

# THE USE OF WEAPONS AND EQUIPMENT IN LAW ENFORCEMENT OPERATIONS

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## Q1 What are the main legal and humanitarian concerns regarding the use of weapons and equipment in law enforcement operations?

Law enforcement officials must ensure that their choice and use of weapons, or other equipment, are compatible with international legal standards on the use of force. In recalling this, the ICRC's primary concern is to ensure that people's life and dignity are protected, and to minimize the adverse humanitarian consequences from the use of firearms and other weapons in law enforcement operations.

Each country has its own regulations and procedures on the weapons and equipment it employs. However, those responsible for developing and implementing such regulations and procedures must consider:

- that weapons or ammunition, and the manner of their use, must be compatible with international legal standards on the use of force, including legal constraints on the use of firearms and other weapons in law enforcement operations
- the humanitarian consequences of the use of different weapons, and possible shortcomings in the choice of weapons and ammunition, in their use, and in the training of law enforcement officials
- the requirement to have alternatives to firearms, including so-called “less-lethal weapons”, to minimize the use of force to what is strictly necessary and proportionate
- the risks associated with the use of “less-lethal weapons”, including the risks of serious injury or death, and the risks of excessive force if the use of such weapons is not carefully controlled
- the acquisition of appropriate protective equipment for use by law enforcement officials, both for their own protection and to reduce the need to use weapons of any kind.



Amman, Jordan. Gendarmerie Institute for Human Rights & Peace Support Operations Training. Course for the General Directorate of Gendarmerie in International Humanitarian Law, Sexual Violence and International Policing Standards.

## Q2 What are the overall legal constraints on the use of force and firearms, or other weapons, in law enforcement operations?

Law enforcement officials must, as far as possible, use non-violent means before resorting to the use of force and firearms or other weapons. In all law enforcement operations, whether in peacetime or in armed conflict or in the specific context of maritime law enforcement, force – including use of weapons – may be used only if other means remain, or would be, ineffective.

The use of force in law enforcement operations is mainly governed by **international human rights law**, which is applicable at all times (in peacetime as well as during armed conflicts), and domestic law, as well as by some provisions of international humanitarian law (during armed conflicts).<sup>1</sup> Under international human rights law, the most relevant right for the use of force in law enforcement operations is the **right to life**. Most human rights treaties prohibit a deprivation of life that is “arbitrary”, meaning not in compliance with relevant international rules and standards and with domestic law.



Osh, on border with Uzbekistan.  
Uzbek refugees return home.

Any use of firearms or other weapons must therefore be consistent with the international legal standards on the use of force in law enforcement operations, in particular the requirements of **legality, necessity, proportionality, precaution** and **accountability**.<sup>2</sup> These requirements are derived from international human rights law, as well as the United Nations (UN) **Basic Principles on the Use of Force and Firearms by Law Enforcement Officials** (BPUFF, 1990), and the UN **Code of Conduct for Law Enforcement Officials** (CCLEO, 1979), which provide specific guidelines on the use of force. These guidelines are well established and generally recognized by law enforcement officials as the applicable international standards. They have been widely used by different human rights bodies to determine whether the use of force was arbitrary in a particular case. There may be additional international or regional guidelines that are also relevant to the implementation of these legal obligations in different countries and regions.<sup>3</sup>

The principle of **legality** (BPUFF Principle 1) requires states to adopt rules and regulations to govern all circumstances surrounding the use of force (who, when and how), and the principle of **necessity** requires that law enforcement officials only use force when strictly **necessary** (CCLEO Article 3). Any such use must be an exceptional measure of last resort employing the least harmful means necessary in pursuance of a legitimate law

<sup>1</sup> ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, ICRC, October 2015, pp. 33–37: <https://www.icrc.org/en/document/international-humanitarian-law-and-challenges-contemporary-armed-conflicts>, all web addresses accessed April 2020.

<sup>2</sup> Not to be confused with the principle of (military) necessity and the rules of proportionality and precautions under international humanitarian law governing the conduct of hostilities, which have distinct meanings and operate differently.

<sup>3</sup> For example, United Nations Economic and Social Council, “Guidelines for the effective implementation of the Code of Conduct for Law Enforcement Officials”, 1989/61.

enforcement objective. This entails applying non-violent means as far as possible before resorting to the use of force and firearms (BPUFF Principle 4).

