



CCW REPORT

*Civil society perspectives on the CCW Meeting of Experts on
Lethal Autonomous Weapon Systems
13–16 May 2014*



Reaching Critical Will

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EDITORIAL: ETHICS, LAW, AND PRINCIPLES OF HUMANITY

Ray Acheson | *Reaching Critical Will of WILPF*

The imperative of maintaining meaningful human control over targeting and attack decisions emerged as the primary point of common ground at this first multilateral meeting on autonomous weapons systems. Many states participating in the meeting called for the retention of meaningful or effective human control over weapons, highlighting the moral, ethical, legal, and operational considerations that require such control. As CCW high contracting parties consider the next mandate for work on this issue, the concept of meaningful human control could provide a basis for prohibition weapons where this control is not possible.

The Chair's report reflects this emerging consensus around this concept. It notes that many delegations said the notion of meaningful human control could be useful to address the question of autonomy, while others said this concept requires further study. During the wrap-up session, Austria and Croatia spoke strongly in favour of meaningful human control being the basis for further action. Austria's delegation firmly stated that weapons without meaningful human control are in contravention of international humanitarian law (IHL) while the delegate of Croatia called for the principle of meaningful human control to be seen as a fundamental element of IHL.

Only India and the United States seemed hesitant on the final day about endorsing the idea of meaningful human control. India's delegation said it is a vague concept and the US argued it does not capture the full range of human activity in the development, acquisition, deployment,

and use of autonomous weapons. Pakistan's delegation also critiqued the call for meaningful human control, suggesting it might be a "weak" position if it is seen as an alternative to a ban. Thus it argued that the concept of meaningful human control is only useful if it leads to the development of a legal instrument prohibiting autonomous weapons.

A ban was one of four options cited in the Chair's report for moving forward. A number of states did endorse such an approach during the experts meeting, though most indicated their preference for further discussions before pursuing a particular track. Steve Goose of Human Rights Watch noted at the final side event on Friday that no delegations participating in this meeting issued a strong justification for autonomous weapons or indicated that they are actively pursuing the development of such weapons. However, many states seemed to be trying to leave the door wide open for future acquisition. A few delegates asserted that autonomous weapons could comply with international law, spoke about potential benefits in comparison with human soldiers, and suggested that national level legal reviews under article 36 of Additional Protocol I to the Geneva Conventions would be sufficient.

However, unilateral reviews of weapon systems under article 36 are not likely to provide a robust framework for control. The majority of delegations highlighted the importance of multilateralism in this regard, given the varied operational and ethical risks of autonomous weapons.

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**CAMPAIGN TO STOP
KILLER ROBOTS**

Editorial continued

Several delegates—and civil society—also highlighted the importance of acting preemptively. It is not often that the international community has an opportunity to prevent a potentially dangerous development. The arguments raised at this meeting in favour of autonomous weapon systems are based on theoretical concepts of potential future technology. The concerns being raised in opposition are based on concrete ethical, legal, and technical challenges based on the information we have now about both technology and human behaviour.

The call for meaningful human control over individual attacks is perhaps most compelling in its merging of ethics and law. The principles of humanity referred to in the Martens clause and IHL in general are founded on human deliberation and reasoning. A machine, as philosophers and government experts alike have argued during this meeting, cannot understand the value of human life. In its closing statement, the International Committee of Robot Arms Control said that violent force must not be delegated to machines, noting that this would threaten human dignity, democracy, and human rights. A machine making targeting and attack decisions independent from human deliberation is, as Christof Heyns argued, by its nature inhumane—it undermines human dignity and the human rights to life and due process, among others. This blending of ethical and legal arguments makes a strong case that human beings must always retain meaningful control over each and every act of violence.

States will now move to adopt a new mandate for work on this issue at the CCW in November. While many issues remain to be explored, it is important to mandate a more formal group of experts to work over a longer period in 2015. A preemptive ban on fully autonomous weapons is necessary to ensure the retention of meaningful human control over targeting and attack decisions, which in turn is necessary to ensure that we uphold the principles of humanity as much as possible in the face of the already existing horrors of war and conflict. •

REPORT: THE WAY FORWARD

Viola Giuliano | Reaching Critical Will of WILPF

The final side event was chaired by Mary Wareham, Advocacy Director of Human Rights Watch's Arms Division and Coordinator of the Campaign to Stop Killer Robots. The session summarized the positive aspects of this week's CCW meeting and provided insights on the next steps that need to be taken.

