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United Nations General Assembly
Sixth Committee – Legal
Background Guide

Letter from the Executive Board

Dear Delegates,

We welcome you to this simulation of the United Nations General Assembly's Sixth Committee: Legal at the Delhi Public School Noida Model United Nations Conference 2015. From the off, it is our hope that you have begun your initial and most basic research into the agenda and related topics. Seeing as this is a different and slightly non – conventional committee, we hope that the following study guide itself can clarify most doubts that you shall have about the nature and functionality of the committee. However, we must also wan you that this guide is merely an assistive document, and should by no means encompass the entire scope of your research into the agenda. We, the members of the Executive Board, do indeed expect the debate in committee to follow a certain direction that shall be made clear by this guide, however, we would highly appreciate delegates to find different viewpoints and angles to the issues put forward by the agenda.

Now, looking at the basic nature of the committee, which is the Legal Committee of the United Nations General Assembly, delegates would not be mistaken for thinking that a prior knowledge of basic legal principles would inherently put them at an advantage in their research, as well as the debate in committee. However, we do hope that this guide can, to an extent, help all delegates reach the same basic level of understanding. Apart from that, all delegates must have knowledge of the intricacies involved in the agenda, and must have the ability to use basic logic to interpret and apply the legal aspects of the agenda.

We look forward to an exciting and interesting committee, which should certainly be helped by the relevance of the agenda in today's time. Hopefully we, as members of the Executive Board, do also have a chance to gain from being a part of this committee.

Best wishes,

Anirudh Bhatia	Ananyaa Mazumdar	Shubhankar Gupta
Chairperson	Vice – Chairperson	Additional Director

Karan Gulati

Rapporteur

Committee Overview

Introduction

The Sixth Committee, one of the main committees of the United Nations General Assembly was created with a view to address all legal considerations. It derives legitimacy from the UN Charter, specifically – the provisions detailing the function and mandate of the General Assembly i.e. ***Articles 9 to 22 under Chapter IV***. The mandate of the Committee is anchored in the UN Charter under Article 13, Section 1 which empowers the General Assembly to "initiate and make recommendations for the purpose of promoting international co-operation and encouraging the progressive development of international law and its codification.". The Sixth Committee is led by a chairman assisted by three vice-chairmen and a rapporteur. The chairman must conduct the formal meetings, propose the program of work, and solve any procedural hurdles that may rise; the meetings are convened between late September and late November every year.

History

The very first session of Committee came in order in 1948, and it has since, sanctioned resolutions and documents that have defined the course of international law. Since many of the world's most pressing issues are either legal in nature or have implication for international law, the Sixth Committee is a UN body that most readably debates pressing global concerns.

Beginning in 1958, the committee held the Conference on the Law of the Sea, adopting several conventions regarding the protection of marine life and the marine environment and the underwater testing of nuclear weapons. A series of other important legal agreement following, including the Vienna Convention on Diplomatic Relations in 1961, the Legal Committee the Vienna Convention on the Law of Treaties in 1969, the Convention on the Safety of United Nations and Associated Personnel in 1994 and the International Convention for the Suppression of the Financing of Terrorism in 1999. One of the highlights of the Sixth Committee's work came with establishment of the Rome Statue of the International Criminal Court in 1998, which set up the International Criminal Court in Hague for bringing to justice those who committed crimes against humanity. [1]

Mandate

<u>Functions and Powers of the General Assembly</u>

Forum for Multilateral Negotiation: Established in 1945 under the Charter of the United Nations, the General Assembly occupies a central position as the chief deliberative, policymaking and representative organ of the United Nations. Comprising all 193 Members of the United Nations, it provides a unique forum for multilateral discussion of the full spectrum of international issues covered by the Charter.

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[1] *Rome Statute of the International Criminal Court*, Article 1; Article 5; Article 6; Article 7; Article 8.

It also plays a significant role in the process of standard-setting and the codification of international law. The Assembly meets from September to December each year, and thereafter as required.

The Assembly is empowered to make recommendations to States on international issues within its competence. The Assembly has initiated actions — political, economic, humanitarian, social and legal — which have affected the lives of millions of people throughout the world.
The landmark Millennium Declaration, adopted in 2000, and the 2005 World Summit Outcome Document reflect the commitment of Member States to reach specific goals to attain peace, security and disarmament along with development and poverty eradication; to safeguard human rights and promote the rule of law; to protect our common environment; to meet the special needs of Africa; and to strengthen the United Nations.

During the 69th session, a process of intergovernmental negotiations — held in informal meetings of the General Assembly plenary — was launched with the goal of building consensus among countries towards the adoption of the post-2015 development agenda.

According to the Charter of the United Nations, the General Assembly may:

Consider and approve the United Nations budget and establish the financial assessments of Member States;

Elect the non-permanent members of the Security Council and the members of other United Nations councils and organs and, on the recommendation of the Security Council, appoint the Secretary-General;

Consider and make recommendations on the general principles of cooperation for maintaining international peace and security, including disarmament;

Discuss any question relating to international peace and security and, except where a dispute or situation is currently being discussed by the Security Council, make recommendations on it;

Discuss, with the same exception, and make recommendations on any questions within the scope of the Charter or affecting the powers and functions of any organ of the United Nations;

Initiate studies and make recommendations to promote international political cooperation, the development and codification of international law, the realization of human rights and fundamental freedoms, and international collaboration in the economic, social, humanitarian, cultural, educational and health fields;

Make recommendations for the peaceful settlement of any situation that might impair friendly relations among nations;

Consider reports from the Security Council and other United

Nations organs.