The principle of **proportionality** (BPUFF Principle 5a) requires that the amount of force used, and the potential harm it may cause, remain restricted to what is strictly in proportion to the seriousness of the offence and the legitimate objective, while the requirements of **precaution** demand that law enforcement operations be carefully planned in order to avoid the use of force as much as possible, and to minimize the risk to bystanders (BPUFF Principle 3). Law enforcement officials must minimize damage and injury, and respect and preserve human life (Principle 5b). They must carefully evaluate and differentiate their use of weapons in relation to the circumstances.

The requirements for **accountability** (BPUFF Principles 7 and 22–24) demand that use of force that causes death or injury must be reported promptly, and any excessive or otherwise arbitrary use of force must be properly investigated and punished. (For further explanation of these overall legal obligations, see the ICRC’s Advisory Service factsheet, *[The Use of Force in Law Enforcement Operations](#)*.)<sup>4</sup>

Any use of firearms or other weapons must also be consistent with all other international law applicable to the particular type of weapon or ammunition. For example, the Chemical Weapons Convention defines “riot control agents”, which are toxic chemicals used in law enforcement operations, and sets constraints on their acquisition (see [Question 9](#)).

Whenever the use of force is unavoidable, **law enforcement officials must ensure that medical and psychological assistance is provided** to injured or affected persons at the earliest possible moment (BPUFF, Principle 5c). Assistance must be given according to needs, taking into account vulnerable groups.

### Q3 What measures are necessary to ensure the legality of a weapon for use in law enforcement operations?

While there are international standards on the use of force, there are no international standards or guidelines for assessing the effects and legality of particular types of weapons in law enforcement operations, whether firearms or other weapons. However, it is necessary, practically speaking, for **States to establish national processes for assessing and testing each weapon before acquisition and deployment** in order to consider the specific risks to life and health given the weapon’s foreseeable use and effects and ensure compliance with international human rights norms and standards such as BPUFF.<sup>5</sup> The weapon system as a whole, for example the firearm with specific ammunition, should be evaluated for its accuracy and precision, its ability to be used in a way that differentiates

<sup>4</sup> ICRC, *The Use of Force in Law Enforcement Operations*, Legal Advisory Service factsheet, ICRC, 3 September 2015: [https://www.icrc.org/en/download/file/13638/the\\_use\\_of\\_force\\_in\\_law\\_enforcement\\_07.09.2015.pdf](https://www.icrc.org/en/download/file/13638/the_use_of_force_in_law_enforcement_07.09.2015.pdf).

<sup>5</sup> United Nations General Assembly, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions*, A/69/265, Section 4: “Use of less lethal and unmanned weapons in law enforcement”, para. 76, 6 August 2014; United Nations Human Rights Council, *Joint Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on the Proper Management of Assemblies*, A/HRC/31/66, paras 55, 67(c), 2016; S. Casey-Maslen, N. Corney, and A. Dymond-Bass, “The review of weapons under international humanitarian law and human rights law” in S. Casey-Maslen (ed.), *Weapons under International Human Rights Law*, Cambridge University Press, 2014, p. 430.



between an individual subject to the use of force and bystanders, its reliability, and its specific effects and mechanism of injury.<sup>6</sup> These considerations must inform constraints on the use of each weapon.

There should be careful control over all weapons used by law enforcement officials. Rules and regulations on the use of firearms should include guidelines that **prohibit the use of firearms and ammunition that cause unwarranted injury or present an unwarranted risk** (BPUFF Principle 11c). Modification of standard issue weapons, or the use of unauthorized or improvised weapons must be prohibited.

**Clear guidelines governing the circumstances of use of all weapons (rules of engagement or rules on the use of force)**, oversight mechanisms to carefully monitor their use, and **specific training** for all law enforcement officials are necessary to ensure that the applicable constraints governing their use are respected. Other necessary measures, such as the provision of medical care for any victims (appropriate to the specific weapon and the injuries to be expected) should also be formalized in standard operating procedures.

It is important to emphasize that, **where armed forces carry out or may be expected to carry out law enforcement operations, they must be equipped and properly trained with appropriate weapons and equipment** for those operations. The level of training and equipment provided should be adapted to the situation and reflect the likelihood of having to use force under the law enforcement paradigm. The training and equipment must enable the forces to operate in compliance with law enforcement rules and standards, including refraining from the use of force to the maximum extent possible.

