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CODE, COMMAND, AND CONSEQUENCES: WHO IS RESPONSIBLE FOR WAR CRIMES COMMITTED BY LETHAL AUTONOMOUS WEAPON SYSTEMS (LAWS)?

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__The purpose__ of the study is to explore the legal and ethical challenges that arise in contemporary armed conflict due to the increasing integration of Lethal Autonomous Weapon Systems (LAWS). As these technologies gain operational relevance, the study seeks to examine who bears liability when autonomous systems perform actions that violate International Humanitarian Law (IHL). It also aims to assess whether existing legal instruments are adequate to address the complexities introduced by the autonomous decision-making capabilities of AI-driven lethal systems. __Research methods:__ in the article, the research was conducted by using comparative-legal and doctrinal methods to evaluate how different legal systems and international actors respond to the challenge of regulating LAWS. The historical method was applied to trace the development of legal norms related to weapons technologies and armed conflict, providing context for understanding contemporary legal gaps and the need for updated regulation, and normative method was also used to emphasize the necessity of introduction new regulative and prohibitive norms to regulate the problem. __Results:__ this study examines the legal and ethical challenges posed by LAWS in contemporary warfare. It highlights the difficulties in assigning liability when LAWS commit actions that violate International Humanitarian Law (IHL). The research also assesses the inadequacy of current legal frameworks in addressing these challenges and the need for new regulations to ensure accountability and the protection of civilians. __Discussion:__ LAWS are capable of identify and shoot targets independently, without any human control, from one perspective, offer tactical advantages, such as speed, precision, and reduced direct involvement of human being, but on the other hand, it leads to a deeply unsettling legal and ethical dilemma: Who should be held responsible when an autonomous weapon system commits a war crime? Existing laws, rooted in the premise of human decision-making, are not easily applicable when a machine executes a potentially unlawful act without a clear human command. The legal enigma is who (or what) has responsibility in such scenarios threatens to undermine individual criminal responsibility and the protection of civilians during armed conflict.

__Key words:__ LAWS; war crimes; AI; liability; armed conflict.

Introduction to Lethal Autonomous Weapon System (LAWS). The rapid evolution of modern technologies, such as artificial intelligence and machine learning has prompted Lethal Autonomous Weapon Systems (LAWS) from the realm of science fiction into the operational realities of XXI century warfare.

Lethal Autonomous Weapons Systems refer to weapons that can select and engage targets without direct human intervention once activated. These systems use advancements in artificial intelligence (AI), machine learning, robotics, and sensor technologies to operate with varying degrees of autonomy in dynamic combat environments. While some autonomous systems, such as defensive counter-

missile systems, have been in use for years, the emergence of more advanced LAWS capable of offensive, independent decision-making marks a significant evolution in warfare.

Traditionally, human actors commit war crimes, and responsibility can be traced through chains of command and individual intent. LAWS, however, challenge these assumptions. They act according to code, react in milliseconds, and make decisions that humans may not fully predict or understand.

Purpose of the study. The purpose of the study is to research legal and ethical challenges in contemporary armed conflict, caused by the increasing integration of Lethal Autonomous Weapon Systems (LAWS), who has liability when autonomous systems perform actions that violate International Humanitarian Law (IHL) and to alanyze if current legislation is adequate for addressing the complexities introduced by AI-driven autonomy in lethal force applications.

The study does not stop identifying problems. It surveys existing proposals for reform, including new international treaties that would limit or ban the use of LAWS, the creation of accountability frameworks, and the possibility of strict liability regimes. Comparisons are drawn to other weapon bans, such as landmines and chemical weapons, where humanitarian concerns trumped strategic utility.

Status of the issue. Since 2013, government officials, alongside other key stakeholders, including scholars, policy experts, and representatives of civil society, have been actively engaged in deliberations concerning the complex legal, ethical, and security implications associated with the development and deployment of LAWS.

