

INTERNATIONAL REGULATION OF AUTONOMOUS WEAPON SYSTEMS: LEGAL CHALLENGES AND HUMAN RIGHTS IMPLICATIONS IN MODERN WARFARE

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Abstract: This article examines the legal and human rights challenges arising from the lack of a dedicated international regulatory framework for autonomous weapon systems (AWS). Using a deductive approach grounded in international humanitarian law (IHL) and international human rights law (IHRL), it assesses these systems in light of distinction, proportionality, precautions in attack, and legal responsibility. It argues that, without adequate restrictions and human oversight, AWS may heighten the risk of unlawful harm to civilians and weaken accountability. The article concludes that binding international standards, meaningful human control, and effective accountability mechanisms are essential to mitigate these risks and protect international security.

Keywords: autonomous weapon systems; international humanitarian law; human rights; meaningful human control; international regulation.

INTRODUCTION

The development and proliferation of autonomous weapon systems (AWS) pose difficult questions for contemporary international law. Systems capable of selecting and engaging targets without direct human intervention at the point of engagement challenge existing approaches to weapons review, operational supervision, and the attribution of responsibility. Their use raises particular concerns under international humanitarian law (IHL), including the principles of distinction and proportionality and the obligation to take precautions in attack. Although AWS have been examined in multiple international forums, the absence of a dedicated, binding agreement continues to generate uncertainty about the safeguards required for their lawful development and deployment.

International humanitarian law seeks to limit the effects of armed conflict through rules that frequently require context-sensitive assessment. The principle of distinction, for example, requires parties to distinguish between civilians and combatants and between civilian objects and military objectives.

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The assessment becomes especially difficult when civilians are intermingled with military personnel or when the status of a target is uncertain. Depending on their design and deployment context, autonomous systems may struggle to evaluate such factors. Michael Schmitt's analysis illustrates the continuing debate over whether, and under what operational conditions, AWS can satisfy the legal standards applicable to attacks.¹

The use of these systems also complicates questions of legal responsibility. If an AWS conducts an indiscriminate or disproportionate attack, responsibility cannot be attributed to the machine as though it were an independent legal actor. The inquiry must instead examine the conduct of the relevant State and of the humans involved in design, authorization, deployment, supervision, and command. Identifying how those decisions contributed to a violation may nevertheless be difficult when critical functions are distributed across a technical and organizational chain. Peter Asaro's discussion of responsibility for autonomous agents sheds light on this accountability problem.²

A related question is whether technological development is advancing more rapidly than the capacity of international law to establish specific safeguards. AWS have been discussed extensively under the Convention on Certain Conventional Weapons (CCW), but these deliberations have not yet produced a dedicated binding treaty. The lack of consensus reflects differences among States over the need for prohibition, the scope of permissible autonomy, and the adequacy of existing IHL obligations. Some militarily advanced States have cautioned against a blanket ban, whereas others have advocated strict limits on systems operating without effective human control.

These disagreements reveal the central regulatory dilemma: how should the potential military advantages of AWS be weighed against legal and humanitarian risks? Supporters argue that automation may reduce exposure of military personnel to dangerous missions and, in some circumstances, improve targeting accuracy. Critics emphasize the possibility of escalation, errors in identifying lawful targets, and insufficient human oversight. Noel Sharkey has addressed how the design of supervisory control affects the conduct of hostilities and the protection of civilians.³

The concerns extend beyond conventional battlefields. Technologies

¹ Michael N. Schmitt, *Autonomous Weapon Systems and International Humanitarian Law: A Reply to the Critics*, Harv. Nat'l Sec. J. Features (Feb. 6, 2013).

² Peter M. Asaro, *The Liability Problem for Autonomous Artificial Agents*, 2016 AAAI Spring Symp. Series 190, 190-94.

³ Noel Sharkey, *Staying in the Loop: Human Supervisory Control of Weapons*, in *Autonomous Weapons Systems: Law, Ethics, Policy* 23, 23-38 (Nehal Bhuta et al. eds., 2016).

capable of autonomous target recognition or engagement may be adapted for border security, policing, or other internal security operations, where different legal frameworks govern the use of force. Their deployment could affect the rights to life, privacy, and physical integrity, especially if decision-making is opaque or effective human oversight is absent. Human Rights Watch has stressed the human rights consequences of permitting lethal decisions to be made without adequate human responsibility.⁴

Meaningful human control has therefore become a central concept in proposals for AWS regulation. At its core lies the proposition that human beings must retain sufficient knowledge, judgment, and practical ability to supervise decisions involving lethal force. Yet its operational requirements remain contested. Some approaches emphasize human authorization and system monitoring, while others require more direct human involvement in particular targeting decisions. This disagreement makes it difficult to translate the concept into precise, verifiable obligations applicable across different weapons and operational environments.