#### Q4 Under what conditions can firearms, and other forms of lethal and potentially lethal force, be used in law enforcement operations?

In international law a **firearm** is defined as “any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive”.<sup>7</sup> **Ammunition** is defined as “the complete round or its components, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a firearm”<sup>8</sup> This includes ammunition of all calibres, including shotgun ammunition containing metal shot and metal bullets that have been coated in plastic or rubber.

Firearms are sometimes used with ammunition that is designed to cause blunt trauma injury, such as rubber,



Lima. Training exercise on the use of force and human rights. Simulation of the arrest of a suspect in the street.

<sup>6</sup> United Nations Human Rights Council, A/HRC/31/66, para. 67(c); S. Casey-Maslen, N. Corney and A. Dymond-Bass, note 5, p. 430.

<sup>7</sup> United Nations, *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition Supplementing the United Nations Convention against Transnational Organized Crime*, Art. 3(a), 2001.

<sup>8</sup> *Ibid.*, Art. 3(c).

plastic or foam bullets. Although such projectiles are commonly described as “less lethal” in comparison with conventional ammunition, their use can cause serious injury or death, depending on the circumstances (see [Question 8](#)).

**Any use of firearms constitutes potentially lethal force and, according to BPUFF Principle 9, their use is authorized exclusively in the following situations, and only when less extreme means are insufficient to achieve these objectives:**

- self-defence or defence of others against the **imminent threat** of death or serious injury
- to prevent the perpetration of a particularly serious crime involving grave threat to life
- to arrest a person presenting an imminent threat of perpetrating such crimes and resisting the authorities, or to prevent their escape.

In any event, **intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.**

According to BPUFF Principles 14 and 16, the use of firearms while policing unlawful and violent assemblies and controlling persons in custody or detention is also limited to the situations mentioned above.<sup>9</sup> Any use of firearms must also always be consistent with overall international legal standards on the use of force in law enforcement operations, including the principles and requirements of legality, necessity, proportionality, precaution and accountability (see [Question 2](#)).

While the BPUFF Special Provisions (Principles 9–11) expressly restrict the use of firearms, **these provisions should also be applied to any use of lethal or potentially lethal force**, whether with a firearm or other weapon, including those described as “less-lethal weapons”, to the extent they present such risks in the circumstances (see [Questions 7 and 8](#)).<sup>10</sup>

Firing **warning shots may involve serious risks for bystanders**, and some States therefore prohibit their use in law enforcement operations. In view of these risks, when warning shots are permitted under domestic law, they should only be used with caution and in accordance with international standards on the use of force in law enforcement operations.

## Q5 Which weapons and equipment should not be used for law enforcement operations?

Law enforcement operations cover a very broad range of situations, from managing a violent individual to confronting a group of heavily armed criminals. Consistent with the principles of necessity and proportionality, the choice of weapons, if any, depends on the particular situation. Weapons that are appropriate in one situation may not be suitable in another.

<sup>9</sup> NB The use of force by law enforcement officials in detention, while covered by the same legal rules and principles as other law enforcement operations, requires other specific considerations that are not covered in this document.

<sup>10</sup> See ICRC, *The Use of Force in Law Enforcement Operations*, Legal Advisory Service factsheet, ICRC, 3 September 2015: [https://www.icrc.org/en/download/file/13638/the\\_use\\_of\\_force\\_in\\_law\\_enforcement\\_07.09.2015.pdf](https://www.icrc.org/en/download/file/13638/the_use_of_force_in_law_enforcement_07.09.2015.pdf).

The use of any firearm, or other lethal or potentially lethal force, must always be consistent with international legal standards on the use of force and firearms (see [Questions 2, 3 and 4](#)). Therefore, **any weapons whose effects cannot be strictly controlled** so as to be necessary, proportionate to the seriousness of the offence and legitimate law enforcement objective, and consistent with the principle of precaution, **should not be used in law enforcement operations**.