The Assembly may also take action in cases of a threat to the peace, breach of peace or act of aggression, when the Security Council has failed to act owing to the negative vote of a permanent member. In such instances, according to its "Uniting for Peace" resolution of November 1950 (resolution 377 (V)), the Assembly may consider the matter immediately and recommend to its Members collective measures to maintain or restore international peace and security (See "Special sessions and emergency special sessions").

The Search for Consensus

Each of the 193 Member States in the Assembly has one vote. Votes taken on designated important issues — such as recommendations on peace and security, the election of Security Council and Economic and Social Council members, and budgetary questions — require a two-thirds majority of Member States, but other questions are decided by simple majority.

In recent years, an effort has been made to achieve consensus on issues, rather than deciding by a formal vote, thus strengthening support for the Assembly's decisions. The President, after having consulted and reached agreement with delegations, can propose that a resolution be adopted without a vote.

Revitalization of the Work of the General Assembly

There has been a sustained effort to make the work of the General Assembly more focused and relevant. This was identified as a priority during the 58th session, and efforts continued at subsequent sessions to streamline the agenda, improve the practices and working methods of the Main Committees, enhance the role of the General Committee, strengthen the role and authority of the President and examine the Assembly's role in the process of selecting the Secretary-General.

As a result of the ongoing revitalization of its work for instance, the General Assembly now elects its President, Vice-Presidents and Chairs of the Main Committees according to its rules of procedure, at least three months in advance of the start of the new session in order to further strengthen coordination and preparation of work among the Main Committees and between the Committees and the Plenary.

Recent Sessions

General Meetings of the Committee

The committee has met annually since its inception the most recent concluded session being the 69th session conducted from 7th October, 2014 to 14th November, 2014 and the ongoing session being the 70th that commenced on 12th October.[2]

Specific Meetings on the Agenda

The committee has not had a discussion over Lethal Autonomous Weapon Systems, Laser Weapons or Incendiary Weapons as an agenda item on the docket but discussion has been conducted through the Meetings of Experts on

[2] Agendas - http://www.un.org/en/ga/sixth/69/69_session.shtml

LAWS initiated in 2014 in line with the provisions of the Convention on Certain Conventional Weapons.[3]

The CCW Meeting of Experts on Lethal Autonomous Weapons Systems (LAWS) took place from 13 to 16 May 2014 at the United Nations in Geneva.

At the 2013 CCW Meeting of High Contracting Parties, a new mandate on lethal autonomous weapons systems (LAWS) was agreed on. The mandate states:
"...Chairperson will convene in 2014 a four-day informal Meeting of Experts, from 13 to 16 May 2014, to discuss the questions related to emerging technologies in the area of lethal autonomous weapons systems, in the context of the objectives and purposes of the Convention. He will, under his own responsibility, submit a report to the 2014 Meeting of the High Contracting Parties to the Convention, objectively reflecting the discussions held."

The Meeting of Experts was chaired by Ambassador Jean-Hugues Simon-Michel of France.[4]

The 2014 CCW Meeting of High Contracting Parties agreed on a new mandate on LAWS, which states:

"The Meeting decided to convene under the overall responsibility of the Chairperson an informal meeting of experts of up to five days during the week of 13 to 17 April 2015 to discuss the questions related to emerging technologies in the area of lethal autonomous weapons systems, in the context of the objectives and purposes of the Convention. The Chair of the Meeting of Experts will, under his or her own responsibility, submit a report to the 2015 Meeting of the High Contracting Parties to the Convention, objectively reflecting the discussions held." (CCW/MSP/2014/9, paragraph 36)

Ambassador Michael Biontino of Germany chaired the 2015 Meeting of Experts on LAWS.[5]

Agenda

"Devising a Framework for the Use of Incendiary Weapons, Laser Weapons and Lethal Autonomous Weapons Systems, with Special Emphasis on the Protection of Civilians"

Introduction

[3] Convention on Certain Conventional Weapons - https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVI-2&chapter=26&lang=en

[4] Report of the Meeting - http://daccess-ods.un.org/access.nsf/Get?Open&JN=G1404896

[5] UN Page Listing Documents & Exchange on the Topic - http://www.unog.ch/__80256ee600585943.nsf/(httpPages)/6ce049be22ec75a2c1257c8d00513e26?OpenDocument&ExpandSection=3#_Section3

The vitality of this agenda appears with the fact that the world community needs a document that will act as a common framework for countries developing and employing Lethal Autonomous Robotics (LARs). The need for such a document appears in light of the rapid development of such technologies in military robotics. A technology that could fully select and engage targets without human intervention could be developed in 20-30 years (Human Rights Watch, 2012). In agreement with the Charter of the United Nations that calls for a *progressive development and codification of international law,* it is only necessary for us to discuss and produce a document that will safeguard international security and human rights in the face of this new controversial technology.