There is no specific definition of lethal autonomous weapon systems. However, depending on their purpose, they can be understood as weapons that are capable of independently selecting and destroying a target [1]. Professor Michael Klare notes, LAWS includes unmanned aerial vehicles, unmanned ground vehicles, and unmanned underwater vehicles [2]. They operate based on pre-programmed algorithms and real-time data from sensors and onboard systems, enabling them to execute complex combat functions in dynamic operational environments.

The current discourse on LAWS is taking place within the United Nations framework, specifically through a Group of Governmental Experts (GGE) under the Convention on Certain Conventional Weapons (CCW). This debate was started by a coalition of non-governmental organizations (NGOs) advocating for a new CCW protocol aimed at prohibiting the development and use of LAWS [3].

The term autonomous weapon systems (AWS) are preferred to that of lethal autonomous weapon systems, although the latter is used in the mandate of the GGE. AWS is preferred due to the interpretation shared by the International Committee of the Red Cross (ICRC) and a few states, that 'lethality' is a superfluous and misleading qualifier [4].

The operational context in which LAWS function is typically characterized by high-speed decision-making requirements, information-dense battlefields, and degraded communications where human oversight may be infeasible or too slow. Autonomous loitering munitions, such as the Harpy and Harop, exemplify this capability by autonomously detecting and destroying targets based on pre-set parameters [5].

1. LAWS and Their Operational Context. Autonomy in physical systems fundamentally relies on the integration of three core capabilities: sensing the environment, making decisions based on that input, and executing corresponding actions [6].

Sensing the environment. In the context of autonomous weapon systems, effective task execution requires the system to perceive its operational environment. This is achieved through sensors that gather data and onboard or remote computers running specialized sensing software that processes and interprets the input. The design and function of such software depend on the type of sensory data and its intended use, such as target detection. Commonly, systems employ pattern recognition techniques, where raw data is compared to predefined patterns stored in memory. Notably, the way autonomous systems recognize patterns, such as images or sounds, differs fundamentally from human perception, which raises important considerations for accuracy and accountability in combat scenarios.

Autonomous systems rely on mathematical methods to identify patterns and relationships in

sensory data. As a result, the errors made by these systems differ fundamentally from human mistakes. For instance, minimal, imperceptible alterations to an image can cause the system to misclassify it entirely [7]. Additionally, some studies have shown that images which are meaningless to humans can be confidently misidentified by these systems as familiar objects, with over 99% certainty [8].

These findings highlight a critical vulnerability: AWS may act on false perceptions with high confidence, leading to unpredictable and potentially lethal outcomes. In the context of armed conflict, such errors could result in the misidentification of targets, violations of international humanitarian law, and unintended civilian casualties. The inability of autonomous systems to understand context or exercise judgment further compounds these risks.

Given these limitations, the deployment of AWS must be approached with caution. Robust safeguards, human oversight mechanisms, and accountability frameworks are essential to mitigate the operational and ethical dangers posed by current sensing and decision-making technologies.

Making decisions. Once sensory data has been processed by the sensing software, it is gone into the control architecture of system, which manages decision-making. Control systems fall into two categories: (a) reactive control systems, and (b) deliberative control systems, each differing significantly in how decisions are made [9].

Reactive systems, including simple and model-based variants, respond directly to sensory inputs. Model-based reflex systems incorporate internal models of the environment, allowing them to reference past perceptions and compensate for sensory limitations, thus improving reliability.

In contrast, deliberate control systems are goal- or utility-driven and capable of more complex reasoning. They manipulate data structures to evaluate the potential outcomes of various actions, selecting those most aligned with achieving a predefined objective. This enables greater flexibility and adaptability in dynamic or unforeseen scenarios—an advantage over reactive systems. However, such flexibility does not imply unpredictability or autonomous will; deliberative systems still operate within programmed constraints and logic.

The distinction between these architectures is critical in evaluating the risks, accountability, and lawful use of AWS. While reactive systems may be more predictable and easier to audit, deliberative systems raise more complex challenges regarding oversight, reliability, and compliance with international humanitarian law.

Executing actions. Once a decision is made by the control system, it is executed in the physical or cyber realm through computational or physical actions. For example, in the cyber domain, this could involve a software program conducting a specific action, such as blocking a malicious code. In the case of AWS, similar decision-execution could involve targeting or engaging an identified threat, with actions taken based on the control system's outputs.