In light of these requirements, **certain firearms, and other weapons and ammunition** designed for use by armed forces in armed conflict, will generally not be consistent with international standards on the use of force in law enforcement, and therefore **should not be used**.<sup>11</sup> This includes, in particular:

- **Assault rifles in fully automatic mode** (or multiple shot burst mode), **and other fully automatic weapons**. This is because automatic fire is inaccurate and cannot be strictly controlled and directed at the specific person(s) posing an imminent threat, while minimizing the risk to them and to bystanders.<sup>12</sup>
- **Explosive weapons**, such as fragmentation grenades, mortars, rockets, bombs and missiles. This is because their effects cannot be considered necessary or proportionate in law enforcement operations. In particular they are not compatible with the obligations to minimize damage and injury, both to the specific person(s) posing an imminent threat and to bystanders.<sup>13</sup>

Furthermore, **weapons or other equipment that are designed for the purpose of, or have no practical use other than, torture or other cruel, inhuman or degrading treatment or punishment** are not consistent with international norms and standards and **must not be used in law enforcement**.<sup>14</sup> This includes, for example, those that:

- unnecessarily aggravate wounds and suffering, such as **spiked batons** or **spiked shields**

<sup>11</sup> Several judgements of the Inter-American Court of Human Rights (IACtHR) and the European Court of Human Rights (ECtHR) on situations involving the use of automatic weapons or explosive weapons found that such use was illegal in the circumstances: IACtHR, *Santo Domingo Massacre v. Colombia*, judgment of 30 November 2012 (Preliminary objections, merits and reparations), paras 221, 229, 230 and 282; IACtHR, *Neira Alegria et al. v. Peru*, judgment of 19 January 1995 (Merits), para. 74; ECtHR, *Nachova and Others v. Bulgaria* (Application no. 43577/98 and 43579/98), judgment of 6 July 2005, § 108, where the Court found that it was impossible to “aim with any reasonable degree using automatic fire”; ECtHR, *Gül v. Turkey* (Application no. 22676/93), judgment of 14 December 2000, § 82; ECtHR, *Makaratzis v. Greece* (Application no. 50385/99) Judgment of 20 December 2004, §§ 14, 67; and ECtHR, *Cangöz and Others v. Turkey* (Application no. 7469/06), judgment of 26 April 2016, §§ 34, 113. For a strong condemnation of automatic weapons see also *The Marikana Commission of Inquiry: Report on Matters of Public, National and International Concern Arising out of the Tragic Incidents at the Lonmin Mine in Marikana, in the North West Province, South Africa*, 31 March 2015, p. 547, which states that “experts were unanimous in their view that automatic rifles like the R5 [a fully automatic assault rifle] have no place in Public Order Policing”, and further that one expert said “military assault weapons have no place in law enforcement” while another “recommended an immediate withdrawal of R5 rifles and added that any replacement weapon system should not be capable of ‘automatic fire’ mode.”

<sup>12</sup> The use of these weapons in fully automatic mode must be distinguished from their use in single shot or semi-automatic mode, where the targeting of each shot can be controlled and justified. Of course, any such use must satisfy the strict criteria for the use of force and firearms in law enforcement (see [Questions 2, 3 and 4](#)).

<sup>13</sup> However, it may be legitimate, depending on the circumstances, to use certain explosive devices against objects, such as doors or barricades. Though some devices such as “stun grenades” or “flash-bang devices” contain a small amount of explosives, they do not produce fragmentation effects and are not designed to injure or damage by means of explosive force; as such they are not explosive weapons.

<sup>14</sup> See, for example, Council Regulation (EC) No. 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment; United Nations General Assembly, *Extra-Custodial Use of Force and the Prohibition of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/72/178, 20 July 2017, paras 50–51.

- cause continuous, extreme anguish or humiliation, such as **stun belts** and other devices worn on the body that can deliver electric shocks through remote control
- cause unnecessary pain, injury or humiliation, such as **thumb and finger cuffs and screws**.<sup>15</sup>

## Q6 Are expanding bullets prohibited in law enforcement operations?

Expanding bullets are, generally, **open-tipped bullets that expand or flatten easily when they enter the human body**. Their design contributes to increased wound size and more severe tissue damage when compared to equivalent non-expanding (full metal jacket) bullets.

The **use of expanding bullets in armed conflict is prohibited** by the Hague Declaration (IV.3, 1899) and customary international humanitarian law,<sup>16</sup> and stems from the prohibition of weapons that cause superfluous injury or unnecessary suffering. However, **expanding ammunition is not prohibited for use in law enforcement operations**, as long as the use of firearms is legitimate (see [Question 4](#)). Expanding bullets are used in law enforcement operations in order to minimize the risk of the bullet passing through the individual posing an imminent threat and endangering bystanders. However, expanding bullets should only be used when strictly necessary and proportionate, when less extreme means are insufficient, and keeping in mind the obligation to limit injury or damage, including injury to the person against whom force is used.

