



CCW REPORT

Civil society perspectives on the CCW meeting of experts
on autonomous weapon systems
13–17 April 2015



Reaching Critical Will

17 April 2015
Vol. 2, No. 5

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The CCW Report is produced by the Reaching Critical Will programme of the Women's International League for Peace and Freedom (WILPF), a member of the Campaign to Stop Killer Robots.

EDITORIAL: RIGHTS AND RESPONSIBILITIES OF HUMANITY

Ray Acheson | *Reaching Critical Will of WILPF*

Over the past week the potential technical capacities and lawfulness of autonomous weapons have been extensively considered. Questions have included, can autonomous weapons make the necessary distinctions for targeting? Can autonomous weapons be programmed to act in conformity with international law? Yet the most fundamental question is neither technical nor legal, but rather ethical: should humans delegate power over life and death to machines? What are the implications for human rights and more broadly, for humanity?

These questions are critical to determining whether or not autonomous weapons should be developed. Looking at the "lawfulness" of an attack, with any weapon, is insufficient for determining its acceptability, argued Christof Heyns, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions. An action may be lawful under international humanitarian law (IHL) but a commander may decide not to undertake it on the basis of other considerations, including morality or ethics. Yet this option would likely not be available with an autonomous weapon.

Further, even those who could be lawfully targeted under IHL still have a right to dignity, which would be undermined by the use of autonomous weapons. The US delegation argued that violence to human dignity is inherent in armed conflict, regardless of what weapon is used. This is true, yet there is something particularly undignified—and inhumane—in being subjected to machine-based violence, the challenges of which were discussed in yesterday's CCW Report.

All wars undermine human dignity, said the Holy See, but autonomous weapons would only elevate dehumanisation. This is not just an issue for those being killed by machines but also those allowing machines to perform these actions on their behalf. Their dignity is also at stake, argues Heyns.

If a machine makes "decisions" of when and how and where to use force, are the humans involved in its deployment still moral agents exercising moral force? "The taking of life requires accountability, human accountability, for our actions, determined by morality and law," argued WILPF at the beginning of the week. "Without that we shirk our responsibilities and betray our common humanity."

The loss of accountability is another important consideration. In a recent report, Human Rights Watch found that programmers, manufacturers, and military personnel could all escape liability for unlawful deaths and injuries caused autonomous weapons. Bonnie Docherty from the Arms Division of HRW highlighted the significant hurdles to assigning personal accountability for the actions of autonomous weapons under both criminal and civil law. "No accountability means no deterrence of future crimes, no retribution for victims, no social condemnation of the responsible party," she argued.

The use of force has already become too disengaged from moral reasoning, effective oversight, or accountability. The relationship between accountability and armed violence has been increasingly undermined through policies and practices of states that grant themselves "an overly generous licence to kill," as anthropologist Hugh Gusterson put it. In a recent article in the *Bulletin of Atomic Scientists* he argued that "assassination, combat, and law enforcement have become jumbled together" through counterinsurgency programmes, the use of armed drones, and militarisation of the police. This is extremely relevant in the debate about autonomous weapons. Heyns, several delegations, Human Rights Watch, and Amnesty International raised concerns about the use of autonomous weapons outside of established armed conflicts and the implications of this for human rights law and rules of engagement for police forces.

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CAMPAIGN TO STOP
KILLER ROBOTS

Editorial, continued

This is not an abstract concern. The United States, for example, has for the last fifteen years treated the world as a battlefield, including its own territory. US police have reportedly killed an average of 928 people a year over the last eight years—which is twice as many as the highest estimate of reported civilian deaths from drone strikes in Pakistan, Yemen, Somalia, and Afghanistan combined, Gusterson notes.

There is reason to believe that autonomous weapons would be likely to only increase opportunities for military intervention, extrajudicial assassinations, and terrorisation of home populations through law enforcement. Many delegations and speakers throughout the week have raised concerns that the availability of such weapons would risk lowering the threshold for using armed violence due to the low risk to the deploying force. Heyns has argued in a report on armed drones that these semi-autonomous weapons provide the opportunity for states to engage “in low-intensity but drawn-out applications of force that know few geographical or temporal boundaries.” He argues that this contradicts “the notion that war—and the transnational use of force in general—must be of limited duration and scope, and that there should be a time of healing and recovery following conflict.”

