Submission of Views by Pakistan in accordance with UNGA resolution 78/241 titled, “Lethal autonomous weapons systems”

SECTION-I

1. Discussions have been taking place for a decade within the framework of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (CCW). Ten years on, there is reasonable level of understanding and varying degree of convergence on various facets of lethal autonomous weapons systems (LAWS) including on their devastating and destabilizing effects.

Challenges associated with LAWS from the humanitarian, legal, ethical, security, and technological perspectives

2. The development, deployment, and use of LAWS give rise to humanitarian, legal, ethical, and security challenges, which must be addressed comprehensively in an integrated manner.

Humanitarian and Legal perspectives

3. The essence of International Humanitarian Law (IHL) is predicated on the capacity for human judgment and discretion, which is intrinsically context-sensitive. IHL continues to rely on “human agency” for its implementation. Weapons systems with autonomy and machine learning, no matter how advanced, cannot replicate the nuanced decision-making required in the complexities of an armed conflict.

4. Delegating critical functions of a weapon system i.e. target selection and engagement, including application of force, would be extremely problematic in terms of compliance and upholding the fundamental principles of IHL such as, distinction, proportionality, precautions in attack, and military necessity.

5. The IHL, which contains rules on means and methods of warfare and those governing the conduct of hostilities, follows an “effects-based” approach to place certain limits. Therefore, if there is a weapon system with effects, which cannot be predicted, understood or explained in all circumstances, then it raises significant challenges, for instance, in terms of whether it can be directed at a specific military objective at all times. Such a weapon system will not include the required control to implement the limits on the effects prescribed under IHL. The 2023 report of the Group of the Governmental Experts (GGE) noted that “control [with regard to LAWS] is needed to uphold compliance with international law, in particular IHL, including the principles and requirements of distinction, proportionality and precautions in attack.”

6. Therefore, the principles of predictability, reliability, understandability, and explainability, while not directly mentioned in IHL, are foundational to ensuring that LAWS operate within the established limits of IHL. These principles serve as a bridge, translating abstract legal mandates into concrete operational guidelines as well to ensure implementation of the IHL principles in the development and use of LAWS.
7. Use of LAWS also give rise to other legal challenges relating to responsibility and accountability. The absence of human decision-making in targeting and engagement raises issues over State responsibility, accountability, and attribution for illicit or internationally wrongful acts committed with the use of LAWS. Determining who is to blame—the designer, the commander, the manufacturer, or the AI itself—can be problematic, when a machine autonomously takes a decision that leads to unlawful outcomes or unintended harm. The Guiding Principle (d) adopted by the GGE in 2019 reaffirmed that accountability must be ensured in accordance with applicable international law.

Ethical perspectives
8. Several ethical concerns have been raised regarding delegating the decision of killing humans to machines, which operate autonomously and have machine-learning characteristics. The use of LAWS also reduces the opportunity for compassion or moral reasoning in combat situations, especially during complex ethical decisions that require empathy, value judgments, or an understanding of human emotions. This dehumanization could result in higher incidences of unjustified violence and civilian casualties. A machine cannot choose to err on the side of morality.

Security perspectives
9. The development, deployment, and use of LAWS entail serious repercussions for security and stability at the international and regional levels.

10. As LAWS may eliminate the danger of human casualties for the user states, they lend themselves to an increased propensity of use, thus lowering the threshold for application of force and armed conflict.

11. In times of crisis, a low threshold for use of force would be highly destabilizing as it would increase risks of miscalculation and trigger conflict escalation. Completely eliminating human control in such critical times could result in unpredictable consequences and rapid escalation, making it difficult to control the magnitude and duration of conflicts. Introduction of non-linear pathways to escalation with a risk of nuclear war and conventional entanglement will adversely impact strategic stability.

12. Increasing the speed of warfare at machine speed and compressing decision-making timeframe eliminating crisis mitigation spaces, particularly in regions with high tensions and a history of accidental launch incidents, represents a recipe for an unmitigated disaster.

13. LAWS are also likely to propel asymmetric methods and means of warfare, including anonymous and clandestine operations, such as targeted killings in foreign territories. In crisis situations or settings, these could turn into a spiral of reprisals, perpetuating or expanding the conflict.

14. Such weapons systems are already being factored into strategic and security doctrines of States. Absent any meaningful restraints, these developments are bound to trigger costly new arms races, as other States may feel compelled to acquire such technology to maintain strategic balance or advantage. These developments would also increase the risks of proliferation of such weapon systems to non-State actors.
15. LAWS may also be vulnerable to cyber-attacks. Malicious actors can exploit weaknesses in these systems, potentially manipulating their intended functions, leading to unintended consequences or misuse.

Need for new international legal rules on LAWS

16. As confirmed by the Guiding Principles adopted by the GGE on LAWS in 2019, the IHL applies fully to all weapons systems, including the potential development and use of LAWS. However, if stating that was enough, there would have been no need for additional legally binding rules for various categories of weapons systems as contained in different Protocols of the CCW.