In the Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, fully autonomous weapons are defined as weapons that can select and engage targets without any human intervention (Heyns 2013). In the same report, the mechanics of robots and the difference between LARs and UCAVs (drones) are also outlined. Thus, robots are built on the sense-think-act paradigm. Their sensors create a degree of situation awareness; the processors decide how to respond to the stimulus and then effectors carry out the decision. Compared to drones, LARs have fully autonomous decisions, and instead of including a human 'in the loop'

The characteristics of these weapons raise questions regarding the changes that they will bring to the concept of war and its implications. Moreover, they are likely to challenge present norms of international humanitarian law and human rights law. Furthermore, the problem of accountability created by this separation between operator and machine adds another reason for the need of a global framework on Lethal Autonomous Robotics (Heyns 2013). Following the recommendation of Special Rapporteur Christof Heyns in the Human Rights Council to settle these ethical and legal qualms, our committee will meet to articulate a position for the international community on the matter.

History

On 30 May 2013, the United Nations Human Rights Council met for the first time at its headquarters in Geneva to discuss Lethal Autonomous Weapons, following the report of Special Rapporteur Christof Heyns. The majority of states present in the committee expressed their concern regarding the development of fully autonomous weapons, yet only several delegations took a strong position on the matter. The UK clearly opposed the call for a moratorium or an outright ban of such weapons. Others, such as Brazil and France suggested re-discussing the matter at the Convention on Conventional Weapons. However, Pakistan expressed its open support for a ban, with other states endorsing the idea for a moratorium. Sweden promised to put forward a resolution in 2014 to the 26thsession of the Human Rights Council, mentioning that the resolution will also include operative clauses along recommendations for other UN bodies or states.

Aeroplanes and drones were used at first in armed conflicts for surveillance purposes only, with offensive use being ruled out because of the anticipated adverse consequences. Currently there are several robotic systems with various degrees of autonomy and lethality, such as: the US Phalanx system for Aegis-class cruisers, the US Counter Rocket, Artillery and Mortar (C-RAM), Israel's Harpy, the UK's Taranis jet-propelled combat drone, the Northrop Grumman X-47B, the Samsung Techwin surveillance and security guard robots, etc.

Although, the closest technology to LARs we currently have is the Unmanned Aerial Vehicles (UAVs) or simply known as drones, the legal situation for the two is completely different. Mary Ellen O'Connell argued in an article published by the American Society of International Law that the introduction of drones' technology did not revolutionize the international legal affairs. (O'Connell, 2010) This is attributed to the fact that current international laws governing armed conflict are adequate to regulate UAVs or drones.

Definitions

1."Incendiary weapon" means any weapon or munition which is primarily designed to set fire to objects or to cause burn injury to persons through the action of flame, heat, or combination thereof, produced by a chemical reaction of a substance delivered on the target.

(a) Incendiary weapons can take the form of, for example, flame throwers, fougasses, shells, rockets, grenades, mines, bombs and other containers of incendiary substances.

(b) Incendiary weapons do not include:

(i) Munitions which may have incidental incendiary effects, such as illuminants, tracers, smoke or signalling systems;

(ii) Munitions designed to combine penetration, blast or fragmentation effects with an additional incendiary effect, such as armour-piercing projectiles, fragmentation shells, explosive bombs and similar combined-effects munitions in which the incendiary effect is not specifically designed to cause burn injury to persons, but to be used against military objectives, such as armoured vehicles, aircraft and installations or facilities.

2. "Concentration of civilians" means any concentration of civilians, be it permanent or temporary, such as in inhabited parts of cities, or inhabited towns or villages, or as in camps or columns of refugees or evacuees, or groups of nomads.

3. "Military objective" means, so far as objects are concerned, any object which by its nature, location, purpose or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

4. "Civilian objects" are all objects which are not military objectives as defined in paragraph 3.

5. "Feasible precautions" are those precautions which are practicable or practically possible taking into account all circumstances ruling at the time, including humanitarian and military considerations.

Regional and International Frameworks

Incendiary Weapons

Customary international law prohibits the use of weapons that cause 'superfluous injury' or 'unnecessary suffering', which is defined with respect to a test of proportionality. The principal provision relating to the legality of weapons is contained in article 23e of the Annex to Hague Convention IV Respecting the Laws and Customs of War on Land, which prohibits the employment of "arms, projectiles, or material of a nature to cause superfluous injury. Article 35, paragraph 2 of the 1977 Protocol I Additional to the Geneva Conventions of August 12, 1949, states in part that "It is prohibited to employ weapons [and] projectiles ... of a nature to cause superfluous injury or unnecessary suffering".

Protocol III of the Convention on Certain Conventional Weapons (CCW): The Convention on Certain Conventional Weapons is multilateral arms control treaty which seeks to 'prohibit or restrict' the use of weapons that are considered 'excessively injurious' or 'indiscriminate'. Originally, the Convention applied only to international armed conflicts, but after an amendment to Art. 8 (1)(b), its scope has been extended to non-international armed conflicts as well.

Protocol III to the Convention prohibits the targeting, through incendiary weapons, of the following:

i. Civilian populations, individuals, and civilian objects
ii. 'Military objectives' located within clusters of civilians
iii. Where means other than air-delivery are used, 'military objectives' within civilian concentrations – except when the object is clearly separated and all 'feasible' precautions are taken to avoid damaging them
iv. Forests, except when used to camouflage enemy troops/objects, or when the forests are themselves military objectives

Under this Protocol, incendiary weapons are those that are 'primarily designed to set fire to objects or cause burn injuries to persons'. Weapons that have incidental or additional incendiary effects are not covered under it. The Protocol has been criticized for being unreasonably narrow in defining the weapons, and too frequently permitting their use in situations, which could harm civilians. (Human Rights Watch, 2010)

Relevant provisions of the following covenants may also be considered:

- 1992 Convention on Chemical Weapons
- 2008 Convention on Cluster Munitions
- 1997 International Convention for the Suppression of Terrorist Bombings

Lethal Autonomous Weapons Systems

As of March 2015, the UN Convention on Certain Conventional Weapons (hereafter, CCW) held a meeting of Member States and Expert Groups to discuss the prospective challenges that development of Lethal Autonomous Weapons Systems (LAWS) pose. This meeting was the second in a series initiated in the 2014 Meeting of High Contracting Parties of the CCW. The meeting made tremendous headway in that it acknowledged the need for a legally-binding framework, however whether reaching consensus within the CCW is possible remained an unanswered question. Further, a proposition was floated about formulating a Group of Government Experts, which would be open, and inclusive, not just restricted to a few States, to determine the standards of transparency essential to maintaining peace in weapons proliferation.
Other suggestions such as a moratorium on advancing existing technologies to completely functional prototypes remains a contentious issue.
As such, no precedent exists where liability could be determined without definite parameters of human control – in terms of humanitarian law, international law, laws applicable in conflict and warfare – devising a legally binding framework must answer some fundamental questions of how liability can be determined and whether States are willing to assume the risks involved in creating technology that has the potential to not act under their control.

Laser Weapons

Among the various classes and uses of laser weaponry, including - target designation and ranging, defensive countermeasures, communications and ***directed energy weapons (DEW)*** – the CCW covers only ***Blinding Laser Weapons*** (and even that regulation has its limitations). The ***1995 Protocol on Blinding Laser Weapons (Protocol IV to the 1980 Convention on Certain Conventional Weapons)*** prohibits use of blinding laser weapons in armed conflict as well as their transfer, at any time, to any state or non-state actor. It is to be noted however that certain equipment such as those used for range-finding and target-making, still do pose considerable risks, although they are equally important to keep munitions away from civilians.
Under the Geneva Convention, any weaponry that causes undue human suffering is banned – to this end, the development of directed-energy weapons in recent times may not necessarily adhere to that rule (there are certain examples of DEW that can cause blindness and other grievous injuries violating the mitigation of suffering clause in most international humanitarian law precepts).
Although, DEW are far from becoming commonplace in battlefields – they have certainly moved out of the confines of lab tests, yet no legal framework has kept pace with its advancement. To be fair, the speed, ultraprecision, and nonlethal capabilities of directed-energy weapons are all good reasons to see

them as capable of being aligned with humanitarian outcomes – an absence of transparency and legal standards can be potentially catastrophic.

Role of the International Society

Incendiary Weapons

Bachmann argues that the lethal effectiveness of incendiary weapons, especially in asymmetrical conflict scenarios, as well as the dual use of them for offense and defense implies that they will remain a fixture of conflicts for a long time (Bachmann, 2014). The most cited instances of IW use are during the US-Vietnam wars (where napalm was used to burn fields and against civilians) and against Chechen insurgents by Russian personnel in 1994. The United States is a not a signatory to the CCW. It has also admitted to the use of napalm-like 'Mark 77' against Iraqis in 2003, and also to the use of white phosphorus against civilian targets in Fallujah in 2004, and there are reports of it being used in Afghanistan as well.

The Human Rights Watch has noted the use of incendiary weapons in several conflict regions in recent times. In Syria, it alleges that government forces have been using them since 2013, and reports 57 or more incidents since then. These include attacks on schools, as well as the use of 'barrel bombs' in an indiscriminate manner. Several member countries of the ICRC have expressly condemned the use of IWs in Syria, including Austria, Canada, Croatia, Ecuador, France, Germany, Ireland, Lithuania, the Netherlands, Norway, Switzerland, and the United States.

It also reports the use of incendiary-equipped warheads on rockets fired during intense fighting between the Ukrainian forces and Russian-backed rebels. Russia alleges that these weapons were fired by Kiev troops, and in a statement to the General Assembly claimed that it "has repeatedly expressed its serious concern in connection with the use by Kiev of weapons with indiscriminative and extremely injurious effect to civilian population." Although Israel is not a party to the CCW, the Israeli Defense Forces have, on past occasions, used white phosphorus (*not* covered by the Protocol) against civilians in Gaza. Some artillery projectiles used by forces send burning phosphorus wedges in several directions, causing dispersed collateral damage. The targets of attack have included UN offices and schools, as well as a hospital. Following a ruling by Israeli judicial authorities, however, the lawful use of white phosphorus has been severely restricted.

Lethal Autonomous Weapons Systems

States party to the CCW are tasked with considering the question of whether a new protocol under the aegis of the CCW is agreeable to all members. The extent of prohibition and details being a separate matter, the possibility of defining a clear mandate in a protocol, to govern production of prototypes, is precarious – most member states seem divided on the matter.
In light of the potentially devastating consequences LAWS can have on human lives in warfare, the UN Human Right Council should take up the matter as an

important agenda.[6] Besides, even if a protocol does not pan out – there are multiple other forums where the agenda could be introduced and a framework be formulated by extending mandates, including: Convention on Cluster Munitions, Ottawa Treaty, Anti-Personnel Mine Ban Convention and, Chemical Weapons Convention.[7]

Furthermore, since there is no discourse on a legal regime that outlaws autonomous unarmed systems – any framework for LAWS will require a provision that accounts for the fact that there is no technical difficulty in mounting arms on an unarmed system.

