where applicable, the principles of humanity, necessity, proportionality and distinction”. But, as with space systems, the extent to which technology enabled by cyber networks permeates most aspects of civilian life makes the potential consequences of attacks on such networks a matter of humanitarian concern.

Another area of humanitarian concern is the development of weapon systems that are capable of independently selecting and attacking targets, without human intervention. This concerns a wide range of weapon systems which fall under the umbrella term of autonomous weapon systems, sometimes referred to as “lethal autonomous weapon systems”. Discussions of the legal, military and ethical implications of these weapons among government and independent experts in the framework of the Convention on Certain Conventional Weapons (CCW) have shown that there is broad agreement that human control over the critical functions of weapon
systems must be retained. In view of the rapid pace of developments in military robotics, it is now urgent for States to consider what constitutes meaningful, or appropriate or effective, human control over the use of force. The ICRC encourages States to now turn their attention to fixing limits on autonomy in the critical functions of weapon systems, to ensure that they can be used in accordance with IHL and within the bounds of what is acceptable under the dictates of public conscience.

All States have the responsibility to ensure respect for IHL not only in their development and use of new weapons, but also in their arms transfer decisions. States have expressly recognized this in the **Arms Trade Treaty** (ATT), which establishes a global norm for responsible arms transfers. In requiring States to consider respect for IHL and human rights law in their arms transfer decisions, and to take measures to prevent the diversion of weapons, the ATT aims to ensure that weapons do not end up in the hands of those who would use them to commit war crimes, serious violations of human rights and other serious crimes. This will ultimately strengthen the protection of civilians in armed conflict, which is why the ICRC is calling on all States that have not yet done so to join the Treaty and to faithfully implement its provisions. As weapons continue to flow, through overt or covert transfers or through diversion, to some of the most brutal armed conflicts such as those seen in parts of the Middle East and of Africa today, there is an urgent need to close the gap between law and practice. And in so doing, to also fulfil the promise of the "regulation of armaments" made in the UN Charter 70 years ago.

+++