17. In addition, the IHL is not a static construct. The CCW in its Preamble reaffirms “the need to continue the codification and progressive development of the rules of international law applicable in armed conflict”.

18. In the case of LAWS, new international legal rules are needed for the following reasons:

- The existing IHL obligations need to be spelled and further elaborated to clarify how it will be applied in the case of LAWS.
- Additional bridging principles need to be adopted to facilitate implementation of existing IHL and to allow for its progressive development in order to address the humanitarian challenges associated with LAWS.
- Existing IHL does not fully address the humanitarian, ethical, legal and security challenges of LAWS.
- New international legal obligations are needed to address the significant risks in a comprehensive and integrated manner.

SECTION-II

A new international legal instrument on LAWS

19. The ongoing efforts in the CCW should continue with an aim to develop international legal rules through a new Protocol. Such a Protocol will need to clearly spell out prohibitions and restrictions governing LAWS to ensure compliance with the IHL and consistency with the objectives and purposes of the CCW.

20. LAWS, which by way of its design, cannot be used in compliance with IHL at all times, should be prohibited. For the weapon systems which are not prohibited, adequate rules must be evolved to ensure that the development, deployment and potential use of these weapons strictly conform to International Law, IHL principles and rules as well as the imperatives of ethics and maintaining security and stability at all levels.
This two-tier approach containing prohibitions and restrictionsis also consistent with the existing Protocols of the CCW. The existing Protocols demonstrate that the production and use of certain categories have been banned (Protocols I & IV) and the development, deployment and use of others have been regulated with restrictions (Amended Protocol II).

A decade long work carried out in the framework of CCW has laid down solid foundations to negotiate such a legal instrument on LAWS. The mandate of the current GGE, established by the CCW High Contracting Parties in November 2023, is outcome-driven and result-oriented, and tasks the States “to further consider and formulate, by consensus, a set of elements of an instrument”.

Elements of the new legal instrument on LAWS

In March 2023, Pakistan submitted a working paper to the CCW titled “Proposal for an international legal instrument on Lethal Autonomous Weapons Systems (LAWS)”. Building on that working paper, Pakistan would like to propose following core elements of an international legal instrument on LAWS, which can be negotiated and adopted as Protocol VI of the CCW.

Definitions

The new instrument should adopt a functional approach to cover the general category of LAWS in its scope rather than focusing on its physical characteristics. This is the approach taken in CCW in Amended Protocol II and Protocol III, which detail the functioning of weapon systems, and in Protocols I and IV, which describe the effects of these weapons systems. It should include:

- “Lethal Autonomous Weapons Systems (LAWS)” mean those weapons systems which are designed to select and apply force to target(s) without human intervention after activation.

- The use of word lethal means that an autonomous weapon system which, by its design, has the capability to apply lethal force is included in the category of LAWS. However, regardless of the actual consequences of its use, whether the applied force results in lethal effects or not, it will be regulated under the Protocol.

Prohibitions

It is prohibited in all circumstances to develop, produce, acquire, stockpile, retain, transfer, deploy or use the following lethal autonomous weapons systems:

a) which take decisions on the use of force without human control and does not enable a human user to understand, predict and explain the decisions on the use of force in all circumstances of use,

b) which by its design cannot be used in compliance with the IHL in all circumstances, and
c) which produces effects that cannot be limited in all circumstances as required by the IHL.

**Restrictions**

26. In the case of LAWS, which are not prohibited as outlined above, following measures should be taken:

   a) restricting the targets to only objects which are military objectives by nature,
   
   b) ensuring provisions for human user to intervene, interrupt and deactivate the system during all stages of use,
   
   c) limiting the duration, geographical scope, and scale of the operations to ensure compliance with IHL at all times and only to those areas without concentration of civilians or civilian objects,
   
   d) limiting the number of engagements in order to predict and retain control over the effects as required under the IHL,
   
   e) restricting the weapons systems from changing its targeting parameters autonomously without approval by a human user, and
   
   f) ensuring effective supervision and oversight during operations at all times.

**Other Provisions**

27. Other provisions should include:

   - Humans responsible for and in control of LAWS should at all times remain accountable for the consequences of using such weapons, in line with International Law and the applicable provisions on the Responsibility of States for Internationally Wrongful Acts.
   
   - States are required to develop and ensure effective oversight, investigative and redressal mechanism for any suspected, reported or documented violation(s) in relation to the development, deployment or use of LAWS.

28. The international legal instrument should also include a technical annex (such as in cases of Amended Protocol II and Protocol V of CCW) containing best practices, guidelines and other risk reduction measures to facilitate implementation of various articles of the instrument. Such an annex may include provisions on actions at national level including on policy, testing, training, reviews, including weapon's reviews and reporting.

**Conclusion**

29. The GGE of the CCW, with all the tools at its disposal and the work done so far, remains the most appropriate venue to develop a meaningful legal normative framework that responds to the challenges and concerns associated with LAWS comprehensively.