Human as a part of the autonomous system. In the development and deployment of Lethal Autonomous Weapon Systems (LAWS), the role of the human operator remains a critical point of ethical, legal, and technical concern. While LAWS are designed to function with varying degrees of autonomy, the inclusion of humans in the decision-making loop, whether in a supervisory (human-on-the-loop) or override (human-in-the-loop) capacity, is essential for ensuring compliance with international humanitarian law (IHL), particularly the principles of distinction and proportionality.

When analyzing autonomous systems (AS), the role of humans is not clearly defined. Theoretically, humans can be excluded from the system and considered as external operators or part of the environment. However, in practice, AS rely on human involvement for various functions, requiring a closer examination of how humans and systems interact [10].

As we already mentioned above, there are two paradigms: **"human-in-the-loop"** (HITL) and **"human-on-the-loop (HOTL)."** These may sound similar, but they are radically different models of accountability and control. These frameworks shape not only the technical architecture of autonomous systems but also the ethical and legal foundations of their deployment.

In a "human-in-the-loop" system, the human operator must authorize the use of lethal force. This means the autonomous system might identify tar-

gets and provide assessments, but it cannot engage or kill without explicit human approval. This model is grounded in existing International Humanitarian Law (IHL), which requires principles of distinction, proportionality, and military necessity to be assessed by a competent human decision-maker [11].

In contrast, the human-on-the-loop paradigm represents a shift towards greater autonomy. Here, the system is empowered to make decisions and act independently, while the human operator assumes a supervisory role. The operator may monitor system behavior and intervene or override actions, if necessary, but the default mode of operation assumes autonomous execution. However, it also introduces significant challenges regarding human oversight, cognitive workload, and accountability [12].

The distinction between HITL and HOTL thus encapsulates more than technical configurations; it reflects fundamentally different approaches to responsibility, ethics, and trust in autonomous systems. The HITL model emphasizes human moral agency and legal accountability, whereas the HOTL model leans toward delegating decision-making to machines, with human intervention serving as a safeguard rather than a necessity. Professor Ekelhof [13] and Scharre [14] have argued that preserving "meaningful human control" a concept closely aligned with HITL principles essential to ensure that the deployment of autonomous systems remains compatible with both legal norms and moral expectations.

In the context of LAWS, the debate over HITL and HOTL highlights the need for clear policies and legal norms that balance autonomy with human oversight, ensuring that technological advancements do not ruin the fundamental human responsibility inherent in decisions over life and death.

1. *2. Lethal Autonomous Weapons and the Principles of International Humanitarian Law.* Advancements in the autonomy of weapon systems are poised to fundamentally alter the nature of human engagement with the battlefield and the processes governing decisions regarding the use of force. A primary dimension through which autonomy engenders transformation, while simultaneously creating legal challenges for International Humanitarian Law (IHL), concerns the roles of individuals and entities involved in the development, deployment,

and evaluation of autonomous weapon systems (AWS), as well as those directly impacted by their use. The deployment of AWS necessitates a critical re-examination of foundational assumptions pertaining to the allocation of responsibility for compliance with IHL provisions and the identification of the relevant actors to whom these obligations are owed [15].

Neil Davison, a senior adviser in the Department of International Law and Policy at the ICRC, notes that's, IHL establishes clear obligations for human combatants in the conduct of hostilities, particularly regarding the use of weapons in attacks[16]. It is these combatants who bear both the responsibility to uphold IHL and the accountability for any violations. Importantly, as with all obligations under international law, neither the legal duties associated with IHL nor the corresponding accountability can be transferred to autonomous systems, including machines, computer programs, or weapon systems.

AWS are likely to increase the likelihood of armed conflict and raise the overall frequency of war globally. Abney discusses, autonomous robots, with their promise of fewer casualties, will make war less terrible and therefore more tempting, enticing political leaders to wage war more readily [17], but will it be less terrible? There is a chance, that AWS could reduce the human and political costs of engaging in warfare and making it easier for states to resort to military action, but on the other hand, the use of autonomous systems could lead to unpredictable escalations and misunderstandings between conflicting parties, especially when systems operate faster than human decision-making can respond, as we already discussed in the previous part of the article.