These considerations make the development of internationally agreed standards increasingly urgent. In the absence of clear restrictions, AWS may be deployed in settings where compliance with humanitarian protections cannot be adequately assessed or supervised. Paul Scharre's work illustrates how the strategic incentives surrounding military autonomy complicate the governance of these technologies and the preservation of international security.⁵

This article examines the legal challenges of AWS regulation and considers how international law can respond to the use of emerging military technologies while safeguarding civilian protection and humanitarian principles.

The study adopts a deductive methodology, examining the applicability of established IHL and IHRL norms to AWS. It focuses on distinction, proportionality, precautions in attack, and legal responsibility, drawing on legal scholarship, United Nations and ICRC materials, and reports by human rights organizations. The purpose is to identify regulatory gaps and assess the legal safeguards needed to mitigate the risks of autonomy in the use of force.

The article advances the hypothesis that the growing autonomy of weapon systems creates substantial risks for the application of foundational IHL rules, particularly distinction, proportionality, precautions in attack, and responsibility for violations. Those risks are especially acute where effective human judgment or intervention is unavailable. A stronger international

⁴ Human Rights Watch, *Shaking the Foundations: The Human Rights Implications of Killer Robots* (May 12, 2014), <https://www.hrw.org/report/2014/05/12/shaking-foundations/human-rights-implications-killer-robots>.

⁵ Paul Scharre, *Army of None: Autonomous Weapons and the Future of War* (2018).

framework addressing the design, testing, deployment, and supervision of AWS is therefore necessary to reduce the likelihood of unlawful harm to civilian populations.

I. WEAPONS, ARTIFICIAL INTELLIGENCE, AND INTERNATIONAL LAW

The development of autonomous weapon systems (AWS) can be traced to the military technological advances of the twentieth century. Although the earliest automated weapons date to the Second World War, with the introduction of systems such as guided missiles, the concept of fully autonomous weapons, capable of identifying and engaging targets without human intervention, is far more recent. The increasing use of remotely piloted military drones in the early 2000s marked a significant advance in remotely operated weaponry, creating technological pathways for the development of more sophisticated autonomous weapon systems.

In recent years, the use of drones in conflict zones has increased considerably, with States such as the United States and Israel leading the development and deployment of such technologies. The transition to genuinely autonomous systems, capable of operating without direct human supervision, however, raises substantial ethical and legal concerns. These systems represent not only a technological advance but also a challenge to international legal norms, particularly those relating to international humanitarian law, which governs conduct in armed conflict. As Michael Horowitz argues, the development of autonomous weapons reflects the rapid growth of artificial intelligence in the military domain, raising the possibility of delegating life-and-death decisions to machines, a matter of deep concern under IHL.⁶

The compatibility of AWS with international law is a central topic in international forums. The United Nations and various human rights organizations, including Human Rights Watch and the International Committee of the Red Cross (ICRC), have extensively discussed the need for clearer legal constraints on these weapons. In 2018, Human Rights Watch and the Harvard Law School International Human Rights Clinic expressed concern over the development of lethal autonomous weapons, warning that delegating life-or-death decisions to machines without effective human intervention raises serious ethical and legal questions, and that the foundational IHL principles of distinction, proportionality, and precaution depend on human judgment, such that it is doubtful whether any fully

⁶ Michael C. Horowitz, *The Ethics and Morality of Robotic Warfare: Assessing the Debate over Autonomous Weapons*, 145 *Dædalus* 25, 25–36 (2016).

autonomous weapon system could satisfy these requirements.⁷

In legal terms, AWS call into question the applicability of established IHL principles. The principle of distinction, which requires a clear separation between combatants and civilians, is a principal concern. Peter Asaro contends that autonomous systems lack the capacity to interpret contextual nuance in the way humans do, resulting in a heightened risk of indiscriminate attacks.⁸ Similarly, uncertainty over the allocation of responsibility in cases of AWS misuse raises the question of who should be held responsible for IHL violations, the technology's developer, the State that deploys it, or the military commander responsible for its use.