An important stakeholder of this process is the civil society – activism can indicate to relevant governments what the opinion of the populace at large is (from the Statistical presentations at the 2015 CCW Expert Meeting, much of civil society seems opposed to the idea of further developing LAWS) – this might persuade States so inclined to pursue LAWS to reconsider their development, at least until a legal regime to regulate it is sanctioned by the international community.

Past Decisions

Blinding Laser Weapons

The need of additional conventions prohibiting or limiting the use of certain methods and means of warfare was emphasized in the resolutions of the International Red Cross Conference of 1965 and of the International Conference on Human Rights of 1968 as well as in Resolution 2444 (XXIII) of the United Nations General Assembly of 1968. At the conferences of government experts convened by the International Committee of the Red Cross in 1971 and 1972 to prepare the protocols additional to the Geneva Conventions and at the Diplomatic Conference of 1974-1977 the opinion prevailed that an agreement on conventional weapons should be attempted, leaving aside weapons of mass destruction. Encouraged by the Diplomatic Conference, the ICRC convened two conferences of government experts on the use of certain conventional weapons, which met at Lucerne in 1974 and at Lugano in 1976. The Diplomatic Conference, on 9 June 1977, adopted Resolution 22 (IV) which recommended that a conference of governments be convened not later that 1979 with a view to reaching agreements on prohibitions or restrictions of the use of specific conventional weapons. The U.N. General Assembly endorsed this recommendation and the Conference took place in Geneva from 10 to 28 September 1979 and from 15 September to 10 October 1980. The Convention and the three Protocols annexed to it were adopted by consensus on 10 October 1980 and opened for signature on 10 April 1981.

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[6] Matthias Bieri & Marcel Dickow, *Lethal Autonomous Weapons Systems: Future Challenges,* CSS ETH ZURICH, November, 2014, *available at* http://www.css.ethz.ch/publications/pdfs/CSSAnalyse164-EN.pdf

[7] *Id.* at p. 3

The first Review Conference of States Parties to this Convention convened in Vienna from 25.9.1995 to 13.10.1995 and held subsequent sessions in Geneva from 15-19.1.1996 and 22.4.1996 to 3.5.1996. The review Conference adopted on 13.10.1995 a new Protocol IV prohibiting the use and transfer of blinding laser weapons and on 3 May 1996 adopted an amended version of Protocol II on mines, booby traps and other devices.

Protocol 4 of the CCWC governs the usage of these. The articles have been mentioned below:

Article 1

It is prohibited to employ laser weapons specifically designed, as their sole combat function or as one of their combat functions, to cause permanent blindness to unenhanced vision, that is to the naked eye or to the eye with corrective eyesight devices. The High Contracting Parties shall not transfer such weapons to any State or non-State entity.

Article 2

In the employment of laser systems, the High Contracting Parties shall take all feasible precautions to avoid the incidence of permanent blindness to unenhanced vision. Such precautions shall include training of their armed forces and other practical measures.

Article 3

Blinding as an incidental or collateral effect of the legitimate military employment of laser systems, including laser systems used against optical equipment, is not covered by the prohibition of this Protocol.

Article 4

For the purpose of this protocol "permanent blindness" means irreversible and uncorrectable loss of vision which is seriously disabling with no prospect of recovery. Serious disability is equivalent to visual acuity of less than 20/200 Snellen measured using both eyes.

<u>Incendiary Weapons</u>

The CCWC's Protocol III defines Incendiary Weapons and governs their usage, its articles have been provided below.

For the purpose of this Protocol:

1."Incendiary weapon" means any weapon or munition which is primarily designed to set fire to objects or to cause burn injury to persons through the action of flame, heat, or combination thereof, produced by a chemical reaction of a substance delivered on the target.

(a) Incendiary weapons can take the form of, for example, flame throwers, fougasses, shells, rockets, grenades, mines, bombs and other containers of incendiary substances.

(b) Incendiary weapons do not include:

(i) Munitions which may have incidental incendiary effects, such as illuminants, tracers, smoke or signalling systems;

(ii) Munitions designed to combine penetration, blast or fragmentation effects with an additional incendiary effect, such as armour-piercing projectiles, fragmentation shells, explosive bombs and similar combined-effects munitions in which the incendiary effect is not specifically designed to cause burn injury to persons, but to be used against military objectives, such as armoured vehicles, aircraft and installations or facilities.

2. "Concentration of civilians" means any concentration of civilians, be it permanent or temporary, such as in inhabited parts of cities, or inhabited towns or villages, or as in camps or columns of refugees or evacuees, or groups of nomads.

3. "Military objective" means, so far as objects are concerned, any object which by its nature, location, purpose or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

4. "Civilian objects" are all objects which are not military objectives as defined in paragraph 3.

5. "Feasible precautions" are those precautions which are practicable or practically possible taking into account all circumstances ruling at the time, including humanitarian and military considerations.

Article 2

Protection of Civilians and Civilian Objects

1. It is prohibited in all circumstances to make the civilian population as such, individual civilians or civilian objects the object of attack by incendiary weapons.

2. It is prohibited in all circumstances to make any military objective located within a concentration of civilians the object of attack by air-delivered incendiary weapons.

3. It is further prohibited to make any military objective located within a concentration of civilians the object of attack by means of incendiary weapons other than air-delivered incendiary weapons, except when such military objective is clearly separated from the concentration of civilians and all feasible precautions are taken with a view to limiting the incendiary effects to the military objective and to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.

