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AUTONOMOUS WEAPONS SYSTEMS AND INTERNATIONAL HUMANITARIAN LAW: RETHINKING ACCOUNTABILITY, DISTINCTION, AND SOVEREIGNTY IN THE AGE OF ARTIFICIAL INTELLIGENCE

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ABSTRACT

The integration of Artificial Intelligence (AI) into weapon system has facilitated the development of Autonomous Weapon System (AWS) capable of engaging and selecting the targets without real time control. This technological transformation challenges the human centered foundations of International Humanitarian Law (IHL), particularly its reliance on the contextual assessment, human judgement and moral agency in the use of force. This paper critically evaluates the adequacy of existing IHL, including the Geneva Conventions of 1949 and Additional Protocol I of 1977, in regulating AWS. It focuses on three principal legal challenges: the application of distinction and proportionality in autonomous targeting, the collapse of traditional command responsibility, and the emergence of an accountability gap arising from machine-mediated decision making.Using Pakistan as principal case study, the paper considers the risks associated with AWS in internal asymmetric conflicts, where the identification of combatants is already complicated by the presence of non-state actors within civilian populations. By engaging with Dr. Muhammad Asif Safdar's framework in Legal Order of Internal Asymmetrical Warfare, ICRC policy developments and Pakistan's diplomatic position within the United Nations Convention on the Certain Conventional Weapons (CCW) process, the study argues that although existing IHL is formally technology neutral, its current legal mechanisms may be insufficient to address the distinctive challenges posed by autonomous targeting. To address this gap, the paper proposes a two-track framework: an international protocol VI to the CCW mandating 'meaningful human control', alongside domestic legislative reforms in Pakistan to regulate the testing, deployment, and post-strike assessment of AI-enabled automated military capabilities. Without such measures, the increasing delegation of consequential targeting decisions to autonomous system risks creating significant gaps in legal responsibility and weakening the protective architecture of IHL in contemporary and future armed conflicts.

Keywords:

Autonomous Weapons, International Humanitarian Law, Accountability, Pakistan, Asymmetrical Warfare.

INTRODUCTION:

The Algorithmic Transformation of Warfare

In the evolution of armed conflict, the integration of artificial intelligence (AI) and machine learning (ML) architectures into military hardware and command-and-control structures represents profound inflection point. Central to this transformation is the emergence of Autonomous Weapon Systems (AWS), which the International Committee on the Red Cross (ICRC) characterizes functionally as weapon systems capable of autonomously performing critical functions namely, selecting target through searching, detecting, identifying, tracking or selecting, and attacking them through the use of force, neutralization, damage, or destruction, without human intervention. In recent years, the operational inclusion of AI decision support systems and automated targeted tools moved from theoretical doctrine into active theater execution across diverse conflict zones. In Gaza, the reported military reliance on AI systems sch as *'Gospel'* (Habsora) for structural target generation and *'Lavender'* for human target classification demonstrated how algorithmic processing can process thousands of data points per seconds to generate real time strike recommendations. In the meanwhile, the Russia-Ukraine war served as the laboratory for the AI-Integration in Uncrewed Aerial Vehicle (UAV) network, electronic warfare counter measures and signal processing, catalyzing the pace towards the full uncrewed combat environments. The critical legal question, therefore, is not simply whether machines can perform discrete targeting functions, but whether the progressive compression of human involvement risks transforming meaningful human control form an operational reality into the nominal form of supervision.

This increasing technological delegation towards the autonomous weapons exposes the tension within the International Humanitarian Law (IHL). IHL is primarily premised upon the human moral judgment in the conduct of hostilities as primarily codified in the aftermath of WW-II and developed through the 1977 Additional Protocols. Its rules presume that a human soldier who possesses the capacity to recognize the surrender, interpret contextual nuance, and the moral duty to weigh civilian harm against concrete & direct military benefits. Algorithmic code lacks moral agency, self-awareness and intrinsic legal capacity because of its operation on the pattern recognition, statistical probabilities and pre-programed parameters.