Considerable discussion has already taken place regarding the consistency of autonomous weapons with IHL principles. There are two main positions on the subject. The first asserts that the deployment of autonomous weapons would be unlawful, arguing that such systems would inevitably violate core principles of international humanitarian law (IHL)such as distinction and proportionality, due to their inability to adequately interpret complex combat environments or apply human judgment in dynamic scenarios. Critics fear that the delegation of life-and-death decisions to machines risks under-

mining human dignity and moral responsibility, and raises profound accountability gaps, especially in the absence of clear command structures. The second position suggests that we should withhold final judgment, as it is conceivable that autonomous weapons could, in the future, comply with IHL at least as well as, if not better than, human combatants in certain contexts [18]. Proponents of this view argue that such systems might improve compliance with the laws of war by operating without human emotions like fear, anger, or fatigue, which can lead to unlawful conduct. Furthermore, autonomous systems may have the capacity to process vast amounts of data more quickly and precisely than human operators, potentially reducing collateral damage and unnecessary suffering.

Proportionality. One of the core principles of international humanitarian law is the principle of proportionality [19]. This principle prohibits attacks which are 'expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated'. An attack will be proportionate if the perceived advantages outweigh the harms [20].

LAWS is governed with AI and facial recognition technologies to independently identify and conduct attacks. However, AI cannot be programmed to evaluate the infinite number of possibilities that can unfold in a conflict zone, frankly, speaking they are not able to accurately decide proportionality and abort a planned attack if required. AI is also unable to understand the intrinsic value of human life, thus making it unable to undertake any weighing exercise in relation to proportionality [21].

Distinction. Principle of distinction is core principle of IHL, International Court of Justice consider it even as a "cardinal" principle. The principle of distinction prohibits indiscriminate attacks. Moreover, the principle of distinction, sometimes referred to as the principle of discrimination or identification, separates combatants from non-combatants and legitimate military targets from civilian objects [22]. However, on the other hand, as we already mentioned above LAWS are equipped with facial recognition technology (FRT) that utilizes AI and pattern recognition. However, FRT is highly problematic and often unreliable. Several products have already been found to perform better for those with light-skinned and masculine appearances, while failing to recognize feminine appearances, people of color or people with disability. This may result in people being incorrectly targeted [23].

Therefore, while some proponents argue that LAWS might eventually exceed human capabilities in adhering to IHL, current evidence suggests that the deployment of such systems without robust safeguards poses serious legal, ethical, and humanitarian challenges. The future trajectory of AWS development and deployment must therefore be guided by a careful, multidisciplinary evaluation of technological capacities, legal obligations, and ethical norms.

3. Lethal Autonomous Weapon Systems and Liability Under International Criminal Law. The advent of Lethal Autonomous Weapon Systems (LAWS), which can independently select and engage targets without meaningful human control, disrupts traditional conceptions of liability under international criminal law (ICL). Established doctrines of individual and command responsibility hinge upon the attribution of *actus reus* (the criminal act) and *mens rea* (the mental element), both of which assume human agency. However, the introduction of autonomous systems challenges these assumptions in fundamental ways, therefore, the International Criminal Court (ICC) has not investigated war crimes committed by LAWS.

In the international treaties, where war crimes are defined, there is no mention of the use of technological weapons anywhere, not even in the Rome Statute. According to Article 8, killing, torture, extensive destruction and appropriation of property, etc. are qualified as war crimes, but not cyberattacks. Therefore, an evolutionary interpretation of the norm is necessary based on the circumstances in which it is applied. All norms for war crimes were defined as real actions, but with the ongoing digitalization of the world, actions in the digital space during war can impact the dynamics and outcomes of war. Hence, when qualifying such actions, it is essential to consider the causal link between the action and the resulting

outcome, as evolution of rules and customs of war shows that technology develops alongside war.

