



## Explosive weapons with wide area effects in populated areas

### Scope of the issue

The use of explosive weapons with a wide impact area (wide area effects) should be avoided in populated areas, due to the significant likelihood of indiscriminate effects and despite the absence of an express legal prohibition for specific types of explosive weapons.<sup>1</sup>

1. The focus is on **'explosive weapons'**, i.e. weapons activated by the detonation of a high explosive substance creating primarily a blast and fragmentation effect. This excludes weapons designed to injure or damage by means other than explosive force (e.g., incendiary weapons or chemical weapons).
2. Explosive weapons that raise particular concern when used in populated areas are those that have a **'wide impact area', also referred to as 'wide area effects'**. 'Impact area' (or 'area effects') refers to the area over which the explosion has, is expected to have, or has a probability of having direct effects (caused by blast, fragmentation and heat). The terms 'explosive weapons in populated areas' (or 'heavy explosive weapons') are used as shorthand to refer to the notion of 'explosive weapons with a wide impact area (or wide area effects)'. Explosive weapons of concern can be broken down into three broad categories:
  - weapons that have a wide impact area because of the large destructive radius of the individual munition used, i.e. its large blast and fragmentation range or effect (such as large bombs or missiles);
  - weapons that have a wide impact area because of the lack of accuracy of the delivery system (such as indirect fire weapons, including artillery and mortars); and/or
  - weapons that have a wide impact area because the weapon system is designed to deliver multiple munitions simultaneously over a wide area (such as multi-barrel rocket launchers).
3. The focus is on the use of such weapons in **'populated areas'**, meaning any **concentration of civilians** or of **civilians and civilian objects**, be it in a city, town or village, or in a non-built-up area, and be it permanent or temporary.<sup>2</sup>

<sup>1</sup> ICRC, *International humanitarian law and the challenges of contemporary armed conflicts*, October 2019, p.13. The United Nations Secretary-General has similarly called on States to avoid the use of explosive weapons with wide area effects in populated areas; see United Nations Security Council, *Protection of civilians in armed conflict*, Report of the Secretary-General, May 2019, p. 14, para. 57.

<sup>2</sup> The term 'concentration of civilians' appears in the IHL rule prohibiting area bombardment, which is a type of indiscriminate attack specified in Article 51(5)(a) of Additional Protocol I (1977) to the 1949 Geneva Conventions (hereafter AP I) and in Articles 3(9) and 7(3) of Amended Protocol II (1996) of the 1980 Convention on Certain Conventional Weapons (CCW). The term 'concentration of civilians' is defined in Article 1(2) of Protocol III of the CCW as "any concentration of civilians, be it permanent or temporary, such as in inhabited parts of cities, or inhabited towns or villages, or as in camps or columns of refugees or evacuees, or groups of nomads." The term 'densely populated areas', which appears in the rule requiring precautions against the effects of attack in Article 58(b) of AP I, is not defined in the Protocol or other IHL treaties.

4. The scope of the issue **excludes explosive weapons that are already expressly prohibited** by existing international humanitarian law (IHL) treaties, such as anti-personnel mines and cluster munitions.
5. It also **excludes direct attacks against civilians and civilian objects**, which are clearly unlawful under IHL. The focus is rather on the humanitarian consequences of using explosive weapons with a wide impact area against military objectives (i.e. lawful targets) located in populated areas.
6. **Improvised explosive devices (IEDs)** are included in the scope of the analysis insofar as they fall under one of the three categories of explosive weapons with a wide impact area (under point 2 above).
7. The **legitimacy of directing attacks against military objectives located in populated areas is not put into question**. Rather the concern is with the means and methods chosen to attack lawful targets in populated areas. Such choices must be assessed in light of humanitarian, technical, military, legal and policy considerations, with a view to better protecting civilians.
8. The analysis concerns the use of heavy explosive weapons **in armed conflicts**, whether international or non-international armed conflicts, and whether used by State armed forces or non-State armed groups. The use of such weapons in situations of violence other than armed conflict is outside of the scope of the issue. The applicable legal framework is therefore IHL, also referred to as the law of armed conflict, or the laws of war.