For Pakistan, the emergence of AI-enabled and autonomous targeting technologies poses a distinctive set of strategic, legal and domestic challenges. These concerns must be understood by against the back-drop of the Pakistan's long history of asymmetric warfare against violent no-state actors across its northern trial belts and southwestern areas. As legal scholar Dr. Muhammad Asif Safdar demonstrates in *Legal Order of Internal Asymmetrical Warfare,* in asymmetrical environment the non-international armed conflicts (NIAC) are characterized by the adversaries who purposely mask the line between the civilians and combatants by mixing themselves within the local populations. The integration automated targeting systems into these complex socio-political environments introduces significant risks of algorithmic misidentification, operational failures, excessive civilian causalities and the challenges to the legal legitimacy of state operations.

This study offers three distinct contributions to the legal literature concerning emerging military technologies:

- It chalks out how and why the application of IHL requirements concerning distinction, proportionality and precaution encounters structural breakdown when they are applied to autonomous targeting.
- It identifies the emerging accountability gap across both state responsibility under international law and individual responsibility under framework of Rome Statute.
- It formulates a legal strategy designed to reconcile Pakistan's diplomatic commitments at the UN Convention on Certain Conventional Weapons (CCW) Group of Governmental Experts (GGE) and its domestic statutory framework.

The study adopts a doctrinal approach to legal analysis, evaluating relevant treaty provisions, customary IHL and relevant precedents. This

analysis is supplemented by an examination of state practice, international organization reports and secondary legal literature on asymmetrical warfare.

Defining the Autonomous Weapons Systems (AWS)

Despite over a decade, the Autonomous Weapons Systems (AWS) have been the subject of formal international deliberations, no universally accepted treaty definition has yet emerged. For the purpose of this paper, an AWS is defined in accordance with the operational definition adopted by the International Committee of the Red Cross (ICRC): weapon systems capable of autonomously performing critical functions namely, selecting target through searching, detecting, identifying, tracking or selecting, and attacking them through the use of force, neutralization, damage, or destruction, without human intervention.

Autonomous Weapon Systems (AWS), are sometimes called as Lethal Autonomous Weapons Systems (LAWS), Lethal Autonomous Robots (LAR) or killer robots, are unmanned weapons systems (UMS) that during their use or prior to their use, no immediate human input is required. This includes two corollary elements: AWS are not particularly programmed to engage a specifically designated object or person and have discretionary decision-making capabilities.

In order to analyze the legal implications of these platforms, it is important to differentiate the autonomous systems from remotely piloted and semi-autonomous systems. Remotely Controlled or piloted systems remain subject to human control over targeting decisions, even where certain functions such as firing or movement are automated. These systems retain human '*in-the-loop*'. Semi-autonomous weapons similarly retain humans on-the-loop' by requiring their approval for lethal actions, although they may independently perform other functions. Fully Autonomous Systems (AWS) keep human 'out-of-the-loop' because system independently processes environment, identifies targets via algorithms and conducts the targeting process without human intervention.

The ICRC's position papers on Autonomous Weapons Systems (AWS) that systems exhibiting unpredictability, as well as those designed to apply force directly against human targets, present acute humanitarian risks. It therefore, calls to pose strict legal prohibitions and functional restrictions over such systems to preserve meaningful human control. Organizations such as the Campaign to stop killer robots advocate a comprehensive preventive ban, while a coalition of more than 40 states supports a legally binding instrument establishing prohibition and regulation regimes under the aegis of UN.

At the Human rights Pakistan has repeatedly called for new international ban treaty since then and has rejected lethal autonomous weapons systems as "illegal, unethical, inhumane, and unaccountable as well as destabilizing for international peace and security".

