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HUMAN CONTROL AND THE ETHICS OF FORCE: NAVIGATING ACCOUNTABILITY IN MODERN WARFARE

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ABSTRACT

The use of force in war is a critical issue in both international law and ethics, with profound implications for human rights, justice, and accountability. Human control over the use of force in warfare is designed to prevent unnecessary harm, protect civilians, and ensure that the actions taken during armed conflict are legally and morally justifiable. This control is primarily established through international treaties, conventions, and protocols, and it is reinforced by ethical considerations about the proportionality and necessity of violence in war. As technological advancements, such as artificial intelligence (AI) and autonomous weapon systems, play an increasing role in modern warfare, the question of maintaining human control over the use of force becomes more complex and urgent. Key issues explored include the erosion of human accountability, the moral limitations of AI-driven decision-making, and the complexities of ensuring compliance with international humanitarian law. Additionally, the paper addresses the risks of exacerbating asymmetric warfare, the proliferation of autonomous weapons, and the potential for disempowering human judgment in combat. By assessing current technological trends and regulatory efforts, this article provides an in-depth analysis of the need for robust human oversight, ethical programming, and international cooperation to ensure that the use of force in warfare remains accountable, just, and aligned with global norms and humanitarian principles.

Introduction

The use of force in modern warfare has become increasingly complex and ethically contentious. With the advent of advanced technologies such as drones, autonomous weapons, and artificial intelligence (AI) systems, the traditional concept of human control over force or military actions is being challenged. This raises significant ethical questions about accountability, responsibility, and the very nature of warfare. While the ethics of force have long been debated in the context of international law and military doctrine, the evolving landscape of warfare necessitates a deeper exploration of how human control can be maintained and how accountability can be ensured. This article will examine the central

issue of human control in the context of the use of force in modern warfare, addressing the ethical dilemmas and legal challenges that arise in this complex environment. Specifically, it will focus on the implications of new technologies for military strategy, the role of international law in regulating the use of force, and the moral responsibilities of those who wield power in war.

I. Understanding Human Control in Warfare

Human control in warfare refers to the ability of a human operator to make decisions regarding the use of force and to maintain ultimate responsibility for those decisions⁷⁹.

⁷⁹ Amoroso, Daniele, and Guglielmo Tamburrini. "Toward a Normative Model of Meaningful Human Control Over Weapons Systems." 35 (2) *Ethics & International Affairs*, 245–272 (2021). <https://doi.org/10.1017/S0892679421000241>

Traditionally, warfare involved direct human decision-making, where military commanders and soldiers exercised judgment in the field based on available intelligence, military objectives, and ethical considerations. However, with the development of increasingly sophisticated military technologies, the line between human decision-making and machine autonomy has begun to blur.

A. Autonomous Weapons Systems

One of the most significant technological advancements affecting human control in warfare is the development of autonomous weapons systems (AWS). These systems, which include drones and robotic soldiers, can execute tasks without direct human intervention. While these systems can be programmed with specific guidelines and parameters, they often rely on algorithms to make decisions about targeting and engagement. This raises concerns about the ability to hold individuals accountable for actions taken by machines, especially when those actions result in unintended harm or violations of international law. Autonomous Weapons Systems (AWS) are transforming the landscape of modern warfare, raising critical questions about the use of force, ethics, and accountability in military operations. AWS refers to weapon systems that can independently carry out tasks such as target identification, decision-making, and the use of lethal force without direct human intervention. These systems, which rely on artificial intelligence (AI), machine learning, and automation, offer significant advantages in terms of precision, speed, efficiency, but also introduce a range of challenges related to accountability, morality, and compliance with international law.

B. Artificial Intelligence and Machine Learning

Artificial intelligence and machine learning algorithms are increasingly used in military contexts to analyze large volumes of data, predict enemy movements, and even make decisions about the use of force. These technologies are designed to improve the

efficiency and accuracy of military operations, but they also raise ethical concerns about the role of humans in decision-making⁸⁰. As AI systems become more capable of making autonomous decisions, it becomes more difficult to trace accountability to a specific individual or group. The potential for AI to make life-and-death decisions without human oversight challenges traditional notions of responsibility in warfare.

II. The Ethics of Force in Modern Warfare

The ethical considerations surrounding the use of force in warfare have long been shaped by concepts such as just war theory, international humanitarian law (IHL), and the principle of proportionality. In the context of modern warfare, these ethical frameworks are being tested by the changing nature of conflict, the proliferation of new technologies, and the rise of non-state actors.

