



# CCW REPORT

Civil society perspectives on the Fifth Review Conference of  
the Convention on Certain Conventional Weapons (CCW)  
12–16 December 2016



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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) daily during CCW meetings.

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## EDITORIAL: AS THE WORLD BURNS

Ray Acheson | Women's International League for Peace and Freedom

As governments meet in Geneva to review implementation of the Convention on Certain Conventional Weapons (CCW)—the treaty that restricts or prohibits weapons that have been deemed “excessively injurious” or to have indiscriminate effects—the destruction of eastern Aleppo, Syria is well underway.

This city has seen the use of explosive weapons in populated areas, including incendiary weapons, chemical weapons, and cluster munitions. No humanitarian aid has reached the area since July 2016, when the government and Russia cut off the last supply routes into the city. There are currently 275,000 civilians besieged in eastern Aleppo, including 100,000 children, subject to incessant bombing by government forces. Leaflets warning civilians that they would be annihilated if they stay are being dropped and there is widespread concern about the impact of potentially 200,000 residents fleeing to neighbouring countries.

The situation in Syria is a humanitarian catastrophe, a failure of the international community's commitments and obligations to prevent human suffering. It is also a failure of disarmament and arms control regimes, including the CCW.

Many states parties to the CCW pride the treaty on its “appropriate balance” of “military necessity” with “humanitarian cost”. Some of these states have used this formulation to prevent the prohibition of antipersonnel landmines and cluster munitions within the CCW, compelling other states to negotiate bans on these weapons in alternative, innovative multilateral processes. While that end result is a positive one, it also demonstrates the limitations of the CCW. Others have misused the CCW's rule of consensus to prevent the development of truly progressive restrictions or prohibitions on relevant weapon systems for years, fighting off amendments to existing protocols or the development of new ones. This has direct humanitarian consequences in conflicts around the world, where states and non-state actors

continue to have access to weapons, or perceived justification for the use of weapons, that should be outlawed under the CCW or other relevant instruments.

When it comes to incendiary weapons, which burn objects and people through flame or heat, Protocol III of the CCW has proven insufficient to prevent human suffering. These weapons have been used against civilians in Syria since 2012, inflicting what Human Rights Watch has described as “unimaginable pain and horrific injuries,” charring some victims “beyond recognition”. Some states, along with civil society groups and the International Committee of the Red Cross, have encouraged the CCW to take up deliberations on amending the protocol. Human Rights Watch has argued that all use of incendiary weapons near civilians should be prohibited, regardless of the means of delivery of the weapons, and that there should be an effects-based definition of incendiary weapons that includes white phosphorus. But some states parties, including those currently using the weapon, have resisted even the convening of discussions about amending the protocol.

Meanwhile, civil society groups have been encouraging states to negotiate a ban on autonomous weapons for years. Witnessing the horrific humanitarian consequences of use of armed drones and wishing to prevent the further automation of means of violence, many states are calling for meaningful human control over all attacks. After three years of informal meetings of experts, the CCW is finally poised to establish a formal Group of Governmental Experts (GGE) to address this issue in 2017. But as the Campaign to Stop Killer Robots has noted, the pace and intensity of deliberations on autonomous weapons is critically lacking. States parties' recommendation to the Review Conference is for a GGE to come up with “options” for future work. Meanwhile, the pace of technological development may soon make work in the CCW on preventing autonomous weapons irrelevant—which is

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**Editorial, continued**

presumably the goal of some states parties. Either the CCW will need to step up its efforts or the issue of preventing killer robots will need to be taken up elsewhere.

Discussions on mines other than anti-personnel mines (MOTAPM) also continue to be divisive. Some states parties argue that Amended Protocol II is inadequate and limited in protecting against the humanitarian consequences of such mines, and have proposed a mandate for a GGE on this issue. Others argue that this would undermine the CCW as a platform for balancing military necessity with humanitarian concerns. At the same time, many states parties have seemed interested in addressing improvised explosive devices (IEDs) in the context of the CCW. But others have raised concern that treating IEDs as distinct from antipersonnel landmines or booby traps, and looking only at non-state actor use, is a way for states parties to avoid their own responsibilities under the CCW or the Mine Ban Treaty.

More broadly, states and others have over the past few years articulated the use of explosive weapons in populated areas as a key concern with relevance for the CCW. In its national capacity, Austria is leading states towards the development of a political commitment to end this practice. While the CCW is not seen by many as a suitable forum for discussion on this particular issue, it has been raised at CCW meetings and will likely continue to be raised, given its intersection with many other relevant issues on the CCW agenda.