Steve Goose, Director of Arms Division at HRW, described this week of meetings as a success, signaled by the great participation of states' delegations and by the fact that virtually all states members to the CCW agreed on having further discussion in this forum. Three elements stood out: the widespread reference to (meaningful) 'human control' on critical functions; references to the principles of humanity and the Martens clause; and although some states delivered vague statements in order to leave the door open for the future, no one openly said they are pursuing the development of autonomous weapons (AWs).

Pugwash President Dr. Jayantha Dhanapala recalled the main objects of reference framing the campaign's reason d'être, such as the UN Charter's call for peaceful resolution of conflicts. As widely perceived this week, AWs have the potential to lower the threshold for use of armed force. Furthermore, as noted by some of the technical experts, these developments come at high expenses. As stated also by Cuba during the wrap-up debate, investments in AWs and other weapon systems represent resources drained from efforts toward human development and fulfillment of the Millennium Development Goals.

Jody Williams, Nobel Peace Prize Laureate and co-founder of the Nobel Women's Initiative, highlighted the atmosphere of shared enthusiasm from the meeting. Nonetheless, she reminded everyone that experience with the CCW suggests some caution, as there are many ways in which the discussion can be ostracized and the process leading to the negotiation of a legally binding instrument slowed down. Some states depicted these weapons as a remote future possibility. Instead, Williams stressed, the risk of these weapons is present and real. Williams suggested working with states interested in an international moratorium as well as with those having the moral and ethical courage to ban these weapons nationally. Civil society will continue to be mobilised in support of these discussions also in other relevant fora, such as the Human Rights Council and the UN General Assembly First Committee. •



NEWS IN BRIEF

Mia Gandenberger | *Reaching Critical Will of WILPF*

Wrap-up session

Meaningful human control

- Austria said weapons without meaningful human control are in contravention of IHL.
- Croatia stressed that the principle of meaningful human control should be seen as fundamental part of IHL.
- Switzerland said no weapon system should be undertaken without any genuine form of human control and called for the swift exploration of the different dimensions of this concept.
- Argentina cautioned that lack or low frequency of human interventions would lead limited or no human control and unpredictable humanitarian consequences.
- Germany and Croatia stressed the importance of maintaining meaningful human control over the decision of life and death.
- Croatia also stressed that the human rights to life and dignity must not be taken away.
- Pakistan argued that the concept of meaningful human control is weak unless it means a prohibition on AWs.
- Canada stressed the need to further explore and develop the term of meaningful human control.
- Mexico stressed the need to further discuss human control, autonomy, and the right to life as well as share best practices of Article 36 reviews.
- New Zealand stressed that human control will be key area of future work.

- US argued the meaningful human control formulation doesn't capture the full range of human activity in development, acquisition, fielding, and use of AWs.
- ICRC cautioned that as a result of the incremental process towards the automatization of the critical functions, humans may no longer be meaningful in the future.
- ICRAC stressed that violent force must not be delegated to machines, lethal or non-lethal.

Moratorium/prohibition

- Austria called for a freeze of current programmes and not to start any new ones.
- Czech Republic cautioned against a ban or other limiting instruments as at this stage there is no clear understanding of what AWs are.
- Cuba and Pakistan called for a preemptive legally binding prohibition of AWs.
- ICRAC called on states to consider the absolute and preemptive prohibition of development, production, and use of AWs.
- US and Russia cautioned against predetermined discussions on AWs and their future.