4. It is prohibited to make forests or other kinds of plant cover the object of attack by incendiary weapons except when such natural elements are used to cover, conceal or camouflage combatants or other military objectives, or are themselves military objectives.

Lethal Autonomous Weapons Systems

As of now no official definition has been adopted for these weapon systems and there exists no universal document governing their usage but the Meeting of Experts in 2015 did come out with a document listing the most pertinent points of discussion with regards to the topic.[8]

Case Study: Use of Napalm in Vietnam during the US – Vietnam War

Nineteen-sixty-one, president Kennedy lives in White House and gives the green light to that huge chemical war called first "Trail Dust Operation" before coming to light as "Hades Operation" by the name of God of the Dead and Hell among the Greek ancients. Then quickly called "Ranch Hand Operation", because more trifling. It's this third military code's name of Agent orange, spraying over Vietnam and bordering areas of Laos and Cambodia, which remains in History. The "Ranch Hand Operation" aims at razing tropical forest to the ground, as well as poisoning crops, population and fighters. An epic ecocide will make numerous land species disappear forever

Methods

Ten per cent of spraying is done by hand, by land vehicles or by boats in the deltas or in the coastal mangroves' swamps. Ninety per cent of the spraying is done by air, with the help of C 123 aircrafts and helicopters. The Vietnamese have no protection but this one consisting in soaking a textile in water indeed in urine and in laying it on the nose or on the mouth.

Quantities

Ten years are necessary to spray 84,000,000 litres of defoliants.

Compositions

Among those defoliants, there is Agent blue, holding cyanide particularly efficient to poison the rice fields, Agent green, Agent white, Agent purple, Agent pink, according to species to be destroyed, then Agent orange, so called because of coloured strips on the barrels containing the poison. Agent orange represents by only one 62% of the sprayed defoliants' mass in Vietnam.

Agent orange contains the Tetrachlorodibenzo-para-dioxin, or TCDD 2,3,7.8 on account of its molecular composition. The dioxins are made of 2 benzene nuclei, 2 chlorine, fluorine or, bromine molecules (4 for the most toxic variety).

[8] *Supra* Note 4

The TCDD dioxin is the strongest known poison – one million times more toxic than the most harmful natural poison – and besides the most lasting one.

Equivalences

If an equivalence is not at all scientific – since it bases on a data to make a comparative projection. – it has sometimes worth to impress our mind perceiving the extent of disaster. …A 2002 study of University of Colombia of New York reveals that 80 grams of dioxin poured in a town's water supply would kill 8,000,000 inhabitants. On that base, 40 billions times the lethal potential for one human being would have been sprayed over Vietnam.

Stability

The TCDD dioxin is measured in picogram, that is to say in millionth of millionth of gram (10-12 gram). It has a great stability. In Vietnam, it is in soil, water, mud, sediments and so passes in the food chain.

Food Chain

In the food chain dioxin is found in large quantities in animal fat tissues, meat, milk, eggs and fish.
The scientists created a unit named TEQ – Toxic Equivalent Quantity – so as to determine a toxicity limit for food consumption. In France for instance the accepted dose is from 1 to 4 picograms per day per kilo of body weight.
In USA the accepted dose is more drastic, it is 0,0064 picogram, that is to say 160 times less than the lowest French standard.
In Vietnam that dose can reach 900 picograms per kilo of body weight per day for one person.

Entering in Cells

The cell's nucleus is protected by a "defence perimeter" which has the part to prevent the molecules not having required structure to enter the nucleus and therefore to interfere with the genetic heritage. But, within cellular cytoplasm (i.e. the whole of cell's elements except the nucleus) dioxin blends with a component, naturally present in every cell, the aryl-hydrocarbon receptor and will be able entering the cellular nucleus' defences, "passing oneself off " as a hormone. It is that complex dioxin-receptor which will mix-up the hormonal messages of our endocrinal system (the whole of glands with internal secretion, throwing in blood the produced materials called hormones) and will activate some parts of NDA, areas so-called "dioxin sensitive" and therefore involve toxic effect.

Unforeseen Consequences

The Vietnamese people observe the ancestors' worship in a fervent way. They wish an offspring able carrying on that cult. If that is not the case a large guilt appears towards ancestors. We understand why families who had one, two,

three children suffering from serious handicaps conceived a fourth, a fifth and a sixth ones and more sometimes … One say that a large number of births are not listed, the children are "hidden". It is necessary to understand the parents' dreadful mental torture, who see their child being born with two heads or with two faces on the same head or without arms nor legs, when it's not with external organs.

And when TCDD dioxin does not succeed passing through the mother-to-be placenta and child was born healthy, the mother, who breastfeeds him, poisons him because the maternal milk is a major elimination way for dioxin. Again, let us think the psychological devastation of mothers.

Diseases

Even people who look to be in good health suffer often from:
- Dermatosis (chloracne, skin disease characterized by comedos, cysts and papules; hyper keratosis, hyper-pigmentation).
- Hepatic disorders
- Cardiovascular disorders
- Suffering of uro-genital system
- Nerve disorders (Loss of libido, migraines, peripheral neuropathies, suffering of sensorial faculties
-Psychiatric disorders (nervousness, insomnia, depersonalization, depression, suicide)

Further to industrial dioxin accident at Seveso in Italy, Professor Bertazzi and his fellow workers at the University of Milan declares: *"We begin to discern long term strange effects…. A study reveals a full inversion of sex ratio. When in common population we find a ratio of 106 males to 100 females, in Seveso it's 48 girls for 26 boys. Indication of a deep change in hormonal metabolisms."* The male sex has nearly half disappeared.

