Meeting of States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction

Meeting of Experts, 4 - 8 August 2014, Geneva

Working Session 1: How to strengthen implementation of Article VII, 4 August 2014

Statement by the International Committee of the Red Cross

The ICRC’s international mandate is to assist and protect victims of armed conflict and other situations of violence, including in circumstances where there may be chemical, biological, radiological and nuclear (CBRN) hazards.

The use of biological weapons by any party to any armed conflict is absolutely prohibited by the 1925 Geneva Protocol, the Biological and Toxin Weapons Convention and customary international humanitarian law (IHL). Therefore, the ICRC always emphasises the need for determined and long term action by States to ensure that biological weapons are never again used.

Nevertheless, the ICRC also recognises the potential risk from biological weapons, and in 2007 it published a global risk assessment regarding use of CBRN weapons. This led to a conclusion, at that time, that an international response to assist the victims of use of these weapons was not feasible.¹

Derived from its mandate to assist victims and its duty of care to the safety and security of its staff, including colleagues from the International Red Cross and Red Crescent Movement, the ICRC decided to create a dedicated CBRN response capacity. This decision forced a sober acknowledgement of the real needs of an international humanitarian response and how, in reality, these needs might be met given the many and varied constraints.²

The ICRC’s work to develop a limited CBRN response capacity, involving both preparation and response, is still in progress. The response framework has been developed and stipulates three objectives in order of priority:

- minimise the risks to health, safety and security of people to whom the ICRC has a duty of care;
- ensure the integrity of the ICRC’s operations and continuation of its activities;
- provide assistance to affected people, to the extent possible.

To achieve these objectives in the context of a CBRN event, the ICRC is developing:

- systematic management processes, including risk assessment and decision-making;
- standardised operational practices;
- access to adequate resources, including people, information and materials.

This CBRN response capacity is being developed according to the ICRC’s working modality and the Movement principles. The response is designed for the management of risks from CBRN events, which may include prevention, preparation and response elements. Preventive efforts include recalling States’ obligations under international humanitarian law.

Due to recent world events the nascent CBRN capacity has been deployed in relation to the use, alleged use and threat of use of chemical weapons in north Africa and the middle east since 2011, and in relation to the nuclear emergency in Fukushima, Japan in March 2011.
The CBRN response capacity is managed by the CBRN sector in the Weapon Contamination Unit, and has support from a multi-disciplinary CBRN advisory group, including specialists from the legal and logistics departments. A medical advisory group comprising a range of health care professionals has been established to consider the complexities of health protection, including treatment following exposure to CBRN agents.  

Of pertinence to possible use of biological weapons and the resulting health impact, the medical advisory group can also advise senior management on how the ICRC might achieve the same prioritised objectives (see above) in the event of a pandemic or an epidemic with pandemic potential. For example, this extended CBRN medical advisory group has been active in relation to the H1N1 influenza pandemic of 2009 and the Ebola outbreak of 2014 in Guinea.

Whilst the ICRC has advanced its CBRN response framework, ensuring protection for its staff and operations, including the publication of two guidance documents,\textsuperscript{4,5} this does not imply that the ICRC has any kind of “lead” in responding to CBRN events or outbreaks of disease. However, in response to an outbreak of disease that results from an intentional act, the ICRC would like to emphasise the following:

- an international humanitarian response to assist the victims of use of CBRN weapons would prove to be an extremely complex exercise;
- specifically in relation to article VII of the Biological Weapons Convention, there is an important distinction between assistance to a State and assistance to victims as part of a humanitarian response. The ICRC’s response will always focus on assisting and protecting the victims, without excluding, however, potential assistance to a State.
- in case of alleged use of CBRN weapons, a response to assist the victims may be perceived as a verification of use;
- there are political and security implications for any organisation or agency that, whilst responding to an outbreak of disease, comes into possession of information pertaining to whether the outbreak resulted from a deliberate release. The relevant questions are: Who gathers this information? To whom is it reported? Who analyses it? Who “owns” it? Who makes the judgement about whether the epidemic results from an intentional act or not? Who breaks the news? To what extent is patient confidentiality at stake? To what extent does an organisation such as the ICRC have to compromise on its traditional policy of confidentiality?

The complexity of mounting an international response to assist victims of use of biological weapons, and the potentially very limited impact of any response, underscores the vital importance of continued preventive work by States Parties to the Biological and Toxin Weapons Convention. States must continue to aspire, as articulated in the preamble, “for the sake of all mankind, to exclude completely the possibility of biological agents and toxins being used as weapons.”

\textsuperscript{1} Loye D and Coupland R (2007) Who will assist the victims of use of nuclear, radiological, biological or chemical weapons – and how? International Review of the Red Cross, No. 89, pp. 329-44.
\textsuperscript{4} ICRC (2013) Nuclear, radiological, biological and chemical events. Ref. 4137, 9 July 2013.