Relationship of AWs to IHL/existing law

- Australia highlighted the need to review new weapon systems and presented its assistance project on the matter.
- Pakistan said article 36 reviews are insufficient.
- Cuba expressed serious concerns about the compliance and observance of IHL rules and standards by AWs.
- Argentina thought it obvious that IHL principles would apply to AWs and cautioned that if should the principles of IHL be compromised AWs would be considered illegal.
- Czech Republic thought that AWs are not inherently illegal and might be used within the boundaries of existing IHL.
- Austria and Mexico stressed that AWs cannot comply with principles of IHL.
- ICRAC asserted that it could not be guaranteed that AWs will comply with IHL and IHRL.
- The CSKR stressed that the Martens clause requires public conscience and principles of humanity be taken into account on LAWS.

Definitions

- The US stressed the need for clarification of terminology and concepts was needed.
- Argentina stressed that the lack of clear defini-

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Stop Killer Robots.*



News in brief, continued

tions of AWs and their scope as well as the question of meaningful human control is the biggest difficulty.

- Germany too highlighted the need for definitions, in particular with regard to the terms autonomy, lethality, and meaningful human control.
- China stressed the need for definitions of AWs for the debate to be able to continue.

Article 36 reviews

- Argentina and Germany called for more transparency of reviews of weapon systems also with regard to article 36 reviews.
- Pakistan cautioned that article 36 reviews would only be national and thus would not suffice to address the concerns.
- ICRC welcomed the wide recognition of the need for national article 36 reviews but cautioned that multilateral discussions are imperative.

Further work on this issue

- All states highlighted the need for further discussions on different aspects of AWs.
- Canada suggested to also focusing more on ethical and political considerations and on balancing humanitarian and national security issues.
- US, UK, Australia, Netherlands, Russia, Canada, Ireland, Italy, Croatia, Pakistan, Japan, Sweden, Switzerland, Spain, Belarus, and Guatemala supported further discussions on AWs in the CCW.
- Austria, Mexico, and New Zealand supported further discussions on the issue within the framework of the CCW and other forums relevant to the issue.

- India would support the same mandate for a meeting in 2015.
- Ireland thought that discussions should be continued and the format and mandate should be addressed by the meeting of HCP in November.
- Switzerland raised a number questions with regard to the mandate for and improving the work format of a future meeting on the matter.
- New Zealand thought that the structure and mandate of further deliberations should be subject of discussions.
- Pakistan called for formal discussions within the CCW framework.
- China stressed the need for reflections on the information gathered and thought the CCW meeting in November would be the appropriate forum to decide on the way forward.
- ICRC encouraged states to be as transparent as possible in the context of continued discussions in CCW.
- The CSKR called for more time to discuss the issues raised in the debate and urged for a strong mandate from the meeting in November.

Other

- Austria stressed that not everything that is technically possible needs to be developed.
- Cuba stressed that the amount of human and financial resources directed to the development of AWs should be used for development.
- The CSKR noted that no states defended or argued for the use of AWs.

**ANALYSIS
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REPORT REVIEW

Ray Acheson and Gabriella Irsten | *Reaching Critical Will of WILPF*

The following are some brief highlights from the Chair's report.

General debate

- Most thought the meeting was good for better understanding characteristics of AWs but thought it was premature to determine where discussions would lead.
- Options cited include exchange of information, development of best practices, moratorium on research, and a ban.
- Most delegations thought it too early to negotiate a definition of AWs.
- Many highlighted the potential for rapid technical developments in AWs to radically transform the nature of warfare.

Technical issues

- Some key elements appeared pertinent to describe the concept of autonomy, such as the capacity to select and engage a target without human intervention.
- Some said autonomy should be measurable and based on objective criteria such as capacity of perception of the environment and ability to perform pre-programmed tasks without further human action.
- Many interventions stressed that the notion of meaningful human control could be useful to address the question of autonomy, while others said this concept requires further study in the context of the CCW.

Ethical issues

- Delegates questioned whether a machine could acquire capacities of moral reasoning and human judgment, which is the basis for respect of IHL principles; challenged capacity of machine to respond to a moral dilemma; and questioned if values and ethics could be programmed.
- Delegates discussed the impact of development of AWs on human dignity, highlighting as an ethical concern the devolution of life and death decisions to a machine.
- Some argued that it would be the commander or operator making a decision to employ force.

