

IS IT TIME FOR AN EU COMMON POSITION ON LAWS?

ANNUAL EU SEMINAR OF THE EU NON-PROLIFERATION CONSORTIUM

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LAWS: STATE OF THE QUESTION

- A 'Campaign to Stop 'Killer Robots,' comprising 54 non-governmental organizations was launched in 2013
- In May of 2014, state parties to the United Nations' Convention on Certain Conventional Weapons held initial discussions on autonomous weapons. Discussions will likely continue in the future

LAWS: STATE OF THE QUESTION

- *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heynes', UN Doc. A/HRC/23/47, 9 April 2013*
- **Calls upon states currently developing such weapons for an immediate moratorium** 'on at least the testing, production, assembly, transfer, acquisition, deployment and use' of AWS until an international agreed framework on the future has been established
- **Asks regional and other inter-governmental organizations to 'support the proposals** outlines in the recommendations to the UN and states, in particular the call for moratoria as an immediate step' and, 'where appropriate take similar parallel initiatives to those of the UN'

LAWS: STATE OF THE QUESTION

- *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heynes', UN Doc. A/69/265, 6 August 2014- RECOMMENDATION*
- **'The international community, and in particular the various United Nations bodies, must adopt a comprehensive and coherent approach to autonomous weapons systems in armed conflict and in law enforcement, one which covers both the international humanitarian law and human rights dimensions, and their use of lethal and less lethal weapons. As such, the various international agencies and institutions dealing with disarmament and human rights, such as the Convention on Certain Conventional Weapons and the Human Rights Council, each have a responsibility and a role to play'**

EU NON-POLICY ON DRONES: A TEST CASE

- **HRC RESOLUTION 25/22 (March 2014)** *‘Ensuring use of remotely piloted aircraft or armed drones in counter-terrorism and military operations in accordance with international law, including international human rights and humanitarian law’*
- Urges States to ensure that any measures employed to counter terrorism, including the use of remotely piloted aircraft or armed drones, comply with their obligations under international law, including the Charter of the United Nations, international human rights law and international humanitarian law, in particular the principles of precaution, distinction and proportionality’
- Calls upon States to ensure transparency in their records on the use of remotely piloted aircraft or armed drones and to conduct prompt, independent and impartial investigations whenever there are indications of a violation to international law caused by their use
- **Decides to organize an interactive panel discussion** of experts at its twenty-seventh session on the issues raised in the report of the Special Rapporteur on the protection of human rights and fundamental freedoms while countering terrorism

EU NON-POLICY ON DRONES: A TEST CASE

- HRC RESOLUTION 25/22 (March 2014) *‘Ensuring use of remotely piloted aircraft or armed drones in counter-terrorism and military operations in accordance with international law, including international human rights and humanitarian law’*
- ADOPTED
 - 27 YES
 - 6 NO (UK, France, US, Japan, Macedonia, Republic of Korea)
 - 14 ABS
- EU MEMBER STATES
 - UK, France NO
 - Ireland YES
 - Germany, Czech Republic, Italy, Austria, Estonia and Romania ABS

EU NON-POLICY ON DRONES: A TEST CASE

- *European Parliament resolution on the use of armed drones (2014/2567(RSP), 24 February 2014*
- Notes that leading UN experts have denounced an accountability and transparency vacuum
- Expresses its grave concern with regard to the threat posed to global peace and security by the use of armed drones outside the international legal framework
- Denounces ongoing practices of targeted killings outside of armed conflict as violations of international law which set a dangerous precedent that other states might seek to exploit to avoid responsibility for unlawful killings in the future
- Urges the Council to adopt an EU common position on the use of armed drones
- Calls upon the EU to promote greater transparency and accountability on the part of third countries in the use of armed drones

EU NON-POLICY ON DRONES: A TEST CASE

- *European Parliament resolution on the use of armed drones (2014/2567(RSP), 24 February 2014*
- *Calls upon the Vice/President of the Commission/ High Representative of the Union for Foreign Affairs and Security Policy, the Member States, the Council and the Commission to:*
 - Oppose and ban the practice of extrajudicial targeted killings;
 - Ensure that Member States (..) do not perpetrate or facilitate unlawful targeted killings or facilitate such killings by other states;
 - Include armed drones in relevant European and international disarmament and arms control regimes;
 - Take measures where there are ‘reasonable grounds for believing that an individual or entity . . . may be connected to an unlawful targeted killing abroad’
 - Support the work of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions and the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism
 - Calls the High Representative for Foreign Affairs and Security Policy, the Member States and the Council to ‘ban the development, production, and use of fully autonomous weapons systems’