All of these considerations have serious implications for where we go from here.

Earlier this week, some panelists and delegations indicated that weapons reviews, such as those mandated by article 36 of Additional Protocol I of the Geneva Conventions, would be sufficient to determine the legality of autonomous weapons. But article 36 reviews are conducted within the framework of IHL. It is not clear how such reviews would address human rights law.

Some delegations have also suggested that looking at issues of transparency would be the best next step for the autonomous weapons issue in the context of the CCW. Transparency, of course, is critical to moving forward with building collective understandings and approaches to constraining the development and use of tools of violence. Understanding what technologies currently exist and what might be under development would be helpful. But at the moment we have an opportunity to prevent the development certain technologies. Transparency is an element of this preventative effort but it is not the solution itself.

Heyns argued that from the perspective of human rights, weapons operating without meaningful human control must be prohibited. This is consistent with the arguments made by civil society organisations that are part of the Campaign to Stop Killer Robots, including WILPF. A ban on autonomous weapons is necessary to ensure the retention of meaningful human control over targeting and attack decisions.

States should take the time between now and the CCW meeting in November 2015 to figure out how best to move forward. They should plan to set aside significant time next year, perhaps through a group of governmental experts, to examine critical issues including meaningful human control and appropriate policy and legal responses. Such activities should be oriented towards establishing a negotiating mandate at the CCW Review Conference in 2016. Moving forward progressively and swiftly on this issue is imperative, while we still have the chance to prevent the development of autonomous weapons and uphold basic principles of humanity. •

CCW MONITOR
17 APRIL 2015 | Vol. 2, No. 5

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*The views expressed in this publication
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CALENDAR OF EVENTS

When	What	Where	Who
10:00-13:00	Way ahead	Conference Room XVIII	
13:15-14:45	Fully autonomous weapons are not “inevitable”	Conference Room XXIII	Campaign to Stop Killer Robots
15:00-18:00	Closing session	Conference Room XVIII	



EVENT: TRANSPARENCY AND AUTONOMOUS WEAPON SYSTEMS

Anna Chiapello | Geneva Academy of IHL and HR

Thursday's side event convened by UNIDIR and chaired by John Borrie provided an opportunity for an informal discussion on the various interpretations of transparency and the specific challenges that autonomous weapons systems (AWS) raise in this regard.

Paul Scharre recognized that transparency could be useful for confidence-building and to avoid an arms race, but he also cautioned that states might not be willing to share details about their weapons and strategic intent. Scharre stressed the difficulty of telling whether a weapon is autonomous or not from the outside, and that the technical description of a weapon could not necessarily be relied upon. Finally, he highlighted that given the complexity of human-machine interactions it may be difficult to determine who was to blame for an undesired outcome of weapon use.

Sarah Knuckey stressed that transparency is not only a procedural consideration - its absence undermines human rights and accountability. It is necessary for the prevention of human rights violations, to ensure accountability, to enable victims to seek redress, and to ensure democratic control over the use of force. Knuckey highlighted that strategic transparency could also be conducive to the legitimacy of a state's foreign policy. Transparency is crucial to producing information that is needed for

an evidence-based approach to assessing the acceptability of AWS. Finally, she noted that whilst there is no transparency requirement in respect of states' obligation to review new weapons (Art. 36 API), international law does contain some provisions that oblige states to make information available in connection to the use of force. In closing, Knuckey underlined that whilst transparency is important, it is not, on its own, an answer to the challenges of AWS.

Among the challenges to transparency, Patrick Lin mentioned concerns of manufacturers about intellectual property, as well as the risk that weak spots of an autonomous system could be exploited. He concluded that transparency, whilst potentially difficult to achieve, is crucial to accountability and compliance.