Nowadays, In the case of LAWS, where autonomous systems execute decisions independently, the direct line of accountability becomes obscured, to the extent that, it cannot be criminally responsible since they lack moral subjectivity, therefore, this fact complicates the qualification of the actions committed by them as war crimes. Professor Antonio Cassese notes that criminal liability arises when a person commits a criminal act with a specific mental element and develops a psychological attitude towards the behavior, which is then qualified as a criminal offense [24].

The mens rea of a war crime is formulated in such a way that the perpetrator must have the awareness of the risk that the crime might be committed in the execution of the common plan and he must accept the risks [25] which LAWS lacks, therefore, international criminal law does not consider LAWS as an perpetaror. Back in 2013, when instead of Lethal Autonomous Systems (LAWS), we had Lethal Autonomous Robotics (LARs), which the UN defined as a weapon system that, after activation, could pick up and fire at a target without human intervention, Professor Christof Heyns said that in no case should a robot be given such power that it decides who will live and who will die [26]. However, based on the current situation, we can definitely say that no one has taken Professor Heyns's opinion into account.

Moreover, the principle of legality (nullum crimen sine lege), enshrined in Article 22 of the Rome Statute, further complicates efforts to hold individuals criminally responsible for harm caused by LAWS. The principle dictates that no one can be held criminally liable for conduct that was not criminalized at the time it was committed. Since no explicit legal norms currently address the deployment of LAWS under ICL, prosecutions based on general principles may face challenges under this provision.

Furthermore, the requisite mental element under Article 30, intent, and knowledge, becomes problematic when harm is caused by an autonomous system rather than by a human. While it may be possible to attribute knowledge or intent to the human operators or commanders responsible for de-

ploying the system, this depends heavily on the degree of autonomy and control retained. If behavior of the system is sufficiently unpredictable or autonomous, establishing intent or knowledge of the specific criminal outcome may be difficult.

Conclusion. This paper has explored the profound legal and ethical challenges posed by the increasing integration of Lethal Autonomous Weapon Systems (LAWS) into modern warfare. By researching the operational systems, their interaction with the principles of IHL, and the problems of liability under ICL, we can conclude that existing legal frameworks are ill-equipped to address the complexities introduced by AI-governed autonomy in weapon systems. The capability of LAWS to operate without direct human intervention, combined with their reliance on pattern recognition and data-driven algorithms, creates unprecedented challenges for ensuring compliance with the principles of distinction and proportionality in IHL.

Current legal frameworks, including the Rome Statute and traditional doctrines of command responsibility, assume human knowledge and intent. These assumptions are fundamentally disrupted when machines, devoid of moral subjectivity and incapable of forming intent, are the actors in warfare. Although some proponents argue that future technological advancements may enhance compliance with IHL by eliminating human errors driven by fear, fatigue, or bias, evidence suggests that AI's current limitations in contextual understanding, target recognition, and proportionality judgments pose significant humanitarian risks. The potential for unnecessary suffering, including unlawful attacks and civilian casualties, is worsened when LAWS operate with minimal or no human oversight.

Considering these findings, it is imperative to adopt an initiative-taking and precautionary approach. The recommendations derived from this research are: first, adopt a new protocol under the Convention on Certain Conventional Weapons explicitly prohibiting the use of LAWS; second, prohibit the deployment of Autonomous Weapon Systems that lack meaningful human control, ensuring that critical decisions about the use of force remain anchored in human judgment and accountability; and third, preserve and reinforce human decision-making in the conduct of hostilities, thereby up-

holding the principles of IHL and safeguarding fundamental ethical standards in warfare. So that, AWS will be means of weaponry, operated by humans and they will be liable for war crime if it is committed by using them.

While technological innovation is inevitable, the integrity of international legal and ethical norms must not be compromised. A forward-looking and collaborative effort among states, legal scholars, technologists, and civil society is required to establish clear, binding norms that reflect both the realities of technological change and the enduring principles of humanity in armed conflict, especially, regarding to Article 36 of Additional Protocol I to the Geneva Conventions (GCAPI), which mandates that states conducting legal reviews of new weapons, means, or methods of warfare must determine whether their use would be prohibited by IHL.