The difference between how international humanitarian law and international law enforcement standards deal with expanding bullets can be understood by considering the differences between law enforcement operations and the conduct of hostilities in armed conflict in the types of firearms used and the rules governing the use of force. The rules regulating the use of means and methods of warfare – the conduct of hostilities – in armed conflict are found in international humanitarian law. Whereas the rules governing the use of force in law enforcement are derived from international human rights law.

In law enforcement, expanding bullets are generally used with weapons and ammunition that are far less powerful than military rifles and ammunition. For example, a 7.62 mm expanding bullet fired from a military rifle will deposit over six times more energy in the human body than a 9 mm expanding bullet fired from a handgun, resulting in a much more severe wound.<sup>17</sup> Furthermore, in law enforcement operations the use of firearms is an exceptional measure (see [Question 4](#)), whereas in the conduct of hostilities in armed

<sup>15</sup> *Ibid.*, United Nations, para 51; Office of the United Nations High Commissioner for Human Rights, *United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement*, Advance edited version, United Nations, Geneva, 2020, p. 18.

<sup>16</sup> ICRC, Customary International Humanitarian Law Database, Rule 77, “The use of bullets which expand or flatten easily in the human body is prohibited. State practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts.”: [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule77](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule77).

<sup>17</sup> R. Coupland and D. Loe, “The 1899 Hague Declaration Concerning Expanding Bullets: A Treaty Effective for More Than 100 Years Faces Complex Contemporary Issues”, *International Review of the Red Cross*, Vol. 85, No. 849, 2003, pp. 135–142: [https://www.icrc.org/eng/assets/files/other/irrc\\_849\\_coupland\\_et\\_loye.pdf](https://www.icrc.org/eng/assets/files/other/irrc_849_coupland_et_loye.pdf).



conflict their use is generally widespread. From a humanitarian perspective, therefore, the adverse consequences from the use of expanding bullets would be much greater in armed conflict due to the nature of the weapons and ammunition, and the sheer number of bullets fired.

Given the differing legal obligations governing the conduct of hostilities during armed conflict and the use of force during law enforcement operations, authorities must ensure that expanding bullets used in law enforcement operations are not deployed and used in the conduct of hostilities. This is particularly relevant where armed forces or police are involved in both types of operations and where law enforcement operations and hostilities occur in parallel.<sup>18</sup>

## Q7 What is the requirement for law enforcement officials to have alternatives to using firearms, including so-called “less-lethal weapons”?

BPUFF Principle 2 requires that **law enforcement officials be equipped with various types of weapon and ammunition to allow for a differentiated use of force and firearms**, according to what is necessary and proportionate in the circumstances, including when they resort to an “escalation of force procedure” or a “use of force continuum”. This requirement includes equipping law enforcement officials with self-defensive equipment (see [Question 10](#)).

In order to restrain the use of firearms, and to limit the use of force use to what is necessary and proportionate, BPUFF Principles 2 and 3 require governments and law enforcement agencies to develop, acquire, equip law enforcement officials with, and train them on the use of so-called “non-lethal incapacitating weapons”, which are now commonly known as “**less-lethal weapons**”, **for use as alternatives to firearms with conventional ammunition**.

Although there is no internationally agreed definition of a “less-lethal weapon”,<sup>19</sup> the term is generally used to describe weapons designed to carry a lower risk of death or serious injury than firearms, if used within strict constraints. Weapons with a wide variety of mechanisms of injury have been described as “less lethal”, for example those causing injury with blunt impact (e.g. hand-held batons, and plastic, rubber or foam bullets), irritant toxic chemicals (e.g. “riot control agents”, such as “pepper spray” and “tear gas”) or electric shock (e.g. electrical weapons such as “tasers”).

**Alternatives to firearms, including “less-lethal weapons”, may only be used with the aim of reducing the amount of force used by law enforcement officials**, and their use should be carefully controlled (BPUFF Principle 3). In accordance with BPUFF Principles 4 and 5 and CCLEO (Article 3), such weapons must only be used when strictly necessary and

<sup>18</sup> See ICRC, *Expert Meeting: The Use of Force in Armed Conflicts, Interplay Between the Conduct of Hostilities and Law Enforcement Paradigms*, ICRC, November 2013: <https://www.icrc.org/eng/assets/files/publications/icrc-002-4171.pdf>.