International case law provides a useful, although necessarily indirect, framework for examining State responsibility. In *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States*), the International Court of Justice addressed the attribution of conduct and violations of international law in the use-of-force context.⁹ The judgment did not concern AWS and should not be treated as establishing an AWS-specific rule. Nevertheless, its treatment of State responsibility helps frame the question whether the use of an autonomous system can alter the legal obligations of the State that authorizes and controls a military operation. The use of a technological instrument cannot, by itself, displace those obligations.

Debate over lethal autonomous weapons has developed within the framework of the Convention on Certain Conventional Weapons (CCW), which addresses weapons considered to cause excessive injury or to have indiscriminate effects. Following informal expert discussions beginning in 2014, States established a Group of Governmental Experts to consider the issues raised by lethal AWS. Progress toward binding rules has been limited, and the participating States remain divided over the appropriate regulatory response.

On one side, States such as Russia and the United States have resisted any outright ban on autonomous weapons, arguing that these technologies remain under development and that premature prohibitions could hinder military innovation. In CCW discussions, the United States delegation has maintained that there is no evidence that lethal autonomous systems currently under development violate IHL norms, and that prohibiting their use before they are

⁷ Human Rights Watch & Harvard Law School International Human Rights Clinic, *Heed the Call: A Moral and Legal Imperative to Ban Killer Robots* (Aug. 21, 2018), <https://www.hrw.org/report/2018/08/21/heed-call/moral-and-legal-imperative-ban-killer-robots>.

⁸ Asaro, *supra* note 3.

⁹ *Military and Paramilitary Activities in and against Nicaragua* (*Nicar. v. U.S.*), Judgment, 1986 I.C.J. 14 (June 27).

fully developed would be imprudent and counterproductive.¹⁰

On the other side, States such as Germany and Austria have advocated a moratorium, or even a preventive prohibition, on these weapons. Germany, for instance, has argued that the development of weapon systems that operate without effective human control is unacceptable from a human rights and IHL perspective.¹¹ Germany's proposal reflects a growing concern that the use of AWS without adequate human supervision could undermine the pillars of IHL, resulting in greater harm to civilians and combatants alike.

The division among States is also reflected in the positions taken by various international and academic organizations. The ICRC, in particular, has maintained that any lethal autonomous system must remain subject to meaningful human control during operations. This proposal suggests that, while the use of AI and automation in weapons may be inevitable, a clear limit must ensure that human beings remain responsible for critical decisions. As ICRC materials indicate that appropriate human control is a central safeguard for ensuring that the use of lethal autonomous weapons remains consistent with the foundational principles of IHL, and removing human control from the decision to use lethal force runs directly counter to the spirit of IHL.¹²

Approaches to AWS regulation vary widely among States and international organizations, reflecting tensions between technological innovation and legal and ethical obligations. The future of autonomous weapons, and of their regulation, will depend largely on how States balance their security needs against the imperative to protect human life and to ensure compliance with international law.

The regulation of AWS reflects a broader tension between military innovation and established legal obligations. Governments may view autonomy as a strategic advantage, but technological utility does not displace the requirements of IHL. The challenge is to apply rules formulated for human decision-making to weapons whose technical functions may be distributed between human operators and automated systems. David Akerson's analysis highlights the questions that increased autonomy raises for the continued application of humanitarian protections.¹³

Legal accountability is another central concern. The use of autonomous functions can complicate the reconstruction of the decisions leading to an

¹⁰ Convention on Certain Conventional Weapons (CCW), Report of the 2018 Session of the Group of Governmental Experts on Lethal Autonomous Weapons Systems, U.N. Doc. CCW/GGE.1/2018/3 (Oct. 23, 2018).

¹¹ CCW, *supra* note 11.

¹² International Committee of the Red Cross (ICRC), Existing and Potential Control Measures for Autonomous Weapon Systems (2020).

¹³ David Akerson, The Illegality of Offensive Lethal Autonomy, in *International Humanitarian Law and the Changing Technology of War* 65 (Dan Saxon ed., 2013).

unlawful attack. International law nevertheless distinguishes State responsibility from the individual criminal responsibility of persons whose conduct satisfies the relevant legal requirements. Depending on the circumstances, weapons designers, manufacturers, operators, commanders, or State authorities may have undertaken different acts relevant to the inquiry; their involvement does not make them automatically or equally liable. Peter Margulies examines how command responsibility may operate when lethal force is guided by computer systems.¹⁴