Refrences

1. "Autonomous Weapons Systems: Technical, Military, Legal and Humanitarian Aspects," International Committee of the Red Cross, Expert Meeting, 2014, p. 7.

2. Klare Michael, "Assessing the Dangers: Emerging Military technologies and Nuclear (In)Stability," An Arms Control Association Report, 2023, p. 12.

3. Certain Conventional Weapons (CCW) Convention, Fifth Review Conference of the High Contracting Parties, 'Report of the 2016 informal meeting of experts on lethal autonomous weapons systems (LAWS)', CCW/CONF.V/2, 10 June 2016, Annex, para. 3.

4. Boulanin Vincent, Bruun Laura, Goussac Netta, Autonomous Weapon Systems and International Humanitarian Law, Stockholm International Peace Research Institute (SIPRI), 2021, p. 14.

5. Boulanin Vincent, Verbruggen Maaike, Mapping the development of autonomy in weapon systems, Stockholm International Peace Research Institute (SIPRI), 2017, pp. 53-54.

6. US Department of Defense (DOD), Office of Technical Intelligence, Office of the Assistant Secretary of Defense for Research and Engineering, Technical Assessment: Autonomy (DOD: Washington, DC, Feb. 2015), p. 2.

7. Szegedy Christian, Zaremba Wojciech, Sutskever Ilya et al., intriguing properties of neural networks, 2014.

8. Nguyen Anh, Yosinski Jason, Clune Jeff, Deep neural networks are easily fooled: High confidence predictions for unrecognizable images, Proceedings of the IEEE Conference on Computer Vision and Pattern Recognition (CVPR), 2015.

9. Boulanin Vincent, Verbruggen Maaike, Mapping the development of autonomy in weapon systems, Stockholm International Peace Research Institute (SIPRI), 2017, p. 10.

10. Alexander, R. D., Herbert, N. J., & Kelly, T. P. The role of the human in an autonomous system. Systems Safety 2009. Incorporating the SaRS Annual Conference, 4th IET International Conference, p. 2.

11. Boulanin Vincent, Verbruggen Maaike, Mapping the development of autonomy in weapon systems, Stockholm International Peace Research Institute (SIPRI), 2017, p. 10-13.

12. Boulanin Vincent, Verbruggen Maaike, Mapping the development of autonomy in weapon systems, Stockholm International Peace Research Institute (SIPRI), 2017, p. 10-13.

13. Ekelhof, Merel A. "Moving Beyond Semantics on Autonomous Weapons: Meaningful Human Control in Operation." Global Policy, vol. 10, no. 3, 2019, pp. 343–348.

14. Scharre, Paul. "Autonomous Weapons and Human Control." Center for a New American Security, 2018.

15. Boulanin Vincent, Bruun Laura, and Goussac Netta, Autonomous Weapon Systems and International Humanitarian Law: Identifying Limits and the Required Type and Degree of Human–Machine Interaction, Stockholm International Peace Research Institute (SIPRI), June 2021, p. 26.

16. Davison Neil, "A Legal Perspective: Autonomous Weapon Systems under International Humanitarian Law" (UNODA Occasional Papers, No. 30, 2018, pp. 5-6.

17. Blanchard Alexander, and Taddeo Mariarosaria, "Autonomous Weapon Systems and Jus Ad Bellum." Ethics and Information Technology, vol. 24, no. 3, 2022, p. 3; Abney Keith. "Robotics, Ethics, and War." The Ethics of Robot Warfare, edited

by Patrick Lin, Keith Abney, and George A. Bekey, Oxford UP, 2013, p. 340.

18. Winter Elliot, "The Compatibility of Autonomous Weapons with the Principles of International Humanitarian Law" Journal of Conflict & Security Law (Oxford University Press), 2022, pp. 3-4.

19. Davison Neil, "A Legal Perspective: Autonomous Weapon Systems under International Humanitarian Law" (UNODA Occasional Papers, No. 30, 2018, pp7-8.