<sup>19</sup> NB While international standards on the use of force in law enforcement operations distinguish between firearms and “non-lethal incapacitating weapons”, commonly known as “less-lethal weapons” (BPUFF Principles 2 and 3), there is no such distinction in international humanitarian law.

proportionate, and only if other, less harmful, means are ineffective to achieve a legitimate law enforcement objective. They must be deployed and used in such a manner as to minimize injury and damage. In any case, law enforcement officers should always use the least harmful means that are necessary and proportionate to a legitimate law enforcement objective (see also [Questions 2, 3 and 4](#)).

If the use of a particular weapon amounts to potentially lethal force in the specific circumstances, even if described as a “less-lethal weapon”, then its use should be limited in the same strict manner as firearms (see [Question 4](#)).

## Q8 What are the risks associated with the use of “less-lethal weapons”?

Although the use of “less-lethal weapons” is intended to carry a lower risk of death or serious injury than firearms, **their use is certainly not risk-free and can cause death or serious injury**, depending on the specific weapon and the circumstances of use.

It is **misleading to describe a weapon solely in terms of its “lethality”**, as any weapon can be used to lethal effect, or cause serious injury, including those described as “less lethal”, for example: a plastic bullet fired at short range, or at the head or chest; “tear gas” used in enclosed spaces; or an electrical weapon used to deliver repeated shocks. The use of a firearm, described as “lethal”, can also have a non-fatal outcome.

The outcome of the use of a particular “less-lethal weapon” will depend on the specific technical characteristics of the weapon, which determine its mechanism of injury, and on the manner and circumstances in which the weapon is used (including the vulnerabilities of the victim), which are also related to the training of the user and the user’s intent. Each weapon must therefore be assessed and tested before acquisition and deployment to consider the specific risks to life and health given its foreseeable use and effects, and to ensure its lawful use in any law enforcement operations (see [Question 2](#) for further details).

The wide availability of various “less-lethal weapons” can contribute to excessive use of force by law enforcement officials if their use is not strictly controlled. And, contrary to the requirements of BPUFF to minimize the use of force (Principles 2 and 3), these weapons are often misused. Therefore, it is important to stress that **these weapons must not be used as a substitute for non-violent means or against non-threatening individuals**, including those who have already been restrained. For detailed guidance on the wide variety of “less-lethal weapons”, their lawful use, specific risks, and unlawful use, see [United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement](#).<sup>20</sup>



A tear gas canister is thrown into a group of demonstrators in Dakar, Senegal.

<sup>20</sup> Office of the United Nations High Commissioner for Human Rights, *United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement*, 2020.

## Q9 Can toxic chemicals be used as weapons for law enforcement?

The use of “riot control agents”, as defined in the Chemical Weapons Convention (CWC),<sup>21</sup> is permitted for law enforcement including domestic riot control purposes,<sup>22</sup> although any such use must be consistent with international standards on the use of force (see [Questions 2](#) and [3](#)). The CWC also requires that the “types and quantities” of riot control agents, and their delivery systems, held by States for law enforcement be consistent with those purposes.

Commonly used riot control agents are the sensory irritant chemicals CS (often described as “tear gas”), oleoresin capsicum (OC) (known as “pepper spray”), and PAVA (a synthetic chemical similar to OC).<sup>23</sup> So-called “malodorants” (foul smelling chemicals causing sensory irritation) are also riot control agents.

The ICRC’s position is that the use of toxic chemicals as weapons for law enforcement operations should be limited to riot control agents only. Therefore, toxic chemicals that do not fit the CWC definition of riot control agents (such as anaesthetic and sedative chemicals) should not be used. This is due to the risks of death and permanent disability posed by the use of highly toxic chemicals as weapons for law enforcement, the risks of undermining the prohibition of chemical weapons, and the constraints imposed by the applicable legal framework, including international human rights law.<sup>24</sup>

The use of riot control agents as a method of warfare is prohibited,<sup>25</sup> and any weapon or munition containing riot control agents that is designed for use in armed conflict is also prohibited as a chemical weapon. Use of riot control agents for the conduct of hostilities in armed conflict would constitute the use of chemical weapons.