A further complication in the AWS debate concerns the notion of meaningful human control. Although widely used, this expression still lacks a universally accepted definition. The concept was originally advanced to ensure that decisions on the use of lethal force remain subject to human supervision at all times, so as to ensure compliance with the IHL principles of distinction and proportionality. Differing interpretations of meaningful control, however, present obstacles to international consensus. For some States, mere system monitoring, without frequent intervention, would suffice to satisfy this requirement, while others maintain that a human being must be directly involved at every stage of the military operation. Mary Ellen O'Connell, a proponent of a stricter interpretation, argues that meaningful control must be understood as requiring the direct participation of a human being in each individual decision to use force, to secure compliance with IHL.¹⁵ This divergence reflects the technical and legal complexities of regulating weapons based on artificial intelligence.

Geopolitical conditions also shape the prospects for agreement. States with significant military-technological capabilities, including the United States, Russia, and China, have expressed concerns that stringent restrictions could limit strategic options. Other States, including several European countries, have supported stronger international safeguards, although their preferred legal approaches differ. Multilateral institutions have attempted to bring these positions closer together through discussions of human control, weapons reviews, and operational limits. A binding agreement remains uncertain because negotiations must reconcile competing security priorities with the obligation to protect civilians.

¹⁴ Peter Margulies, *Making Autonomous Weapons Accountable: Command Responsibility for Computer-Guided Lethal Force in Armed Conflicts*, in *Research Handbook on Remote Warfare* 405 (Jens David Ohlin ed., 2017).

¹⁵ Mary Ellen O'Connell, *Banning Autonomous Killing: The Legal and Ethical Requirement That Humans Make Near-Time Lethal Decisions*, in *The American Way of Bombing* 224 (Matthew Evangelista & Henry Shue eds., 2014).

II. INTERNATIONAL REGULATION OF AUTONOMOUS WEAPON SYSTEMS: INSTRUMENTS, INITIATIVES, AND IMPASSES

Despite more than a decade of multilateral debate, the normative landscape applicable to AWS remains marked by the absence of a dedicated, binding international treaty. The principal forum for discussion has been the Group of Governmental Experts (GGE) on Lethal Autonomous Weapons Systems, established under the Convention on Certain Conventional Weapons (CCW) following years of informal expert meetings that began in 2014. The GGE's operation, however, is structurally constrained by the consensus rule governing the CCW: lack of consensus may prevent negotiations from advancing, which has thus far allowed a small group of technologically advanced military powers to prevent the adoption of a negotiating mandate for a binding protocol, even though many participating States have called for a negotiating mandate.¹⁶

In view of this impasse, civil society organizations have assumed a central role in pressing for regulation. The Campaign to Stop Killer Robots, a coalition that includes Human Rights Watch, advocates the negotiation of an instrument combining a ban on fully autonomous systems with a requirement of meaningful human control over the remainder. In a joint 2018 report, Human Rights Watch and the Harvard Law School International Human Rights Clinic argued that fully autonomous weapons would run counter to the Martens Clause, a well-established IHL principle under which emerging technologies not expressly regulated by treaty must be assessed in light of the principles of humanity and the dictates of public conscience.¹⁷

The impasse within the CCW has led part of the debate to shift to the United Nations General Assembly. In December 2023, the General Assembly adopted, by a vote of 152 in favor, Resolution 78/241, the first resolution in United Nations history devoted specifically to the risks posed by lethal autonomous weapon systems, a milestone reaffirmed by Resolutions 79/62, of 2024, and 80/57, of 2025.¹⁸ In a joint message released in October 2023, the UN Secretary-General and the President of the International Committee of the Red Cross (ICRC) described the prospect of machines autonomously selecting and eliminating human beings as an unacceptable ethical threshold, calling on States to conclude, by 2026, the negotiation of a legally binding instrument combining specific prohibitions with clear rules on human

¹⁶ CCW, *supra* note 11.

¹⁷ Human Rights Watch & Harvard Law School International Human Rights Clinic, *supra* note 8.