IHL Principles and the Challenge of Autonomous Weapons

(a) Distinction: Can Autonomous Systems Reliably Distinguish Civilians from Combatants

The principle of distinction is defined in Article 48 of Additional Protocol I to the Geneva Conventions as follows: "In the conduct of military operations, the parties to the conflict shall at all times distinguish between the civilian population and combatants and accordingly direct their operations only against military objectives." Differentiation in traditional symmetric warfare was based on visual cues such as military uniforms, hierarchical structures, observable weaponry. However, Dr. Muhammad Asif Safdar points out that in internal asymmetrical warfare, insurgents deliberately do not wear insignia, mix themselves in locals, and use hit-and-run tactics, taking advantage of the legal protections afforded to civilians.

Autonomous Weapons System is working to differentiate through sensor arrays, facial recognition thermal signatures, and behavior pattern analysis. These data points are statistical indicators of combatant status rather than genuine legal evaluations. There is no reliable weapon attribute detection algorithm that can be used to distinguish between an insurgent holding an

assault rifle in an active operational posture and a local civilian carrying a firearm for self-dense or either for cultural practice. Software cannot understand qualitative legal statuses like hors de-combat recognizing an incapacitated combatant, a solider attempting to surrender, or a child who has picked up abandoned military equipment.

The operational limitations of algorithmic classification are demonstrated by automated intelligence processing errors in modern arena. In systems like 'Lavender' people are targeted on weighted correlations, if the data patterns (communication links, physical location, group affiliations) resemble those of known militants, Lavender targets them for potential attack.All these parameters carry intrinsic error margins. When these probabilities scores are used to automate the actions without human contextual validation, the system converts statistical ambiguity into civilian causalities. Pattern recognition and computer vision can certainly supplement tactical sensor collection, but cannot replace the situational legal assessment required by customary International Humanitarian Law (IHL).

(b) Proportionality: The algorithmic Value Judgement

The article 51(5)(b) of AP I prohibits attacks which may be expected to cause incidental loss of civilian life, damage to civilian objects, injury to civilians, or a combination of those effects, which would be excessive in relation to the concrete and direct military advantage anticipated. Proportionality is not a quantitative mathematical calculation, it is first and foremost a qualitative judgement subject to context. The legal principle requires balancing two fundamentally incommensurable criteria be balanced: human life and military utility.

In performing a proportionality assessment, a military commander evaluates subjective factors: the reliability of real-time intelligence, the strategic importance of the target, the potential for structural collateral damage, and the ethical importance of the prospective civilian casualties. An algorithm, however, is purely objective mathematical optimization. In order to analyze the proportionality, AWS software engineers must pre-program numerical values or mathematical weights to human lives and military targets long before the engagement occurs.

This dynamic undermines the real-time situational discretion and assessment required by IHL. A code written in laboratory months in advance cannot predict the specific socio-cultural, geographical and temporal variables of battlefield. Moreover, when militaries deploy AI targeting systems under time-sensitive operational constraints, human operators often act as a 'moral crumple zone' which is a conceptual framework developed by the technology scholar Madeline Elish. In high-tempo operational settings, human officers are assigned from legal responsibility for strike authorizations, but they operate with functional oversight, often rubber-stamping algorithmic recommendations in seconds due to automation bias. The legal culpability falls on the human operator for systematic failure while lacking effective control over the machine's underlying targeting logic.

Precautions: Who took them?

Article 57 of Additional Protocol I stipulates that in carrying out military operations constant care must be taken in order to avoid attack on the civilian population, civilian and civilian objects.Parties shall take all feasible precautions in the choice of means and methods of attack, if it becomes apparent that the target is civilian or likely to cause excessive harm than they must abort or suspend and ensure that targets are legitimate military objective.

Automated Weapon Systems (AWS) change fundamentally the timing and the way precaution obligation work. Once a fully autonomous weapon has been launched in a designated search sector, real-time target verification is transferred to the machine. If an AWS faces a changing circumstance in the field of after deployment e.g. a civilian convoy entering the area of engagement, it cannot engage in moral reflection or make subtle adjustments unless it is programmed specifically for those variables. Precaution is no longer a dynamic, on the spot duty performed by a commander on the ground or battlefield and becomes a fixed software constraint determined prior to the deployment. This change in structure serves operational command from real-time

supervision, undercutting the protective structure of Article 57.

