



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: MEANINGFUL DELIBERATION

Ray Acheson | *Reaching Critical Will of WILPF*

As the legal discussion continued on Thursday, a number of delegations and civil society groups contested the relationship between autonomous weapons and the law as set out by the panelists on Wednesday. All three legal scholars had argued that existing international law is sufficient to regulate the use of autonomous weapons and that compliance with the law would be better with the use of such weapons than the use of existing weapons by human soldiers. Yet as several other experts have since pointed out, neither of these assertions are certain and they largely rely on assumptions about possible future technological developments. There is a growing recognition that meaningful human control must be retained over any decision to undertake an attack.

Experts not represented on the legal panel strongly disputed the idea that the use of an autonomous weapon is less likely to result in the commission of war crimes such as rape. This justification for autonomous weapons, argued Heather Roff of the International Committee for Robot Arms Control (ICRAC), “is politically myopic and insensitive. We should remember that rape in war is not only the act of individuals,” she pointed out, “but has often been an instrument of state policy.” This point concurs with an article published recently by Charli Carpenter of the University of Massachusetts, Amherst and Article 36. Carpenter argues that behind this assertion that robots will not rape lies an assumption that rape in war is a crime opportunistically committed by rogue soldiers or militia, rather than on an order from the state.

Carpenter notes that those who perpetuate the argument that the use of autonomous weapons would result in the commission of fewer war crimes “seem to mean fewer war crimes than the average human soldier whose state wants her not to commit war crimes.” She argues that these individuals overlook the number of war crimes that occur because soldiers obey unlawful orders from the state. Human Rights Watch has actually suggested that an autonomous weapon would be more likely to carry out unlawful orders if programmed to do so, due to its lack of emotion and morality. Human rights scholar Dara Cohens similarly notes that because robots lack compassion, they “might have the ability to perform horrible tortures that most humans would find repugnant or unbearable,” including rape.

Christof Heyns, UN Special Rapporteur for extrajudicial, summary or arbitrary executions, emphasized the potential that autonomous weapons have to violate the right to human dignity. He and Professor Peter Asaro of ICRAC highlighted the inherent inhumanity of an algorithm determining whether a human being lives or dies. The human rights to life, dignity, and due process imply a duty not to delegate the use of lethal force to an autonomous machine, argued Professor Asaro. In addition to the inherent inhumanity, he noted, it risks reducing accountability and responsibility for crimes.

Questions about accountability and responsibility are applicable across technical, moral, and legal considerations. The US delegation and Professor Waxman

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**CAMPAIGN TO STOP
KILLER ROBOTS**

When	What	Where
10:00-13:00	Wrap-up session	Room XIX
13:00-14:30	Side event: The way forward	Room XXII
15:00-18:00	Concluding session	Room XIX

Editorial, continued

argued that autonomous weapons would be subject to human involvement because commanders will make judgments about the operational context and will make the decision to deploy the weapons. But as David Akerson of ICRC pointed out, with an autonomous weapon, the targeting and killing process would be undertaken by the machine after it is deployed. At the time of the attack, there would be no human in the loop. Akerson also pointed out that in the future, autonomous weapons might not even be programmed by human beings, noting that coding is also becoming increasingly automated.

The key conclusion to be drawn from these concerns is the clear need for meaningful human control over every individual attack.

Some delegations appear to suggest that there is lack of agreement on how best to proceed. However, as Heyns and others have noted over the past few days, there seems to be emerging consensus on the requirement for meaningful human control over the decision to undertake an attack. Most interventions have highlighted this factor as a key condition for the operation of weapon systems, but discussion is still necessary about how to measure and understand such control.

Civil society has already begun to interrogate the concept of meaningful human control. Article 36 argues in a briefing paper that a key factor "is the information available to those responsible for weapon

use, about the target, the target context and the physical effects the weapons will cause." Bringing it back to the foundations of morality, however, Article 36 and Dr. Asaro have also argued that meaningful human control requires the creation of sufficient space for moral reasoning and deliberation to take place.

"One way to consider the link between legality of autonomous weapons and meaningful human control," suggested Thomas Nash of Article 36, "is to consider that the principles of humanity—on which existing international humanitarian law and international human rights law are based—can be seen to require deliberative moral reasoning, by human beings, over individual attacks." This position means that weapons that do not allow for such control must be prohibited. As both Article 36 and Human Rights Watch argued, the most effective way to make this explicit is through the creation of new international law.

It is imperative that any outcome from this expert meeting help set the stage for future work on this issue within the CCW. Continued discussions under an expanded mandate would provide an effective opportunity for states to continue exploring concepts such as meaningful human control and to begin work on developing an international prohibition of weapon systems operating outside of such control. •



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Stop Killer Robots.*

REPORT: ETHICAL AND MORAL CONCERNS

Laura Boillot | Article 36

Wednesday's side event organised by the Campaign to Stop Killer Robots looked at ethical and moral considerations around autonomous weapons systems.

Miriam Struyk of PAX highlighted her organisation's recent report *Deadly decisions: 8 objections to killer robots*. Struyk said that the question over whether to allow fully autonomous weapons systems or not is primarily of an ethical nature. She argued that delegating kill decisions to a machine undermines human dignity. Even if fully autonomous weapons could be deemed legally acceptable, that would still not make them morally acceptable. Struyk urged delegates to discuss how to preserve human life by looking at what kind of human controls are needed over weapons systems.

