

2. Иванова, И. К. Палата лордов на рубеже XXI века / И. К. Иванова // Государство и право. — Москва, 2003. — № 6. — С. 70–73.

3. United Kingdom Parliament [Electronic resource] / website of British Parliament. — Mode of access: <http://www.parliament.uk/mps-lords-and-offices/>12.03.2011. — Date of access: 20.04.2011.

Robots in International Humanitarian Law: Contemporary challenges

*Вендина Д. А., Мониц М. А., Талеренок А. В., студ. IV к. БГУ,
науч. рук. проф. Павлова Л. В.,
канд. юр. наук*

Changes in technology are the most effective drivers of changes in the Law of War. The use of military robotics represents a new era in warfare and a new challenge for community. The use of military robots is very common in our military today. Most of the military organizations used these robots to carry out different risky jobs. Many types of military robots are used on different purposes. To be called a robot the machine has to possess a minimum of autonomy. But there is a controversy of autonomy that the robots possess. How can they be controlled? How do we want them to interact with humans? And the point that they are able to kill is a good thing or not?

It is anticipated that unmanned systems will work together or even replace human soldiers on the battlefield. However, it needs to be identified whether the use of robots is fair and ethical in respect of the rules of International Humanitarian Law.

Undoubtedly, robots can save lives of combatants and take over their functions so they can effectively serve as an essential part of army, however robots can not be defined as legal means and methods of warfare as its existence can not comply with the provisions of modern Law of Armed Conflict.

First of all, the use of any weapon (in particular robots) is subjected to the general rules of customary and international law of armed conflicts; its application should be lawful and respond to the principles of distinction, prohibition of unnecessary sufferings and principle of proportionality in international humanitarian law. Robots are not able to act in accordance with the principle of proportionality and selective targeting. There is an extremely high risk that civilians, wounded and not intended targets can be destroyed.

Even the 1868 Declaration of St. Petersburg fixed the prohibition on the use of certain types of ammunition and stated the existence of the technical limits at which the necessities of war ought to yield to the requirements of humanity.

In accordance with Article 36 of the Geneva Convention Additional Protocol I (1977) States have an obligation to assess whether the weapon is legal beforehand: “In the study, development, acquisition or adoption of a new weapon, means or method of warfare, a High Contracting Party is under an obligation to determine whether its employment would, in some or all circumstances, be prohibited by this Protocol or by any other rule of international law applicable to the High Contracting Party”. Thus, before applying autonomous weapon systems, like robots, States have to determine whether they comply with the provisions of IHL. It means that any autonomous weapon that fails to discriminate between legitimate and illegitimate targets and produces long-lasting impact on the environment and intends to cause maximizing injuries is illegal.

Can robots accomplish of military objectives when their incapability to do this is compounded with the disproportionate loss of civilians? Any kind of robotic technology and robots itself should be applied to selected targets, because there is always a high risk that the target that must be destroyed is surrounded by not involved in hostilities civilians, wounded and not intended targets. Robots should be responsible for the deaths of many unintended victims, leading to serious questions about whether they may be used consistently under the principle of proportionality in international humanitarian law.

All precautions should be taken under consideration before committing the attack no matter what the target is.

In international law there is no legal right to resort to attack by robots. The institute of responsibility in IHL can be applied exclusively to the person that has consciously committed unlawful action. Robots can not be prosecuted and therefore they can not be subjected to the punishment as human beings. Any hostilities and armed conflicts should be waged in accordance with legally acceptable methods and means of warfare. Robots are the products of technology, artificial machines, thus they can not carry any kind of responsibility. Robots can not perform legal obligations under IHL.

People must clearly understand that the decision about life and death will be made by these machines on the battlefield without humans. It will breach the main goal of IHL – providing the legal protection of the most vulnerable social groups during armed conflicts and will raise the number of casualties.