Legal aspects

- Delegates examined AW compatibility and compliance with existing international law, particularly IHL, 1949 Geneva Conventions, Martens clause, and customary law.
- Some stressed necessity of article 36 weapons reviews, transparency, and information exchange on best practices.

- A number of interventions questioned if an accountability gap would be created by AW at the state and individual levels.
- Some asked if responsibility for violations of international law could be established.
- Delegates deliberated on the implications of AWs for the right to life, human dignity, due process, and right to be protected from inhumane treatment.
- Some questioned if AW would change the threshold of the use of force.

Operational and military aspects

- A few experts and delegations mentioned the potential of AWs to be game changers in military affairs.
- Some indicate that there was little interest in deploying AWs to replace humans given the necessity of keeping control over operations.
- Many stressed the operational risks associated with the use of AWs, including vulnerability to cyber attacks, lack of predictability, difficulties of adaption to a complex environment, and challenges of interoperability.
- Delegates discussed the impact of AWs on international peace and security and on arms control.



ADDRESSING AUTONOMOUS WEAPONS IN THE HUMAN RIGHTS COUNCIL

Viola Giuliano | *Reaching Critical Will* of WILPF

Over the last few days at the meeting of experts at the CCW, most of the legal discussion on autonomous weapons focused on laws of war, specifically international humanitarian law (IHL). However, the UN Special Rapporteur for extrajudicial, summary or arbitrary executions Cristof Heyns highlighted the necessity of broadening this debate in order to include international human rights law (IHRL).

As noted by Amnesty International and Human Rights Watch, it is imperative to consider the potential human rights implications of autonomous weapons in order to adequately assess the legality of autonomous weapons systems. As it is applicable during armed conflict and in peacetime, IHRL seems particularly relevant for filling the gap of IHL application.

Human rights law also covers a broader range of potential of activities and violations that affect human life. In addition to the battlefield, possible scenarios for use of autonomous weapons include counter-terrorism operations and national law enforcement contexts (policing, demonstrations, or high security prisons, for example). While being complementary to IHL during armed conflict situations, IHRL seeks to protect human life and dignity at all times.

Among the numerous human rights potentially threatened by autonomous weapons, Professor Heyns highlighted the right to life and the right to human dignity. The latter right, as a legal concept, has not received appropriate attention during discussions at the CCW, though many civil society and some government interventions highlighted its importance during the discussion on ethical and sociological issues.

This is one of the reasons it is important to also continue discussing autonomous weapons in the Human Rights Council (HRC). Heyns first brought the issue there in 2013 with a report on the subject. The presentation of this report sparked a discussion in the HRC that helped garner momentum for establishing later that year the CCW mandate for the meeting of experts.

Continuing the discussion on autonomous weapons in the HRC would benefit the discussion by shifting the discourse from the weapons' technical possibilities and capacity for compliance with IHL to a more substantive discussion based on preserving human dignity and other rights. As Heyns and Professor Peter Asaor of the International Committee for Robot Arms Control argued, Both the right to life and dignity stand against the utilitarian logic of the argument that highly efficient machines will decrease the number of casualties by targeting and killing in more efficient ways.

The relevance of IHRL for increasing autonomy in weapon systems is already clear, as demonstrated by an HRC resolution to regulate the use of remotely piloted aircraft or armed drones in accordance to full respect of human rights. This resolution will be discussed in September, during the 27th session of the HRC.

Before that, during the upcoming HRC session in June, Heyns is presenting a new report on extrajudicial executions. A specific reference to autonomous weapons is expected.

Many delegations participating in the CCW meeting of experts indicated their interest in fully addressing the potential implications of autonomous weapons in relation to both IHL and IHRL. Only the US delegation openly regards the HRC as an inappropriate forum to address autonomous weapons.

During the June session of the HRC, civil society groups will organize a side event to further promote discussion of autonomous weapons among the human rights community. As a member of the Campaign to Stop Killer Robots, WILPF will use this opportunity to highlight the importance of maintaining meaningful human control over individual attacks, on the basis of the principles of humanity. Weapons that do not allow for such control should be prohibited. As other Campaign members have pointed out, a new legal instrument would be the most effective way to make this explicit. •