A. Just War Theory

Just war theory, which dates to ancient philosophical traditions, outlines the ethical criteria for the justification and conduct of war⁸¹. It emphasizes principles such as *jus ad bellum* (the right to go to war)⁸², *jus in bello* (the right conduct within war), and *jus post bellum* (justice after war). The use of force must be proportionate, discriminate (targeting only combatants and not civilians), and necessary to achieve legitimate military objectives.

The introduction of autonomous systems complicates these criteria. For instance, an autonomous drone strike might be targeted at a military installation, but if the system makes a mistake and harms civilians, it raises questions about whether the action was proportional and discriminative. The challenge lies in ensuring that autonomous systems can make ethical

⁸⁰ Garcia, Denise, *Future Arms, Technologies, and International Law: Preventive Security Governance*, EJIS 94–111, (2016).

⁸¹ Warfare in Ancient Greece: A Sourcebook, ed. M.M. Sage 127-34 (London and New York: Routledge, 1996),

⁸² J. Barnes, 'The Just War', in *The Cambridge History of Later Medieval Philosophy: From the Rediscovery of Aristotle to the Disintegration of Scholasticism 1100-1600*, ed. N. Kretzmann, A. Kenny, J. Pinborg (Cambridge: Cambridge University Press, 1982), 771-84, at 780.

decisions consistent with the principles of just war theory.

B. The Role of International Humanitarian Law (IHL)

International humanitarian law (IHL), particularly the Geneva Conventions, regulates the conduct of armed conflict, emphasizing the protection of non-combatants and the prohibition of unnecessary suffering⁸³. The principles of distinction (separating combatants from civilians) and proportionality (using no more force than necessary to achieve military objectives) are core tenets of IHL. The deployment of autonomous weapons systems presents a challenge to IHL because these systems may not be able to reliably distinguish between combatants and civilians, particularly in complex environments like urban warfare. The Geneva Conventions and their Additional Protocols sets the rules for the conduct of armed conflict, emphasizing the protection of civilians and the prohibition of indiscriminate and disproportionate use of force. Furthermore, the use of AI in warfare raises questions about how to ensure compliance with IHL standards, as the decision-making processes of AI systems may be difficult to assess and control.

C. The Responsibility of Military Personnel and Commanders

One of the most pressing ethical issues in modern warfare is the question of accountability. In the past, military commanders were held responsible for the decisions of their subordinates, and soldiers were expected to adhere to ethical standards such as the prohibition of unnecessary harm to civilians. However, as military technologies become more autonomous, it becomes increasingly difficult to determine who is responsible when these systems act in ways that violate ethical or legal standards⁸⁴. For example, if an autonomous drone kills civilians

due to a malfunction or poor programming, who should be held accountable? The drone programmer, the military commander who authorized the strike, or the government that deployed the weapon? These questions are made more complicated by the lack of transparency in AI algorithms and the difficulty of attributing responsibility in complex, multi-layered military operations.

III. International Law and Accountability

The role of international law in regulating the use of force in modern warfare is becoming more critical as new technologies are introduced. International law, particularly the Geneva Conventions and the United Nations Charter, sets boundaries for the use of force, aiming to limit unnecessary suffering and prevent atrocities.

A. The Use of Force and the UN Charter

The United Nations Charter prohibits the use of force except in cases of self-defense or when authorized by the UN Security Council⁸⁵. The main legal framework governing the use of force by states is found in **Article 2(4)** of the Charter. This general prohibition on the use of force is a cornerstone of international law, designed to maintain peace and security and prevent war. However, there are two key exceptions to this prohibition is self-defense- A state has the right to use force in self-defense if it is attacked, as recognized under **Article 51** of the Charter. This right is available until the UN Security Council has taken necessary measures to restore international peace and security. However, the use of force in self-defense must be proportional and necessary. And the other is authorization by the UN Security Council under **Chapter VII** of the Charter, the UN Security Council has the authority to take action to maintain or restore international peace and security, including the use of military force. This is usually authorized through resolutions that call for military interventions, often in response

⁸³ <https://www.cpaHQ.org/media/azll5luj/cpa-ihl-handbook-updated-march-2022-final-single.pdf>

⁸⁴ Brożek, B., Jakubiec, M. *On the legal responsibility of autonomous machines*. 25 *Artif Intell Law* 293–304 (2017).

⁸⁵ Fu-Shun Lin, *Self-Defence - A Permissible Use of Force under the U.N. Charter*, 13 *DePaul L. Rev.* 43 (1963) Available at: <https://via.library.depaul.edu/law-review/vol13/iss1/5>

to threats to peace, acts of aggression, or other violations of international law. In summary, while the UN Charter prohibits the use of force, it allows for exceptions in cases of self-defense or when authorized by the UN Security Council. However, the rise of non-state actors, cyber warfare, and other unconventional methods of attack has made it difficult to apply traditional interpretations of the use of force in modern conflict. Autonomous weapons and AI systems add another layer of complexity, as these technologies blur the lines between legitimate self-defense and unlawful aggression.

