Surveillance, Clearance and Destruction of ERW and Article 4

What has been the contribution of Protocol V to preventing and remedying the serious post-conflict humanitarian problems caused by ERW?

Speaking notes
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I would like to begin by thanking the Chair and the Implementation Support (ISU) for inviting the International Committee of the Red Cross (ICRC) to be a part of this panel. The ICRC believes that Protocol V plays a central role in the efforts to address the suffering caused by weapons that keep on killing once a conflict is over. Through our delegations and with the NSs in many countries, we work to promote the Protocol’s universalization and full implementation.

The ICRC played a key role in bringing about the development of the Protocol. It was in 2000 at the first Preparatory Meeting of States Parties to the 2nd CCW Rev Conference that the ICRC proposed that the CCW consider the negotiation of a protocol that would address the problems caused unexploded and abandoned ordnance. It was in this process that we worked closely with the Chair of the negotiations, Ambassador Chris Sanders of The Netherlands. We are pleased that The Netherlands is still playing a leading role in the universalization and implementation of the Protocol today.

It is useful to recall that at that time there were very rules in IHL on what to do with the explosive debris of armed conflict. There were, at that time, rather recent specific rules on the clearance of landmines but how to address the broader problems of unexploded and abandoned ordnance were not addressed by the existing regulations. Essentially, the problem of explosive remnants of war (ERW) was left for local and national authorities to deal with once the conflict was over.

Protocol V has helped to change that to and today, along with the Anti-personnel Mine Ban Convention and the more recently adopted Convention on Cluster Munitions, IHL has a complete framework for facilitating the clearance of the broad range of unexploded and abandoned ordnance that remains after a conflict is over. Unlike these other treaties, Protocol V is not weapon specific but deals with a broad range of unexploded and abandoned weapons.

Turning more concretely to the question that this panel was asked to address, namely what, in real terms, has been the contribution of Protocol V in preventing and remedying the post-conflict impact of ERW.
It is clear that the Protocol has put in place a framework for action on ERW where no such framework previously existed. Earlier speakers have outlined the contributions made in the areas of clearance and victim assistance from the perspective of affected countries. Another area where the ICRC believes that the Protocol is having an important impact is in the practice and policies of States Parties on the recording, retention and release of information on the use of explosive ordnance.

Article 4 requires the parties to the conflict to (1) record information on the use of explosive ordnance used during the course of its operations, (2) retain that information and (3) share it to facilitate clearance and risk education. Ensuring compliance with these obligations requires that the State Party have in place the necessary policies and procedures and that the armed forces are adequately trained in their implementation. Ireland, Sweden and several other States have shared the policies and procedures that they have developed or are developing to implement Article 4 in earlier meetings of Protocol V States Parties and experts.

A strong indicator of the Protocol’s impact is when information and records are released to clearance organizations by the Parties to an armed conflict. This is increasingly happening. Let me just highlight a few examples:

During a 2012 ICRC expert meeting on Article 4, one clearance expert shared his organizations experience with the release of targeting information by NATO in the of the conflict in Libya. In this instance information was received directly from NATO rather than from individual members States, although information was also provided from the United States. His organization also liaised with NATO military and technical advisers on the ground who had a specific remit to work with clearance organizations to provide information to help facilitate the clearance of ERW.

There have also been recent occasions where the ICRC has been approached in the aftermath of conflicts with offers to provide information on air to ground strike locations so as to help facilitate the conduct of post-conflict operations. This included information the type of explosive ordnance used, where it was used and other non-classified target data.

We are also aware that, in at least one instance, Protocol V has inspired the development of standards and operating procedures in relation to the clearance of firing ranges where unexploded ordnance and abandoned ordnance are present when armed forces are leaving a war affected country.

These are just a few examples. I would also like to highlight that the ICRC itself has used the protocol as a platform to specifically request the parties to a conflict to share the information required by Protocol V and its technical annex. This is done as part of its dialogue with the parties to the conflict during and after the fighting.

But it is also clear that much more needs to be done to improve the speed and the quality of the information released. Clearance organizations need information quickly and in a format that is usable for their information management systems. The release of information must also become a regular reflex of the parties involved in an armed
conflict. To be sure, much more can and needs to be done but these actions reflect an important start.

- In closing, I would highlight that the ICRC hosted an expert meeting in 2012 to look at the potential and challenges of Article 4 and its implementation. The meeting including experts from CCW States Parties and clearance organizations. A range of recommendations were discussed and developed. These included taking steps to create and maintain an institutional "culture of recording" that includes the recording of information in accordance with Article 4 and Part 1 of the Technical Annex and to create mechanisms to quickly time-critical safety information on explosive ordnance. A summary of the meeting and more details on these and additional recommendations is available at the back of the room.