The Accountability Vacuum

(a) State Responsibility under ARSIWA in the Digital Age

Under the standard framework of the Articles on Responsibility for Internationally Wrongful Acts (ARSIWA) a state is responsible for any internationally wrongful act attributable to it which means an act or omission that is a breach of an international obligation (Article 26). Where a state's AWS causes damage to a protected civilian object in breach of IHL, the state's liability is established.

However, in case of autonomous software, the assignment of operational responsibility faces significant evidentiary and structural barriers. States could claim that an unanticipated attack was caused by algorithmic drift, data bias, or some other unforeseeable machine learning anomaly, rather than a deliberate command policy. Deep learning neural networks are 'black boxes' that do not allow independent oversight bodies and victims to have access to comprehensible evidentiary records for the establishment of state fault. In the absence of specific legal standards, states can disperse liability across software developers, dataset curators, procurement officials, and field commanders, effectively nullifying the legal doctrine of state responsibility.

(b) Individual Criminal Responsibility & limitations of the Rome Statue

International criminal law is predicated on the establishment of individual criminal accountability. The Rome Statute of International Criminal Court (ICC) mandates the demonstration of two fundamental components to secure a conviction for war crime: *actus reus* (the wrongful act) and the *mens rea* (the culpable intent). The incorporation of AWS results in three unique structural deficiencies within this legal framework:

- **The gap of Intent** (*mens rea*)**:** A person must act with the intent or knowledge regarding the material elements of the crime. An engineer who writes code for targeting algorithms years before they are used would not normally have the specific intent *(dolus directus)* or knowledge to be culpable for specific war crimes latter committed by an autonomous weapon system (AWS) in a future conflict. In contrast, an operational commander using the AWS might not have expert knowledge of how the neural network will interpret and respond to unique battle field data, making it difficult to establish the required *mens rea.*
- **The gap of Causation:** AWS's complex supply chain which includes software developers, system integrators, dataset providers, hardware engineers, procurement officials, and field operators creates a long chain of causation. This chain diffuses the direct causal responsibility between the individual who triggered the deployment and the lethal force output.
- **The gap in command responsibility:** The Rome Statute under the article 28 establishes the criminal responsibility of military commanders for crimes committed by force under the effective command and control. However, AWS are autonomous technological platforms and are not natural persons or legal subordinates. The command responsibility doctrine was crafted for human subordinates who have legal duties to obey lawful orders, and it does not map cleanly onto autonomous software code.

In order to avoid the total impunity, international legal scholars have proposed a new standard of criminal culpability, "reckless deployment of autonomous systems". In that framework, a commander would be strictly liable if they deploy an AWS in populated or dynamic environments where they know, or ought to know, that the operational limits of the system preclude it from being able to ensure compliance with IHL.

AWS in Internal Asymmetrical Warfare: The Case Study of Pakistan

The practical implications of these gaps in law and accountability can be seen in the case of Pakistan's security landscape. The Pakistani state has been carrying out internal counter insurgency and counter terrorism operations for more than two decades, primarily in North-Western Frontier Province (N.W.F.P) and Balochistan.