B. Ensuring Accountability

One of the biggest challenges posed by the use of autonomous systems in warfare is ensuring accountability. In the past, accountability was relatively straightforward—if a military commander gave an illegal order, or if a soldier committed a war crime, they could be held accountable under national and international law. With autonomous weapons systems, accountability becomes more diffuse. The programmer who writes the code, the military commander who orders the deployment, and the political leaders who authorize the use of force all have a role in the outcome, but determining who is ultimately responsible for violations of international law or ethical principles is increasingly complicated.

The International Criminal Court (ICC) and other international bodies are beginning to grapple with these questions. In cases involving autonomous systems, it may be necessary to develop new legal frameworks to hold individuals accountable for actions that are carried out by machines. Additionally, there is a growing call for transparency in military AI systems to ensure that decisions made by these systems can be scrutinized and reviewed for compliance with international law.

IV. The Future of Human Control in Warfare

As military technologies continue to evolve, it is crucial to find ways to maintain human control over the use of force while ensuring ethical

conduct in warfare. There are several avenues for addressing the challenges of accountability and responsibility in the age of autonomous systems.

A. Human-in-the-Loop Systems

One potential solution is the "human-in-the-loop" model, where human operators retain the final decision-making authority over the use of force, even in the context of autonomous systems. This model aims to preserve human judgment and accountability while leveraging the speed and efficiency of AI systems. However, the challenge remains in ensuring that humans are able to make informed, ethical decisions in a timely manner, especially in high-pressure situations.

B. The Role of Human Oversight

To mitigate these risks, experts and policymakers have emphasized the importance of meaningful human control over autonomous weapon systems. Human oversight could ensure that AI operates under the principles of IHL and can intervene if the system behaves in a way that violates ethical or legal norms⁸⁶. The Campaign to Stop Killer Robots, a coalition of civil society organizations, has called for an international treaty to ban fully autonomous weapons, arguing that they pose unacceptable risks to humanity. Some proponents of AI in warfare suggest that autonomous systems can be used in ways that enhance the precision and effectiveness of military operations, reducing civilian casualties⁸⁷. However, they also stress the need for strict regulation and oversight to ensure that these systems always remain under human control. International regulation of autonomous weapons and AI in warfare is an essential step in ensuring that these technologies are used ethically and in accordance with international law. Efforts to regulate autonomous systems, such as the UN

⁸⁶ Charles P. Trumbull IV *The Role of International Law in the Development of Autonomous Weapons Systems*, 34(2) *Emory International Law Review* 49-78 (2020).

⁸⁷ Kenneth Anderson & Matthew Waxman, *Law and Ethics for Autonomous Weapon Systems: Why a Ban Won't Work and How the Laws of War Can*, HOOPER INST. (Apr. 9, 2013),

Convention on Certain Conventional Weapons (CCW), are already underway, but there is a need for stronger international cooperation and clearer legal frameworks to govern the development and deployment of these technologies.

C. Ethical Programming and AI Accountability

Another critical step is the development of ethical guidelines for programming AI systems used in warfare. Ethical programming involves embedding ethical considerations into the algorithms that govern autonomous systems, ensuring that these systems can make decisions that align with the principles of just war theory and international humanitarian law⁸⁸. Additionally, AI accountability mechanisms must be developed to trace the decisions made by autonomous systems and attribute responsibility when violations occur.

Conclusion

The integration of advanced technologies such as autonomous weapons and AI systems into modern warfare presents significant challenges to the traditional understanding of human control and accountability. As the nature of warfare continues to evolve, it is crucial to ensure that human operators retain ultimate responsibility for the use of force and that ethical principles, such as those outlined in just war theory and international humanitarian law, remain central to military decision-making.

While technological advancements offer numerous benefits, including increased efficiency and precision, they also require new frameworks for accountability, regulation, and oversight. The responsibility for the use of force must remain firmly in human hands, and new mechanisms must be put in place to ensure that the deployment of force in warfare adheres to ethical standards. In navigating these complex ethical and legal challenges, the goal should be to ensure that technology enhances,

rather than undermines, the principles of justice and accountability in modern warfare.

⁸⁸ Markus Wagner, *The Dehumanization of International Humanitarian Law: Legal, Ethical, and Political Implications of Autonomous Weapon Systems* 47 Vand. J. Transnat'l L. 1371 (2014).