

Meeting of High Contracting Parties to the Convention on Certain Conventional Weapons

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‘Autonomous Weapon Systems: Human rights and ethical issues’

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1) First, what to call them?

Autonomy in force delivery can potentially be found in the conduct of hostilities, where it will typically be aimed at lethal results. It is increasingly clear that they may also be used during law enforcement (for example to disperse teargas or Tasers), where the intention will normally be to avoid death. In the former case it makes sense to talk about *Lethal Autonomous Weapons Systems*; in the latter case, the word ‘lethal’ is out of place, and may muddle the conversation.

In my view it will thus make sense to use ‘Autonomous Weapons Systems’ as the generic term, and to talk about Lethal Autonomous Weapons Systems (LAWS) when the discussion is confined to its use in armed conflict.

2) What are the main concerns about AWS from a human rights perspective?

Human rights ethics and law apply during law enforcement but also during armed conflict.

AWS with meaningful human control over the release of force – the so-called ‘critical functions’ - do not raise unique human rights concerns. In fact they may help those who use them to better meet human rights standards. However, AWS where humans do not exercise meaningful control – fully autonomous machines - raise a number of concerns.

The first concern is **can they do it?**: Can such AWS conduct proper targeting, and ensure a) that the force is properly directed (aimed at appropriate targets) and b) that the force is properly calibrated (it does not overstep the boundaries of what is necessary to neutralise an immediate threat during law enforcement, or to cause disproportionate death or injury among those who may not be targeted such as uninvolved civilians).

This is a largely a technical question, related to the protection of the right to life of those who are protected by law against the use of force. Some argue that machines will over time become better at targeting than humans; others say this is unlikely. Clearly if machines are not going to be better at targeting than humans, using them is a non-starter.

But what if they will over time become better than humans at the deployment of force?

That still raises the question **should they do it?** Should machines have the power to take human life, or to inflict severe injury?

One way of articulating the concern here is in terms of the right to dignity of those at the receiving end of the use of autonomous force: also and, in particular' those who may legitimately be targeted and subjected to force. I have argued elsewhere that to allow machines to determine when and where to use force against humans is to reduce those humans to objects; they are treated as mere targets. They become zeros and ones in the digital scopes of weapons which are programmed in advance to release force without the ability to consider whether there is no other way out, without a sufficient level of deliberate human choice about the matter

Moreover, if dignity entails the ability to take autonomous decisions, AWS without meaningful human control could also imply that the dignity of those on whose behalf these machines is impinged.

In addition to the above, fully autonomous weapon delivery undermines the rights against inhumane treatment and just administrative action of those in their line of fire.

3) The role of accountability

Control and accountability are two sides of the same coin: if humans do not have control over force release they cannot be held accountable, which is why AWS with full autonomy present the danger of the often-discussed 'accountability vacuum'.

Rights such as the right to life have two components: the prohibition on arbitrary deprivations of life, as well as the requirement that where such deprivation occurs, there must be accountability. A lack of accountability in itself constitutes a violation of the right to life. Even if AWS can produce better targeting results than human beings, there will still be mistakes, and if the possibility of accountability is lacking, it means that the right to life is violated in such cases.

But AWS also raise questions about broader political accountability: to the extent that a system is entrenched whereby the exercise of the critical functions of force delivery are out of the hands of human beings, including their political leaders, it may become easier for such entities to take the decision to use force – and when things go wrong for those in power to relay on the defence – explicitly or implicitly - that 'the machine did it'.

4) Conclusion

Some level of autonomy in force delivery is inevitable and may indeed be desirable. Beyond a certain point, however, the very values which give human existence its meaning may be undermined by autonomous weapons. I have called earlier, in 2013, for a moratorium on AWS in general, until such time as the international community has had the opportunity to work out an appropriate response. The high level of engagement with this issue that has occurred on so many levels – including in the CCW – has to my mind been helpful in bringing clarity to the matter. Today, after three years, it is clear to me that the notion of 'meaningful human control' provides a workable and well-founded basis on which a distinction can be drawn between those forms of autonomy that are acceptable, and those that are not.

AWS without meaningful human control in the context of armed conflict as well as law enforcement should be banned.

These talking points are further developed in the following forthcoming publications:

- Book chapter: Christof Heyns ‘Autonomous weapons systems: Living a dignified life and dying a dignified death’ to be published in Bhuta *et al* (eds) *Autonomous weapons systems* (Cambridge University Press 2016) 3 – 19
- Article: Christof Heyns ‘Human rights and the use of autonomous weapons systems (AWS) during domestic law enforcement’ *Human Rights Quarterly* 38 (2016) 350–378