Professor Peter Asaro from ICRAC, argued that the law sets the minimum standard and that moral considerations should also be looked at. Even if autonomous weapons are not explicitly illegal under the law, there are implicit requirements for human judgment over the use of force, he argued. Historically, moral sentiment has provided a strong basis in the development of law. In addition to the Martens clause, which sets legal principles in relation to the dictates of public conscience and principles of humanity, defining and preventing superfluous injury and unnecessary harm has also been driven by moral sentiments.

Professor Charli Carpenter of Article 36 presented findings from a survey conducted to gauge public opinion in the United States on the trend towards the increasing autonomy of weapons. Carpenter found that the majority of the public (55% of respondents) object to autonomous robotic weapons, and a significant number (18%) are unsure about their development. Many of those that were unsure expressed a preference for a precautionary approach, in essence objecting to these weapons unless moral and ethical concerns can first be addressed. Carpenter also found that respondents with close connections to the military were more likely to object, and to object strongly. Humans have a moral imperative, she argued, to retain control over weaponry and kill decisions.

Questions from the audience included whether article 36 reviews on means and methods of warfare look at the morality of weapons; whether autonomous weapons are weapons or agents; and considerations over meaningful human control in relation to criminal responsibility and negligence.

At the campaign's final side event tomorrow, speakers will present their views on the next steps needed to address this issue. •

NEWS IN BRIEF

Gabriella Irsten and Mia Gandenberger |
Reaching Critical Will of WILPF

Legal aspects part 1

- India argued that IHL is an important reference point in the CCW, but that dictates of public conscience are another.
- Israel argued that we can't say that AWs will never or always comply with law but that this should be assessed on case to case basis and that legality ought to depend on whether the weapon can operate without violating basic principles of IHL.
- Human Rights Watch argued that it is likely that AWs breach the principles of humanity due to lack of compassion.
- ICRAC disputed the idea that the use of an autonomous weapon is less likely to result in the commission of war crimes such as rape, noting that rape is often state policy.
- ICRAC asked how current IHL might hold a commander responsible for actions that are beyond her control
- - Human Right Watch highlighted that a new treaty is necessary to clarify how law applies to AWs.
- - Waxman stated that meaningful human control could call in to doubt many already existing systems.
- Article 36 stated that obligations of IHL require that human commanders make deliberative case-by-case judgments on the legality of individual attacks.
- Article 36 expressed the need for a common understanding of what meaningful human control means in order to implement article 36 weapons reviews.

Legal aspects part 2

- Marauhn believed that the discussion on AWs is not about technology but rather control.
- Heyns said that since machines are not humans, the use of AWs against humans is inherently inhuman.
- Heyns expressed concerns that existing law does not provide the answer to AWs and could neither deal with future technology development.
- Heyns said that it is uncertain who will be held accountable if AWs cause a bloodbath.
- Heyns said that article 36 reviews require that all states subject new weapons to a legal review to guarantee that it applies to international law.
- India asked if article 36 reviews are sufficient since the language was developed and agreed when the human role in use of force was central.



News in Brief, continued

- Israel contended that AWs might have better compliance with IHL than human soldiers, due to being more predictable and unemotional.
- Mexico stated that AWs cannot comply with IHL and said there must be human control.
- India called on CCW members to look beyond the obligations of law and consider the broader challenges of proliferation.
- Heyns believed that AWs seem to be exactly the type of situation that the Martens clause is designed to address.
- Heyns emphasised that human rights law applies to AWs, both in times of conflict and peace, and emphasised the importance for the UN human rights forums to discuss AWs.
- Heyns encouraged the debate over AWs to be more open and increase the participation of women and the people from the global south.

Operational and military aspects

Military effectiveness

- Col. Richter called on states to review both the possible benefits and risks of employing AWs in the battle field.
- Lieutenant Col. Oliver Madiot drew attention to the high cost involved of deploying LAWs.
- Czech Republic drew attention to the possible military benefits of LAWs.

Meaningful human control

- Lieutenant Col. Oliver Madiot stressed that permanent close control or at least supervision of the use of force are crucial and are systematically required.
- Dr. Hagerott highlighted that in the past empathy for the opponent has placed a check on the usage of advanced weapons and stressed that it would be impossible to control the software of AWs.
- Dr. Sato highlighted that qualitatively, LAWs would lack the situational human considerations in the battle field.
- Col. Richter explained that even for AWs the control would lie with the military commander in charge and the respective control system in place.
- France stressed that humans should remain the sole decision making point.

Research and development

- Lieutenant Col. Oliver Madiot called on states to consider all technological solution, such as multi-mode system that could change between remote control, semi autonomy, and autonomy.
- Dr. Hagerott explained the life cycle theory of tech-

nological change pointing out that change is easiest in the early stages of the development.

- Japan assured delegations it was not developing autonomous systems for military purposes.
- Sierra Leone drew attention to the question of when LAWs would be considered “good” enough to be used in battle.

Nature of warfare

- Dr. Hagerott outlined the cybernetic theory of warfare—sense, think, act—and how that was moving towards more reliance on machines.
- He went on to explain that a machine realm was introduced to warfare where in the past had only been a human realm. The integrated realm represents the middle realm.
- Dr. Sato and Pakistan said the introduction of AWs would fundamentally change the nature of warfare.
- Col. Richter, however, thought that the introduction of AWs would not necessarily lead to the automation of warfare.
- Belarus underlined the increased risk for civilians if AWs were introduced due to the limited evacuation time and the increased population density.
- Sierra Leone questioned whether the lives of soldiers of the state operating a AW were more valuable than those of the opponents. •