Today in Vietnam the third generation is there and people, sound in body and mind, father always monsters-babies with sometimes-genital organs in the middle of the face.

Compensation and Proofs

The "Stellman report", which is the undisputed referring, study about defoliants in Vietnam, values until 4,800,000 potential or silent sprayed victims. Attention, this number does not take in account victims later poisoned by food chain during more than 40 years, nor the offspring of three next generations until today. The past and present victims are millions. The use of that chemical and indelible Mass Destruction Weapon (MDW) by American Army requests a "compensation". "We need scientific proofs" answer the American authorities who admitted a fault and compensated "theirs" veterans of Vietnam War, themselves suffering from Agent orange as well as their offspring. That is a way leaving Vietnam alone to cope with it. At the time of that American answer a blood test to research dioxin cost between 3,000 and 4,000$. Even if today that cost has gone down, how can Vietnam, which tries to find the means of its development, assume such a budget?

The link between cause and effect is admitted for some diseases and the list grow longer every year. It's high time to admit, on the whole, diseases and

malformations attributable to Agent orange. Indeed, the body of presumption is big enough : the Vietnamese victims, those ones in Laos and in Cambodia present the same disorders as the American Vietnam War's veterans (4,200,000 GI served in Vietnam) as those ones from South Korea (300,000 were sent there), from New Zealand and Australia, having fought by their side; the same disorders as the victims, who live nearby the stoking areas in the Philippines, not to mention some persons having worked or living in spaces used before for Agent orange testing in Canada. As like for the offspring of all those ones. Of course we have to continue studying the noxious poison's consequences, but it's high time to admit the undeniable reality. Moreover, unlike the majority of quoted victims, the Vietnamese live and eat on the poison since more forty years.

MNCs

As for the poison makers, they supplied the American Army for their maximum benefit, with full knowledge of the composition of its product and its destination – since June 1965, i.e. at the beginning of Agent orange spraying, an alarm on the very special toxicity of TCDD is expressed by a research in biochemistry laboratory, actually by one of the major suppliers – Among those 37 companies which made poison, the headmasters are Monsanto, Dow Chemical, Uniroyal, Diamond, Thompson, Hercules and others.

Debate and Discussion on the Topic

The robotics revolution is heralded as being the next greatest revolution in military, as significant as the creation of gunpowder and of the nuclear bomb. However, the idea of a future in which fully autonomous robots could have the power of life and death over human beings creates additional concerns.

Some parties argue that robots will never meet the requirements of international human rights law (IHRL) or international humanitarian law (IHL), and even if they ever would, they should not be given the authority to decide over the matter of life and death. This group asks for a ban on their development, production and use. Other parties argue that such technological advances are legitimate military breakthroughs, and if properly controlled, they could lead to a reduction in war casualties. Thus, they argue for some form of control on the use of this kind of technology, over the standards imposed by international law. International Humanitarian Law norms and the Martens Clause prohibit weapons that run counter to the 'dictates of public conscience' and which can cause unnecessary harm to civilians.

However, there are certain advantages that could be brought about by the use of LARs. They are capable of enlarging the battlefield, penetrating more easily behind enemy lines, and thus, saving human and financial resources. Moreover, unmanned systems offer higher force projection (preserving the lives of one's own soldiers) and force multiplication (allowing fewer personnel to do more). Also, unmanned systems can stay on station much longer that individuals and withstand other impediments such as G-forces. We should also take into consideration that robots may in some respects serve

humanitarian purposes. While the current emergence of unmanned systems may be related to the desire on the part of states not to become entangled in the complexities of capture, future generations of robots may be able to employ less lethal force, and thus cause fewer unnecessary deaths. Technology can offer creative alternatives to lethality, for instance by immobilizing or disarming the target. Furthermore, robots can be programmed to leave a digital trail, which potentially allows better scrutiny of their actions than is often the case with soldiers and could therefore in that sense enhance accountability.

Compared to regular soldiers, LARs will not be susceptible to some of the human shortcoming that undermines the protection of life. Typically they would not act of revenge, panic, anger, spite, prejudice or fear. Moreover, unless specifically programmed to do so, robots would not cause intentional suffering on civilian populations, for example through torture. Robots also do not rape.

Roboticist Ronald Arkin has for example proposed ways of building an 'ethical governor' into military robots to ensure that they satisfy those requirements. The ethical governor is a complex proposal that would essentially require robots to follow a two-step process before firing. First, a fully autonomous weapon with this mechanism must evaluate the information it senses and evaluate an attack.

Humanitarian Law and the Rules of Engagement

If an attack violates a constraint, such as the requirement that an attack must distinguish between combatant and noncombatant, it cannot go forward. If it does not violate a constraint, it can still only proceed if attacking the target is required under operational orders. Arkin argues that with the ethical governor, fully autonomous weapons would be able to comply with international humanitarian law better than humans. For example, they would be able to sense more information and process it faster than humans could. They would not be inhibited by the desire for self-preservation. They would not be influenced by emotions such as anger or fear. Moreover, there is the option to add a human 'on the loop' (instead of 'in' or 'out') which means that humans could then override the robot's decisions. The only problem in this situation is that sometimes the decisions of robots are too fast and there might not be enough time for the supervisor to disconnect the machine.