¹⁸ G.A. Res. 78/241 (Dec. 22, 2023); G.A. Res. 79/62 (Dec. 2, 2024); G.A. Res. 80/57 (Dec. 1, 2025).

control.¹⁹

This development, however, does not resolve the underlying impasse among States. While a coalition led by countries such as Austria, New Zealand, Mexico, Costa Rica, and Ireland continues to press for a formal negotiating mandate, powers such as the United States, Russia, and Israel continue to resist any instrument restricting their military-technological development, maintaining that the matter is already adequately addressed through national weapons reviews under Article 36 of Additional Protocol I to the Geneva Conventions, and does not require a generic prohibition. Paul Scharre observes that international regulatory inaction tends to entrench a *fait accompli*, in which technological proliferation advances more rapidly than States' normative capacity to contain it.²⁰

Faced with the CCW's paralysis, part of the specialized literature proposes that AWS regulation follow the model of the Ottawa Process on landmines and the Oslo Process on cluster munitions, humanitarian treaties negotiated outside the traditional disarmament forums precisely in order to escape the logic of consensus. Such a path, although politically costly, could provide the binding instrument that the CCW has thus far failed to produce.

III. HUMAN RIGHTS IMPLICATIONS IN MODERN WARFARE

Beyond their implications for IHL, autonomous weapon systems raise issues under international human rights law (IHRL), which may apply alongside IHL during armed conflict. Article 6 of the International Covenant on Civil and Political Rights protects the right to life and prohibits arbitrary deprivation of life. This protection makes the justification, supervision, and review of decisions involving lethal force especially important. In 2013, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, warned of the risks associated with delegating lethal decisions to autonomous systems and recommended national moratoria pending the development of an international framework.²¹

The accountability difficulties discussed above also implicate the right to an effective remedy under Article 2(3) of the International Covenant on Civil and Political Rights. When relevant decisions are divided among designers, manufacturers, military personnel, and automated functions, victims and their families may face significant barriers to identifying those legally responsible

¹⁹ UN News, UN and Red Cross Call for Urgent Rules on Autonomous Weapons Systems (Oct. 2023), <https://news.un.org/pt/story/2023/10/1821372>.

²⁰ Scharre, *supra* note 6.

²¹ Christof Heyns (Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions), Report on Lethal Autonomous Robotics and the Protection of Life, U.N. Doc. A/HRC/23/47 (Apr. 9, 2013).

and obtaining redress.²² These difficulties do not extinguish existing obligations of States or individuals; rather, they underscore the need for traceability, adequate records, and effective procedures for investigating the use of autonomous force.

The relevance of human rights law is not confined to armed conflict. Automated target-recognition technologies may also be used in border control, law enforcement, and other security operations. In those settings, their deployment can affect rights to life, privacy, equality, and peaceful assembly. Human rights organizations have warned that biased data and insufficient oversight may increase risks for already vulnerable groups.²³ Any regulatory response should therefore distinguish the legal regimes governing armed conflict from those applicable to law enforcement, while ensuring effective safeguards under each.

Taken together, IHL and IHRL considerations demonstrate why meaningful human control remains central to the legal evaluation of AWS. During armed conflict, human oversight supports compliance with distinction, proportionality, and precautions in attack; in law-enforcement settings, it also bears on the necessity and proportionality of any resort to lethal force. The precise form of control required may vary by system and context, but the need for meaningful human responsibility cannot be overlooked.

CONCLUSION

The analysis supports the central hypothesis: increasing autonomy in weapon systems creates serious challenges for compliance with IHL, particularly the rules on distinction, proportionality, and precautions in attack, while also raising concerns under IHRL, including the right to life and access to an effective remedy. These challenges arise not simply from the use of algorithms but from the interaction between technical limitations, operational contexts, and the division of responsibility among human and institutional actors.

Recent developments at the international level, General Assembly Resolutions 78/241 (2023), 79/62 (2024), and 80/57 (2025), together with the joint appeal of the Secretary-General and the ICRC for a binding instrument by 2026²⁴, demonstrate that the issue has acquired political urgency, while also revealing the limits of regulation through soft law and consensus-based forums such as the CCW. So long as States with advanced technological capacity retain strategic incentives to resist binding obligations, the

²² Margulies, *supra* note 15.

²³ Human Rights Watch, *supra* note 5.

²⁴ G.A. Res. 78/241, 79/62 & 80/57, *supra* note 19; UN News, *supra* note 20.

international regulation of AWS is likely to remain inadequate to contain the risks identified.

This article therefore argues for the development of binding international standards, either within the CCW framework or through a separate negotiating process comparable in institutional terms to the Ottawa and Oslo initiatives. Such standards should clarify prohibited uses, establish operational safeguards, and require meaningful human control, testing, traceability, and mechanisms for legal accountability. Regulation alone will not eliminate the risks associated with autonomy in warfare, but it can provide an essential framework for keeping the use of force subject to the rule of law and the protection of human dignity.

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