How this issue is handled, as with all the other issues mentioned here, is of critical importance to the CCW's relevance and legitimacy. This treaty was designed to protect civilians and combatants in situations of armed conflict. Its structure as a convention with protocols was a deliberate attempt to ensure the treaty could be expanded and updated to account for technological and methodological developments in warfare. Refusing to discuss proposed amendments to existing protocols or to undertake the negotiation of new protocols goes against the purpose of the treaty and risks further humanitarian devastation. If states parties want the CCW to have any credibility they must start taking their obligations seriously and stop hiding behind—and creating—loopholes to justify violations of international humanitarian law.

The Fifth CCW Review Conference will run from 12 to 16 December. Reaching Critical Will, the disarmament programme of the Women's International League for Peace and Freedom, will provide full coverage of the conference through this daily report. It will provide analysis and advocacy, highlights from the expert discussions, and reports on side events. You can subscribe to receive this report by email by going to [www.reachingcriticalwill.org](http://www.reachingcriticalwill.org). On that website, you can also find statements, documents, archived CCW Reports, and more information.

You can also follow the discussions on Twitter at #CCWUN, #killerrobots, @RCW\_, and @BanKillerRobots, among others. •





## STEP-UP ON THE PROCESS TO BAN KILLER ROBOTS

Mary Wareham | Campaign to Stop Killer Robots

States must seize the opportunity presented by the Fifth Review Conference of the Convention on Conventional Weapons (CCW) by agreeing to expand and formalise their deliberations on fully autonomous weapons, also known as lethal autonomous weapon systems or killer robots.

After holding three informal meetings in 2014–2016, CCW states should now adopt the recommendation of their April 2016 meeting to establish an open-ended Group of Government Experts (GGE) to carry forward deliberations on lethal autonomous weapon systems. The proposed mandate to develop “options” is insufficient. The mandate of the GGE should include language that this work is being carried out with a view to future negotiations. The GGE should meet for a total of four weeks during 2017.

Establishing a GGE would formalise the talks and take them to the next level of deliberations, thereby demonstrating progress. Failure to do so would provide yet another example of how multilateralism is failing to move forward at a time when the world is looking for stability and inspiration.

There has been some confusion with GGEs created elsewhere on other topics such as cyber peace and security. Creating a GGE at the CCW does not mean giving this matter to a smaller group of individual experts, because CCW GGEs are open to all states, UN agencies, the International Committee of the Red Cross (ICRC), and relevant non-governmental organisations (NGOs). Establishing a CCW GGE does not mean meeting in New York or other locations, as the CCW always meets at the UN in Geneva. Moving to a GGE does not necessarily mean moving to a more expensive process, as it is always possible to identify innovative cost-cutting measures.

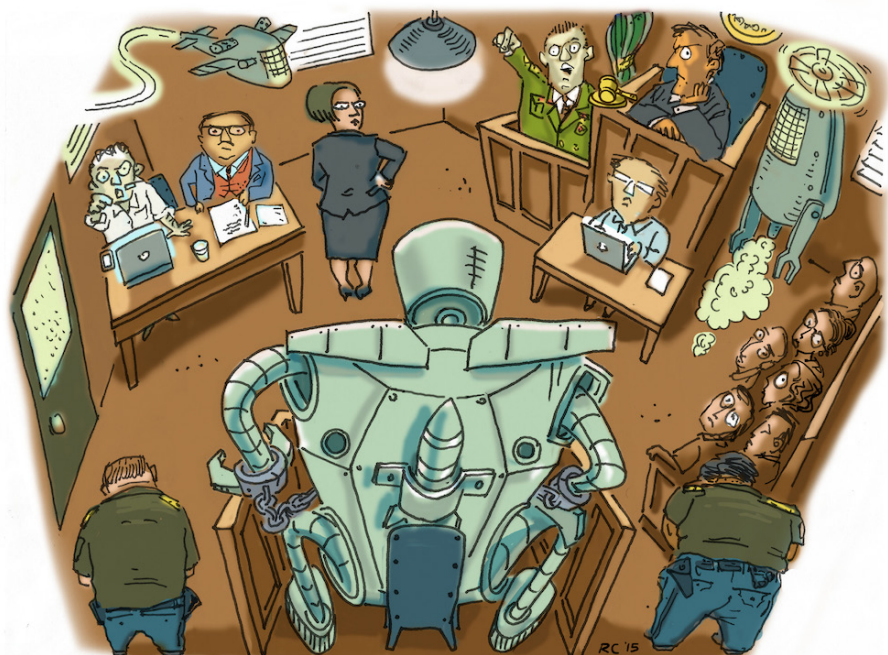
One state has said that it is “premature” to create a CCW GGE now when there is no agreed definition of a lethal autonomous weapons system. Yet at the CCW and in other disarmament fora, definitions are typically agreed to at the end of negotiations and not from the outset. The beginnings of a working definition have been articulated already. There is widespread agreement that lethal autonomous weapon systems are not existing weapon systems, such as armed drones, but rather future ones. In the meetings held to date, many states have acknowledged that lethal autonomous

weapon systems would be able to select and attack targets without further human intervention. Several have provided more specific definitions.

