

# -Humanitarian Law RULES!

Center for the Study of Humanitarian Law  
Newsletter

October 2017

## The Autonomous Weapon (AW) and the International Humanitarian Law (IHL)

Autonomous Weapon (AW) is defined as autonomous system which operates by itself to select and engage targets without human intervention.<sup>1</sup> There is no specific law prohibits AW to be deployed in battlefield; however, the principle of IHL must be applied in case of its deployment. Those principles are: principle of distinction, principle of proportionality and principle of precaution.

The possibility of AW deployment in complying with IHL principles depends on the environment and level of complication, and superiority of its technology. In some cases, certain object can be easily distinguished such as tank, armed combatants or others military objects. However, it is less plausible that AW is able to distinguish whether civilians are taking direct part in hostilities or not. In case of doubt, as argued by Robocist Ronald Arkin, AW could be programmed to attack if the target is 100% verified, or to refrain from attacking if not so.

In addition, in some situations, populated areas where civilian objects are close to military objects, the AW needs great capacity to process the available information and analyse the situation. It is likely possible that the AW could gather more information and faster than human beings in analyzing the situation in order to avoid the excessive collateral damage, to take precautionary measures or to anticipate military advantages of the attack. However, military advantage may vary rapidly depending on the situation. With regard to proportionality assessment, it is difficult for the AW to assess the situation, and make rational decision accordingly with pre-programme by programmer. In fact, it would depend on the level of complexity of the circumstances.

The campaign to ban AW has been mobilized by Human Rights Watch and Group of CEO of Technology Company—who sent open letters to the United Nations to prohibit the use of AW as such. Limitation of technology should not be justified in relation to failing to comply with the IHL principles. Human creates AW, so the capacity level of AW depends on the level of knowledge and capacity of AW programmer in peace time. Under IHL, two kinds of weapon shall be banned. Those weapons include those that cause superfluous injury or unnecessary suffering, and those that are indiscriminate in attack and its effect cannot be controlled. Even there is no specific law prohibits AW, Article 36 of Additional Protocol I (8 June 1977) to Geneva Conventions of 12 August 1949, which reflects Customary International Humanitarian Law requires any state or party to the conflict who possesses AW to determine whether it is in compliance with the IHL. State should take into account the loss of innocent life when testing AW in battlefield or stop developing such weapon in case that it could not comply with the rules of IHL.

<sup>1</sup> Hin-Yan Liu, *Categorization and Legality of Autonomous and Remote Weapons Systems*, 94 *International Review of Red Cross* 627, 635-36 (2012).

## LIBRARY HOURS

October 2017

Mon to Fri: 8.45am – 5.30pm

## UPCOMING EVENTS

3<sup>rd</sup> CSHL Annual Conference on Comparative Human Rights Law on Friday 27 October 2017 at Hall G, Royal University of Law and Economic (RULE). If you want to join the conference, please register via: <https://goo.gl/forms/ihVdXhjeSb6uqCAD3>.

## RESEARCH AT THE LIBRARY

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