During the Q&A session, some of these issues were explored further. One attendee asked: how would the transparency challenges differ in the case of a prohibition of AWS, compared to proposals for Art. 36 reviews combined with guidelines and best practices? Drawing an analogy to the Chemical Weapons Convention, Sarah Knuckey suggested that a prohibition would lead to transparency and verification mechanisms, whereas in its absence, transparency challenges would be much less defined. •

NEWS IN BRIEF

Ray Acheson and Mia Gardenberger | *Reaching Critical Will of WILPF*

Overarching issues

- Holy See delivered a general statement exploring ethical questions surrounding the use of deadly force by autonomous weapon systems (AWS).
- Professor Christoph Heyns in reviewing the human rights (HR) implications called for a more holistic approach to AWS, including addressing both lethal and non-lethal AWS and their use both in and out of conflict settings.
- He explained that apart from the technical feasibility of AWS being able to identify a target, the more pertinent question is whether it should be taking that decision. The rights to life as well and human dignity are particularly important in this context.
- Professor Heyns stressed that AWS should not be used, but instead be banned for ethical, human rights, and international law reasons.
- Bonnie Docherty considered significant HR implications for AWS, in particular the rights to life, remedy, and dignity. As an example she reviewed the potential use of AWS in a law enforcement context, focusing on their ability to respect the right to life.
- Ms Docherty concluded that HR implications of AWS compound other threats and that the cumulative concerns arising from AWS could be resolved by prohibiting these weapons preemptively.

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News in brief, continued

- Professor Patrick Lin reviewed ethical questions surrounding the right to life by examining possible implications on human dignity and in that context, accountability, access to remedy, and respect.
- According to Professor Lin, the Martens Clause raises complementary concepts, but might be susceptible to subjective judgment, because different individuals and cultures can have different moral intuitions. Therefore, the many concepts surrounding AWS need further study and clarification.
- Ms Karolina Zawieska explored the anthropomorphic terminology in AWS. She stressed the need for differentiating between human and humanlike when talking about AWS.
- Cuba highlighted the importance of IHL and IHRL and called for a legally-binding instrument that would regulate AWS.
- France, United States, Russia, Palestine, and China shared their views on the ethical questions arising from AWS.
- Australia raised the question how future generations would react to AWS.
- In this connection, Professor Heyns underlined the educational value of a preemptive ban.
- Sierra Leone argued that while human beings are not infallible, they can be held accountable, while machines cannot.
- Russia stressed that losing control over AWS is contradictory to IHL and the Marten's Clause
- Ms Zawieska pointed out that words shape human thinking so therefore addressing linguistic aspects are not just conceptual.
- Ireland reiterated that the issue of AWS should also be addressed in the human rights forums.
- Brazil inquired after possible ways of interaction that could happen between the CCW and the Human Rights Council (HRC).
- In that connection, Professor Heyns stressed that while he welcomed that the CCW was addressing this issue, it will still be taken up by the HRC.
- In the Q&A, China also cautioned that development of AWS would lead to a new arms race and questioned about relationship between AWS and nuclear weapons or cyber weapons.
- Pakistan raised several concerns with AWS including retaliation against civilians in AWS-using states; proliferation risks; and lowering threshold for use of force.
- ICRC noted that the structure of questions in surveys can skew results. It also pointed out that when it comes to public opinion, the desires of the majority can often result in the injustices towards a minority, and that while opinions may shift, the underlying moral principles upon which they are built do not—human rights, human dignity, and respect for the law. Thus for public opinion to serve as an indicator of the public conscience, it is necessary to clearly demonstrate its relationship to underlying moral values.
- China and Sierra Leone called for scientific, global surveys.
- Austria asked about the difference between offensive and defensive AWS.
- Dr. Rickli explained that even “defensive” AWS could be reprogrammed to become offensive.
- World Council of Churches noted that most of the perspectives being presented are from those who might aspire to develop autonomous weapons and concerns are largely coming from those that have suffered under analogous technologies such as armed drones. •

General security issues

- Dr. Monika Chansoria argued AWS should not be banned categorically though suggested they would probably face difficulties in distinguishing between combatants and civilians.
- Prof. Michael Horowitz argued that changing the question on AWS in surveys gives different indications of public opinion and thus it is not necessarily true that the public would oppose autonomous weapons.
- Dr. Jean-Marc Rickli noted that AWS are most relevant for offensive warfare, which violates international rules against use of force and favours international arms races. He argued that states are likely to exercise less restraint on use of force with AWS and highlight risks of acquisition by non-state actors.



CAMPAIGN TO STOP KILLER ROBOTS

The Campaign to Stop Killer Robots

is pleased to invite you to a

SIDE EVENT

on

Fully autonomous weapons are not “inevitable”

Friday, 17 April

13:00-14:30

Conference Room XXIII

UN Palais des Nations, Geneva

Sandwiches and refreshments will be provided