The Campaign to Stop Killer Robots is disappointed at the lack of ambition demonstrated by states at the CCW in addressing the multiple challenges raised by fully autonomous weapons. Moving to a GGE is the least states can do. Anything less would show yet again that the CCW is incapable of moving swiftly or meaningfully to address serious issues of concern to many.

Rather than directing diplomatic discussions toward achieving a preemptive ban, the proposed GGE would simply move this process up to the next step on the ladder of CCW deliberations. Other incremental measures that have been proposed, such as adopting limited regulations on their use or codifying best practices for the development and acquisition of new weapons systems, have numerous shortcomings.

Retaining human control over use of force is a moral imperative, essential to promote compliance with international law, and important for providing accountability. Governments should commit to ensuring that humans retain control over whom to target and when to fire. That means supporting the call to ban fully autonomous weapons now and working towards new international law prohibiting them. Such a ban could be negotiated via the CCW or outside it. •



## ADDRESSING HARM FROM THE USE OF EXPLOSIVE WEAPONS IN POPULATED AREAS

Laura Boillot | Article 36

The widespread pattern of harm resulting from the use of explosive weapons in populated areas (EWIPA) currently presents one of the greatest challenges to the protection of civilians in armed conflict. Already this year, close to 40,000 civilians have been reported as killed or injured by explosive weapons.<sup>1</sup>

Throughout 2015, there have been high levels of civilian casualties in Afghanistan, Iraq, Nigeria, Syria, Ukraine and Yemen among other places resulting from this practice. The humanitarian harm that results is particularly evident at present in Aleppo, as the bombardment of the city has intensified in recent weeks. Once Syria's most populous city, the use of explosive weapons in populated areas in Aleppo is causing high numbers of civilian deaths and injuries. Hospitals are struggling to function and provide essential medical services, and many have been forced to close. There is widespread damage to housing and other civilian infrastructure, with reports of aerial bombs being used that can take down entire multistory buildings, making it no longer safe to hide in basements. The dire situation is causing yet more civilians to flee the bombing.

Whilst some attacks in Aleppo are outright violations of international humanitarian law, the use of explosive weapons with wide area effects in populated areas across different contexts consistently presents a serious risk of harm to the civilian population, and as such risks breaching IHL. Too often, the use of explosive weapons in populated areas is considered the inevitable result of conflict, yet experience shows that at an operational level, militaries can, and have, curbed or halted the use of certain weapons, and in doing so can strengthen civilian protection.

Explosive weapons with wide area effects are particularly problematic and their use in urban areas should be stopped. The wide area effects can be a result of the weapon having a large blast and fragmentation radius (air-dropped bombs), or because they launch multiple warheads across a large area (multiple barrel rocket launchers), or because they are inaccurate and so it is uncertain where within a wide area they will detonate (Grad rockets). Such weapons are not acceptable for use in populated areas and this practice should stop.

Over the past few years there has been growing recognition of the harm from EWIPA by the international community. The UN Secretary-General has repeatedly called on states to refrain from using explosive weapons with wide area effects in populated areas, and to engage constructively in efforts towards developing a political declaration committing to that.

Discussions among states and experts have started to identify elements of an international political declaration on explosive weapons to address this humani-

tarian problem, and to set a political and operational direction against the use in populated areas of those explosive weapons that expose civilians to the gravest risks.

A declaration must promote actions that will reduce humanitarian suffering from the use of explosive weapons, and increase the protection of civilians living through conflict. This should include a commitment to stop the use of explosive weapons with wide area effects in populated areas.

It should also include actions for states to operationalize the commitment into national policy through the development of revised military procedures and rules of engagement, and in particular operationalizing a commitment against the use in populated areas of explosive weapons with wide area effects.

Other commitments necessary to reduce the humanitarian suffering from the use of explosive weapons should be to provide assistance to survivors.

Whilst not a legally-binding commitment, a political declaration should seek to influence the behaviour of states by promoting a clear international standard of practice. Building that stronger political standard should also facilitate the further stigmatisation of harmful practices, with endorsing states and others committed to speak up when wide-area explosive weapons are used in cities, towns, and villages. •

### Notes

1. Action on Armed Violence, Explosive Violence Monitoring Project, [www.aoav.org.uk](http://www.aoav.org.uk)



## CAMPAIGN TO STOP KILLER ROBOTS

### SIDE EVENTS

**Fully Autonomous Weapons: Why Existing Law, Weapons Reviews & Best Practices Are Not Enough**

Wednesday, 14 December 2016

13:15-14:30

Conference Room XXIV

**The Way Forward: Why a Ban on Fully Autonomous Weapons Is Needed Now**

Thursday, 15 December 2016

13:15-14:30

Conference Room XXIV