EU NON-POLICY ON DRONES: A TEST CASE

- *European Parliament resolution on the use of armed drones (2014/2567(RSP), 24 February 2014*
- *Calls on the Vice/President of the Commission/ High Representative of the Union for Foreign Affairs and Security Policy, the Member States, the Council and the Commission to*
 - Adopt an EU common position on armed drones
 - **Work toward a ban on research into and the development, procurement and export of possible future fully autonomous weapons systems which enable strikes to be carried out without human intervention**

EU COMMON POSITION ON LAWS: KEY ISSUES

- Framing ethical debate: implications of autonomy in the delivery of force for human dignity
- Definition on 'meaningful human control'
- Fill-in the accountability gap
- Transparency policies
- Harmonizing national legal review procedures (Article 36 API)
- Integrating human rights issues
- Promoting discussions in several fora

EU MS POSITION ON CCW EXPERT MEETING

AUSTRIA

Weapons systems without meaningful human control are in contravention of international humanitarian law

As an interim measure Austria calls on all currently engaged in the development of such weapon systems to freeze these programmes and those deliberating to start such development not to do so

CZECH REPUBLIC

We believe that LAWS despite their complexity will become an important part of CCW as an international humanitarian law tool with the potential to effectively prevent a negative impact of these weapons on civilian populations

FRANCE

It is necessary to preserve the dual use of these technologies that can have a number of civil applications, peaceful, legitimate and useful. Research in these domain should not be limited

EU MS POSITION ON CCW EXPERT MEETING

GERMANY

Germany does not intend to have any weapon systems that take away the decision about life and death from men. We firmly believe that there should be a common understanding in the international community that it is indispensable to maintain human control over the decision to kill another human being. For Germany, this principle of human control is the foundation of the entire international humanitarian law. It is based on the right to life, on the one hand, and on the right to dignity, on the other. Even in times of war, human beings cannot be made simple objects of machine action

IRELAND

Although outside the scope of the CCW, the potential use and abuse of autonomous weapons beyond the battlefield, in law enforcement for instance, is also deserving of consideration

ITALY

We are convinced that the CCW has the merit to address not only the humanitarian concerns posed by existing weapons but also to prevent the development of new types of weapons that would be unacceptable under basic International Humanitarian Law principles

EU MS POSITION ON CCW EXPERT MEETING

SPAIN

Any proposal for a moratorium would be premature without defining, collectively, its scope and application

SWEDEN

As a starting point, Sweden believes that when it comes to decisions on the use of force against persons, humans should never be “out of the loop”

UNITED KINGDOM

The discussions have also underlined to us that for the subject of LAWS a conventional weapons forum is highly appropriate. As such, we remain of the view that the CCW is the right place for such discussions

US POSITION ON CCW EXPERT MEETING

- To move toward a common understanding does not mean that we need to define 'lethal autonomous weapons systems' at the outset
- We are here to discuss future weapons (...) 'emerging technologies'. Therefore we need to be clear, in these discussions we are not referring to remotely piloted aircraft, which as their name indicates are not autonomous and therefore, conceptually distinct from LAWS
- How does the battlefield –whether cluttered or uncluttered- affect the risk of using a particular weapons system?
- Our discussion here will necessary touch on the development of civilian technology, which we expect to continue unrestricted by those discussions
- States need a robust domestic legal and policy process and methodology (...) when considering weapons with autonomous features (...)

US POSITION ON CCW EXPERT MEETING

US Department of Defense- DoD Directive 3000.09 Autonomy in Weapon Systems (2012)

- Autonomous and semi-autonomous weapon systems **shall be designed to allow commanders and operators to exercise appropriate levels of human judgment over the use of force**
- Persons who authorize the use of, direct the use of, or operate autonomous and semi-autonomous weapon systems must do so with appropriate care and in accordance with the law of war, applicable treaties, weapon system safety rules, and applicable rules of engagement
- Autonomous or semi-autonomous systems intended to be used in manner that falls outside the policies of subparagraphs (...) must be approved by the Under Secretary of Defence for Policy (...)
- International sales or transfers of autonomous and semi-autonomous weapons systems will be approved in accordance with existing technology security and foreign disclosure requirements and processes (...)
- This directive must be reissued, cancelled or certified current within 5 years of its publication (..) . If not it will expire effective November 21, 2022

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