20. Australian Human Rights Commission, Human Rights and Lethal Autonomous Weapons Systems: Submission to the Human Rights Council Advisory Committee, 2023, p. 5.

21. Australian Human Rights Commission, Human Rights and Lethal Autonomous Weapons Systems: Submission to the Human Rights Council Advisory Committee, 2023, p. 5.

22. Tsagourias Nicholas, Morrison Alasdair, International Humanitarian Law: cases, materials and commentary, Cambridge, 2019, pp. 85-87.

23. Australian Human Rights Commission, Human Rights and Lethal Autonomous Weapons Systems: Submission to the Human Rights Council Advisory Committee, 2023, p. 9.

24. Cassese, Antonio. International Criminal Law. 2nd ed., Oxford University Press, 2008, p. 80.

25. International Criminal Court, Trial Chamber III. Judgment Pursuant to Article 74 of the Statute: The Prosecutor v. Jean-Pierre Bemba Gombo. ICC-01/05-01/08, 21 Mar. 2016, para.146.

26. Heyns, Christof. Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. United Nations Human Rights Council, A/HRC/23/47, 9 Apr. 2013, para. 114.

Ана Самакашвілі

КОД, КОМАНДУВАННЯ ТА НАСЛІДКИ: ХТО НЕСЕ ВІДПОВІДАЛЬНІСТЬ ЗА ВІЙСЬКОВІ ЗЛОЧИНИ, СКОЄНІ ІЗ ЗАСТОСУВАННЯМ ЛЕТАЛЬНИХ АВТОНОМНИХ СИСТЕМ ЗБРОЇ?

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Метою дослідження є вивчення правових та етичних проблем, що виникають у сучасних збройних конфліктах через зростаючу інтеграцію летальних автономних систем зброї (ЛАСЗ). Оскільки ці технології набувають операційної актуальності, дослідження має на меті з'ясувати, хто несе відповідальність, коли автономні системи здійснюють дії, що порушують міжнародне гуманітарне право (МГП). Також метою є оцінка того, чи є існуючі правові інструменти адекватними для вирішення складнощів, що виникають через можливості автономного прийняття рішень летальних систем на основі штучного інтелекту. *Методи:* у статті дослідження було проведено з використанням порівняльно-правових та доктринальних методів для оцінки того, як різні правові системи та міжнародні актори реагують на виклик регулювання ЛАСЗ. Історичний метод було застосовано для простеження розвитку правових норм, пов'язаних з технологіями озброєння та збройними конфліктами, що забезпечує контекст для розуміння сучасних правових прогалин та необхідності оновленого регулювання, а нормативний метод також був використаний для підкреслення необхідності запровадження нових регулятивних та заборонних норм для регулювання проблеми. *Результати:* це дослідження розглядає правові та етичні проблеми, що виникають у зв'язку із застосуванням правил, встановлених законами та нормами у сучасній війні. У ньому висвітлюються труднощі у визначенні відповідальності, коли вчиняються дії, що порушують МГП. У дослідженні також оцінюється неадекватність чинної правової бази для вирішення цих проблем та необхідність нових правил для забезпечення відповідальності та захисту цивільного населення. *Обговорення:* ЛАСЗ здатні самостійно ідентифікувати та стріляти по цілях, без будь-якого контролю людини. З одного боку, це пропонує тактичні переваги, такі як швидкість, точність та зменшення прямої участі людини, але з іншого боку, це призводить до глибоко тривожної правової та етичної дилеми: хто має нести відповідальність, коли автономна система зброї скоює воєнний злочин? Існуючі закони, що ґрунтуються на передумові прийняття рішень людиною, нелегко застосовувати, коли машина виконує потенційно незаконну дію без чіткої людської команди. Юридична загадка полягає в тому, хто (або що) несе відповідальність у таких сценаріях, що загрожує підірвати індивідуальну кримінальну відповідальність та захист цивільного населення під час збройного конфлікту.

Ключові слова: ЛАСЗ; воєнні злочини; AI; відповідальність; збройний конфлікт.