The arguments against LARs start from the fact that these weapons will be incapable of meeting international humanitarian law standards, rules of distinction, proportionality, and military necessity. Roboticists have proposed several solutions to this, such as developing an ability to process quantitative algorithms to analyze combat situations and 'strong artificial intelligence', which would try to mimic thought. However, the use of automatic weapons would create an accountability gap, as there is no clarity on who will be legally responsible for a robot's actions: the commander, programmer, manufacturer, or robot itself? Without accountability, these parties would have less incentives to ensure robots do not endanger civilians and victims would be left unsatisfied that someone was punished for the harm they experienced. It has been proposed that responsibility for civil damages should be assigned to the

programmer and the manufacturers, by utilizing a scheme similar to strict product liability. However, holding accountable any of the actors described above – commanders, programmers, or manufacturers – is not only unlikely to be fair or effective, but it also does nothing to deter robots themselves from harming civilians through unlawful acts. Fully autonomous weapons operate, by definition; free of human supervision and so their actions are not dependent on human controllers.

Ethics of Autonomous Weapons Systems

The idea of fully autonomous weapons systems raises a host of intersecting philosophical, psychological, and legal issues. For example, it sharply raises the question of whether moral decision-making by human beings involves an intuitive, non-algorithmic capacity that is not likely to be captured by even the most sophisticated of computers? Is this intuitive moral perceptiveness on the part of human beings ethically desirable? Does the automaticity of a series of actions make individual actions in the series easier to justify, as arguably is the case with the execution of threats in a mutually assured destruction scenario? Or does the legitimate exercise of deadly force should always require a "meaningful human control?" If the latter is correct, what should be the nature and extent of a human oversight over an AWS?

Additional questions arise with regard to the very definition of an AWS. Should the definition focus on the system's capabilities for autonomous target selection and engagement, or on the human operator's use of such capabilities? Should the human operator's pre-engagement intention have a decisive bearing on the system's definition as an AWS? Furthermore, AWS present a unique challenge to the way legal responsibility in combat should be assessed. If a given AWS is merely applying a set of preprogrammed instructions, then, presumably its designers and operators are the ones morally responsible for its behavior. But if the AWS in question is a genuine moral discerner in its own right, that appears to shift the locus of responsibility to the automated system itself. And if this is the case, what are the implications for legal liability? Who, if anyone, should bear the legal liability for decisions the AWS makes?

Questions to Consider

Instead of defining the specific questions, we request you to consider the following:

1. What are LAWs?
2. Whom do LAWs affect?
3. Who are LAWs intended to effect?
4. How to determine right to use LAWs?
5. Whether to ban LAWs?
6. If yes – partially or fully? Why?
7. If not – then what alternative? Why?
8. How to regulate the other forms?
9. How to standardize the use of such forms of weaponry?

Research Links

http://www.unog.ch/80256EDD006B8954/(httpAssets)/8463F2782F711A13C12571DE005BCF1A/$file/PROTOCOL+IV.pdf

http://www.bloomberg.com/news/articles/2014-11-14/u-s-navy-deploys-its-first-laser-weapon-in-the-persian-gulf?hootPostID=94e130e1e7fc30541915dec039384948

http://www.heritage.org/research/reports/2006/04/the-viability-of-directed-energy-weapons

http://www.unog.ch/80256EE600585943/(httpPages)/6CE049BE22EC75A2C1257C8D00513E26?OpenDocument

http://www.theguardian.com/politics/2015/apr/13/uk-opposes-international-ban-on-developing-killer-robots

http://icrac.net/

https://www.hrw.org/sites/default/files/supporting_resources/incendiary_weapons_recent_use_and_growing_opposition_nov2014_final.pdf

http://www.unog.ch/80256EDD006B8954/(httpAssets)/B409BC0DCFA0171CC12571DE005BC1DD/$file/PROTOCOL+III.pdf

https://www.icrc.org/ihl/INTRO/515

Suggested Readings

1. Human Rights Watch – The Human Rights Implications of Killer Robots (https://www.law.upenn.edu/live/files/3907-shaking-the-foundations--the-human-rights)
2. M. L. Cummins – The Human Role in Autonomous Weapon Design and Deployment (https://www.law.upenn.edu/live/files/3884-cummings-the-human-role-in-autonomous-weapons)
3. Proportionality, Punishment and Prevention (https://www.law.upenn.edu/live/files/3408-alexander-l-domsday-machine-1980)
4. Duncan MacIntosh – A Defense of the Use of Automated Weapons Systems in War and Peace (https://www.law.upenn.edu/live/files/3994-macintosh-duncan-firing-forgetting-and-how-rule-of)
5. Kenneth Anderson, M. C. Waxman – Law and Ethics for Autonomous Weapons Systems (https://www.law.upenn.edu/live/files/3963-anderson-k-waxman-mlaw-and-ethics-for-autonomouspd)
6. Ronald Arkin – Lethal Autonomous Systems and the Plight of the Non – Combatant (https://www.law.upenn.edu/live/files/3880-arkinlethal-autonomous-systems-and-the-plight-of)

7. Noel Sharkey – The Human Control of Weapons: A Humanitarian Perspective (https://www.law.upenn.edu/live/files/3948-sharkey---human-control-of-weapons-pf-draftpdf)
8. Deborah G. Johnson – Technology with no Human Responsibility? (https://www.law.upenn.edu/live/files/3774-johnson-d-technology-with-no-responsibility)