In *Legal Order of Internal Asymmetrical Warfare*, Dr. Muhammad Asif Safdar points out that Non-

International Armed Conflicts (NIACs), which are governed by Common Article 3 of Geneva Conventions and Additional Protocol II, are marked by acute structural asymmetries. Non-state violent actors intentionally exploit civilian infrastructure, conceal weapons and use local cultural practices to mix with the local communities. The deployment of AWS in such internal operational environments poses three major structural risks for the Islamic Republic of Pakistan:

- **Algorithmic Bias & Misidentification of Culture:** Machine learning Algorithms trained on standardized foreign military datasets regularly misread socio-cultural norms in regional conflict zones. In tribal areas of Pakistan, carrying arms is a long-standing cultural tradition of self-defense and local security, rather than an explicit marker of violent insurgent status. A visual pattern recognition AWS would classify armed civilians as active threats, resulting in mistaken strikes and heavy civilian casualties.
- **Erosion of State Authority & Strategic Defeat:** The center of gravity in counter insurgency warfare is winning the political legitimacy of the state among the local population. Algorithmic errors that cause civilian casualties alienate local communities, fuel recruitment by insurgents, and undermine the legitimacy of the state. When an autonomous software causes casualties, victims cannot hold specific human actors accountable, which deepens institutional grievances.
- **Domestic Legal & Regulatory Gaps:** The domestic laws of Pakistan governing national security, such as the Pakistan Army Act, 1952 and the Prevention of Electronic Crimes Act (PECA) 2016, contain no statutory provisions regulating automated kinetic force, algorithmic targeting, or legal accountability for AI military operations. This legal vacuum leaves domestic commanders without proper guidance and deprives civilian victims of formal legal avenues for redress post-strike.

At the International level, Pakistan has always acknowledged these structural risks. Pakistan has consistently argued for a 'two-tier approach' involving both strict and operational regulations in diplomatic statements before the UN CCW Group of Governmental Experts (GCE) in Geneva. The diplomatic position of Pakistan has been that AWS should not be assessed merely from a narrow IHL perspective but must also incorporate ethical imperatives, international security implications and the protection of state sovereignty. Pakistan was among the most proactive countries to endorse the call for prohibition of fully autonomous weapons and has consistently supported UN General Assembly resolutions stressing the importance of human control in the use of force.

Existing Law and the Need for Reform

One school of thought which is prevalent and common to military powers, the *Status Quo* or *Minimalist* camp, argues that current international law is fully capable of governing autonomous weapons. This view suggests that the principles of IHL are inherently 'technology-neutral'. The core principles of distinction are legally binding on human commanders whether delivered by an iron bomb, a remotely piloted drone or an AI algorithm.

Article 36 of Additional Protocol I is referred by the advocates of this position, which requires states to assess whether the use of any new weapon, means or method of warfare would be contrary to international law in some or all circumstances. They argue that robust national Article 36 reviews afford sufficient oversight to guarantee that non-compliant AWS are never fielded.

However, this 'technology-neutral' argument has serious structural limitations when applied to self-learning, adaptive AI architecture. The traditional Article 36 reviews concerned deterministic weapons, such as artillery shells, rifles or guided missiles characterized by static parameters after manufacture. Conversely, adaptive AWS based on deep neural networks learn continuously from incoming environmental data streams. A laboratory tested lawful weapon system may develop unpredictable, non-deterministic operational logic when deployed in a real-world conflict. Moreover, the weapon reviews under Article 36 are generally not public which states usually restrict access to them and without the benefit of standardized international verification

protocols, rendering them structurally inadequate as global oversight mechanism.

The diplomatic discussions in the UN, CCW, CGE have been mired in multi-year deliberations. A wide-ranging coalition of over 40 states including Pakistan has called for immediate negotiation of legally binding instrument, on the basis of rolling text that is currently evolving. Yet a small group of major military powers continues to block consensus, preferring non-binding codes of conduct or voluntary declarations. The dependence on non-binding guidelines produces significant normative gaps, so that the speed of military technological development outpaces the protective capacity of humanitarian law.