Given the differing legal obligations applicable during the conduct of hostilities in armed conflict and law enforcement operations, authorities must ensure that any riot control agents used in law enforcement operations are not deployed and used in the conduct of hostilities. This is particularly relevant where armed forces or police are involved in both types of operations and where law enforcement operations and hostilities occur in parallel.<sup>26</sup>

<sup>21</sup> CWC, Art. II.7, “Any chemical not listed in a [CWC] Schedule, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure.” Riot control agents are also “toxic chemicals” as per the CWC definition, Art. II.2, “Any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals.”

<sup>22</sup> CWC, Art. II.9(d).

<sup>23</sup> Organization for the Prohibition of Chemical Weapons, “Declaration of Riot Control Agents: Advice from the Scientific Advisory Board”, S/1177/2014, Office of Strategy and Policy, 2014.

<sup>24</sup> See: ICRC, “ICRC position on the use of toxic chemicals as weapons for law enforcement,” ICRC, 6 February 2013: <https://www.icrc.org/eng/resources/documents/legal-fact-sheet/2013-02-06-toxic-chemicals-weapons-law-enforcement.htm>.

<sup>25</sup> CWC, Art. I.5.

<sup>26</sup> See ICRC, *Expert Meeting: The Use of Force in Armed Conflicts, Interplay Between the Conduct of Hostilities and Law Enforcement Paradigms*, ICRC, November 2013: <https://www.icrc.org/eng/assets/files/publications/icrc-002-4171.pdf>.

## Q10 What type of protective equipment should law enforcement officials use?

BPUFF Principle 2 requires that law enforcement officials be equipped with self-defensive and protective equipment, such as shields, helmets, bullet-proof vests and bullet-proof means of transportation, **in order to decrease the need to use weapons of any kind**, notably by reducing the risk of injury for law enforcement officials in carrying out their duties. The equipment should be accompanied by training and tactics for de-escalation to help reduce the need to resort to force, including the use of weapons.

With this in mind, law enforcement officials should equip and train their staff with the most appropriate protective equipment for different law enforcement operations. However, in using and deploying protective equipment and vehicles, care should be taken to ensure that it is suitable for the specific situation, in particular to avoid an overly combative image and perception of law enforcement officials. For example, during assemblies and peaceful demonstrations, the deployment of “riot gear”, dogs, horses and “tear gas” may convey a hostile impression and create a sense of fear among demonstrators and thus may make it difficult for law enforcement officials to convince the public of their peaceful intentions. Such appearance and equipment might increase tension and aggression, or even cause panic and ultimately lead to an escalation of the situation.<sup>27</sup>



Mexican Police in line. International Day for the Elimination of Violence against Women 2019.

**Certain military vehicles are clearly not suitable for law enforcement operations**, such as tanks, fighter aircraft, combat helicopters and other vehicles fitted with heavy weaponry designed for armed conflict.

<sup>27</sup> ICRC, *To Serve and To Protect: Human Rights and Humanitarian Law for Police and Security Forces*, 2nd ed., ICRC, March 2014, p. 185: <https://www.icrc.org/en/publication/0698-serve-and-protect-human-rights-and-humanitarian-law-police-and-security-forces>.

## Further reading

- ICRC, [\*The Use of Force in Law Enforcement Operations\*](#), Legal Advisory Service factsheet, ICRC, 3 September 2015.
- ICRC, [\*International Humanitarian Law and the Challenges of Contemporary Armed Conflicts\*](#), ICRC, October 2015, pp. 33–37.
- ICRC, [\*To Serve and To Protect: Human Rights and Humanitarian Law for Police and Security Forces\*](#), 2nd ed., ICRC, March 2014.
- ICRC, [\*Expert Meeting: The Use of Force in Armed Conflicts, Interplay Between the Conduct of Hostilities and Law Enforcement Paradigms\*](#), ICRC, November 2013.
- ICRC, “[\*ICRC position on the use of toxic chemicals as weapons for law enforcement\*](#)”, ICRC, 6 February 2013.
- Office of the United Nations High Commissioner for Human Rights and United Nations Office on Drugs and Crime, [\*Resource Book on the Use of Force and Firearms in Law Enforcement\*](#), Criminal Justice Handbook Series, United Nations New York, 2017.
- Office of the United Nations High Commissioner for Human Rights, [\*United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement\*](#), Advance Edited Version, United Nations, Geneva, 2020.