Submission by Norway on Lethal Autonomous Weapons Systems

24 May 2024

Norway welcomes the opportunity to submit its views pursuant to resolution 78/241 on lethal autonomous weapons systems. The resolution tasked the Secretary General to seek the view of Member States and produce a substantive report on “ways to address the related challenges and concerns they raise from humanitarian, legal, security, technological and ethical perspectives and on the role of humans in the use of force.”

For Norway, it is central that the development and use of any weapons system, including those with autonomous functions, comply fully with states’ obligations under international law, in particular under international humanitarian law. This applies in general to any military application of artificial intelligence, not only to the development and use of autonomous weapons systems. While such systems also raise significant ethical concerns, the most effective way for states to address such concerns is currently to ensure the proper application of international humanitarian law.

The primary aim for the Norwegian engagement in the Group of Governmental Experts (GGE) under the Convention on Certain Conventional Weapons has been to contribute to the clarification of how to apply the relevant existing rules of international law to autonomous weapons systems. In Norway’s view, the discussions indicate the need for an instrument to clarify how existing international law applies to autonomous weapons systems. Norway remains agnostic as to the specific form and legal status of an instrument for such clarification, but we believe that a protocol under the CCW on autonomous weapons systems would be a desirable outcome.

Norway subscribes to the two-tier approach consisting of a combination of a prohibition on certain autonomous weapons systems combined with regulations on the use of other such systems. For a prohibition to be meaningful it must take a binding form. In this sense, Norway supports a legally binding instrument to prohibit certain autonomous weapons systems.

Together with Bulgaria, Denmark, France, Germany, Italy and Luxembourg, Norway has submitted a working paper (CCW/GGE.1/2024/WP.3) to the GGE that, among other things, calls for a distinction between two categories of autonomous weapons systems:

1. Lethal autonomous weapons systems operating completely outside human control and a responsible chain of command (i.e. systems capable of setting their own objectives or modifying, without any human validation, their initial programme or their mission framework);

2. Lethal autonomous weapons systems featuring decision-making autonomy in critical functions (i.e. lethal weapons systems featuring decision-making autonomy in critical functions such as identification, classification, interception and engagement to which, after assessing the situation and under their responsibility, the military command can assign the computation and execution of tasks related to critical functions within a specific framework of action).

Discussions on autonomous weapons systems should consider systems falling under both (1) and (2). Ideally, an instrument should apply to both categories but separate instruments could be imagined if conducive to their negotiation. For Norway, the central objective of the distinction is to ensure that any allowable autonomous weapons system be subject to meaningful human control. Human control over autonomous systems must be meaningful as well as relevant in the sense that the human input must be sufficient to ensure that the system is operated in full compliance with international law, including international humanitarian law.

The human control over systems falling into a category (1) is insufficient to satisfy the requirements of international humanitarian law. As such, they must already be regarded as prohibited under existing law. For the sake of clarity, we believe this prohibition should be made explicit in a future instrument.
Moreover, while systems falling into the second category may be allowable under certain conditions, their development and use must comply with international law. It follows that both prohibited and allowable systems may fall within this category. Systems of this category must be considered prohibited if they:

- are inherently indiscriminate and/or incapable of distinguishing between military targets and/or enemy combatants, and civilians, combatants hors de combat and other protected objects or persons;
- their effects cannot be limited, anticipated and controlled, as required by international humanitarian law in the circumstances of their use;
- are of a nature to cause superfluous injury or unnecessary suffering; or
- cannot be operated in accordance with international humanitarian law for any other reason.

The international community should urgently proceed on substantive discussions to make the application of international humanitarian law to autonomous weapons system explicit. If new clarifications of, or even new rules of, international humanitarian law are required to ensure that the fundamental principles of international humanitarian law are adequately applied to autonomous systems, states should elaborate such rules in a future instrument. Urgency is required to heed the call of the UN Secretary General to conclude negotiations on such an instrument by 2026.

It follows from this that the development and use of some autonomous weapons systems will not be prohibited. Those systems covered by a future instrument, but not prohibited by it, may be developed and employed only in full accordance with international humanitarian law. States should elaborate and agree on a framework for the application of international humanitarian law to these systems. Such a framework should ensure the reliability, understandability and predictability of such weapons systems. It should put in place measures to control, limit or otherwise affect the types of targets that such weapon systems can engage, as well as on the duration, geographical scope, and scale of the operation of such weapon systems. Measures should be put in place to preserve and retain human control at all times, in all circumstances and across the entire life cycle of the system.

For a system to be operated in accordance with international humanitarian law, Norway’s starting point is that human operators must have sufficient understanding of the weapons systems’ way of operating, its effects and likely interaction with their environment. Humans must be able to predict and explain the behaviour of such weapons systems. Humans shall always define and validate rules of use, rules of engagement as well as a precise framework for the mission assigned to the system limited in time, space and by determined objectives according to the situation and context. Humans must be able to monitor the reliability and usability of the systems during its deployment and to approve any substantial modification of the mission's parameters. Humans must be in a position to exercise their judgement with regard to compliance with the rules and principles of IHL, in particular the principles of distinction, proportionality and precautions in attack, and thus take critical decisions over the use of force.

A number of organisations has called for a prohibition on the targeting of humans by autonomous weapons systems. Norway believes that the targeting of humans, as such, by autonomous weapons systems raises important questions that states should address in the development of a future instrument.

The GGE under the CCW continues to be Norway’s primary arena for these discussions. Discussions in other fora can be fruitful if they facilitate or otherwise contribute to the urgent elaboration and adoption on recommendations for an instrument under the CCW in accordance with the mandate of the GGE.