Recommendations: A Two-Track Approach

This paper proposes a two-track regulatory framework to deal with legal, ethical and operational issues presented by autonomous weapon systems (AWS) which combines international regulation with domestic legal reform. At the international level, the High Contracting Parties to the UN CCW should aim for a legally binding Protocol VI that prohibits AWS from targeting human beings independently and that requires meaningful human control over kinetic operations. This framework needs to be supported by standardized Article 36 review procedures, verification mechanisms and transparency requirements developed with the support of ICRC and UNODA. At the national level, Pakistan needs to amend its defense laws to define AWS precisely, establish command responsibility and mandate judicial review of automated attacks. At the same time, the Ministry of Defense and GHQ should develop a national AI defense policy to establish an ethics oversight mechanism for defense procurement, training data and operational deployment these steps taken together, would establish a clear framework for accountability, oversight and responsible governance of AWS.

International Track

The international community needs to wrap up negotiations on a legally binding instrument, a specific Protocol VI to the CCW built on following recommendations:

- A total prohibition on weapons systems that act in completely unpredictable manner or whose targeting logic cannot be meaningfully explained or audited by human operators (banning 'black box' deep learning kinetic platforms).
- A clear prohibition on autonomous weapon system that are designed or employed to select and attack humans directly by keeping human out of the loop, limiting any permissible targeting autonomy to anti-material or point-defense uses only.
- A legal obligation to retain 'meaningful human control' overall weapon systems at all times in their operational lifecycle from design and deployment through the final strike decision.
- There must be mandatory international verification standards, environmental constraints, spatial-temporal limits, and full system traceability for post-strike auditability.

National Track: For Pakistan

Besides its diplomatic advocacy on the International level, Pakistan needs to implement domestic legal and policy reforms so that its defense architecture is ready for the era of AI:

- Parliament should amend the Pakistan Army Act 1952 and related defense statutes to define autonomous attacking capabilities, set strict legal pre-requisites for their procurement or use, and codify command liability for automated weapons deployment.
- The Ministry of Defense should impose comprehensive National AI Defense Policy which establishes Ethics Oversight Board consisting of legal experts, software engineers, military commanders and human rights representatives. This board must also ensure that the use of any automated or AI-assisted targeting technology complies with the IHL before it is incorporated into operations.
- The curriculum of military doctrine and command staff across the Armed Forces should be updated to address the limitations of military AI. Training should focus on the dangers of automation bias, the ways in which algorithm can fail in the operational context of counter-

insurgency operations, and the absolute duty not to use automated targeting in populated asymmetrical environment.

- Pakistan should fund dedicated academic research at the nexus of IHL, computer science and national security, based on the conceptual foundations already laid by the scholars such as Dr. Muhammad Asif Safdar. Building local legal expertise will ensure continued proactive role of Pakistan in shaping global governance norms for emerging defense technologies.

Conclusion

Autonomous Weapons Systems, rather than rendering International Humanitarian Law obsolete, reveal that the entire humanitarian legal structure is centered upon the assumption of human moral agency. Delegating autonomous algorithms with life and death targeting decisions, creates profound structural tensions with the foundational principles of distinction, proportionality, precaution and legal accountability.

In complex operational context of asymmetrical warfare, where the civilian population often bears the target lapses, the delegation of lethal decision-making raises serious strategic and ethical concerns. Pakistan's security experience coupled with its diplomatic engagement at the United Nations, highlights that technology-neutral interpretations of existing legal framework and reliance on voluntary political declarations are insufficient to safeguard the human dignity and stabilize of the international order.

The international community has reached a critical decision-making juncture. States should strive to establish legal guardrails before fully autonomous kinetic systems become entrenched in military doctrines and operational practices. By supporting the development of a binding international treaty requiring meaningful human control, alongside robust domestic legislative frameworks, states like Pakistan can contribute to preserve the legal standards of international humanitarian law and prevent the risks posed by the autonomous algorithmic decision-making. A software engineer who develops targeting algorithms years before their deployment does not possess the specific intention *(dolus directus)* or knowledge of a particular war crime that machine will commit in a future conflict zone. In contrast, the operational commander deploying the AWS might not know how the neural network is going to process the specific data on the battlefield, and therefore the mens rea which is *sine qua non* for a crime cannot be established.

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