



National Quaker Peace & Legislation Committee

Submission: Inquiry into the Department of Defence Annual Report 2022-2023

As Quakers we seek a world without war. We seek a sustainable and just community. We have a vision of an Australia that upholds human rights and builds peace internationally, with particular focus on our region. In our approach to government we will promote the importance of dialogue, of listening and of seeking that of God in every person. We aim to work for justice and to take away the occasion for war.

The National Quaker Peace & Legislation Committee represents the Religious Society of Friends (Quakers) in Australia. We undertake to articulate the concerns and priorities of Quakers to the Australian Government.

One of the key themes of the Inquiry's focus is artificial intelligence and autonomous weapons-related issues, including the need to account for and address relevant moral, legal and ethical matters.

Our concerns around the role and increasing use of artificial intelligence (AI) and Autonomous Weapons commenced in the mid-2000s. The Quaker United Nations Office (QUNO) has held observer status at the United Nations since 1948, with offices in both Geneva and New York City. In November 2014, QUNO hosted a forum in Geneva entitled *New Warfare Challenges: Drone Operations and Protection of Civilians*. The forum involved representatives of sixty countries and non-governmental organisations. This forum was followed by Quakers in Australia, prompting individual actions and awareness-raising nationally.

Artificial intelligence

The 2020 Australian Human Rights Commission report, *Using artificial intelligence to make decisions: addressing the problem of algorithmic bias*, defines such bias as an 'error associated with the use of AI in decision making...[which] can arise in many ways...[it] can result in unlawful activity...there is a legal imperative to address this risk' (AHRC, 2020:5). While this report focused on algorithmic bias to cause 'real harm' through discrimination based on race, age, sex or disability, similar ethical concerns have been raised about the use of AI in weapons systems.

The director of the US Cybersecurity and Infrastructure Security Agency Jen Easterly 'warned that artificial intelligence may be the most powerful weapon of our time' (International Red Cross, 2023). While the most obvious use of AI in military systems is autonomous weapons, AI is used in a range of other decisions during armed conflicts and is the focus of this article.

Three key points are considered as problematic. First, system limitations and their vulnerability to being 'tricked' into misclassifying data and the potential for compounding errors leading to unpredictable behaviour. Second,

automation bias where humans do not critically challenge a system's information or output. "In 2003, the US Patriot system twice fired at friendly coalition aircraft based on them being misclassified as attacking missions. In a subsequent investigation, one of the major shortfalls identified was that 'operators were trained to trust the system's software'". Third, increased tempo of decision-making, frequently promoted as a military asset, 'often creates additional risks to civilians....' by removing the time needed to identify human behavior and activity patterns and develop more options.

Autonomous weapons

Even with sophisticated artificial intelligence, autonomous weapons lack necessary human judgment to weigh up the balance of civilian harm and military advantage – especially complicated in situations where military personnel and civilians are indistinguishable.

The question of accountability has yet to be resolved. While a machine may not be held responsible, neither can the person who operates an automated weapon functioning autonomously. The resulting gap undermines international criminal law. Some scholars argue that under tort law the manufacturers also can't be held legally responsible. Loitering munitions increase this accountability gap. The weapons' ability to autonomously hover over conflicts waiting to attack when they sense a target, removes even more human opportunity to divert engagement, or accept responsibility for civilian deaths. Stressing human responsibility, the Chinese Government insisted that 'humans are the ultimately responsible entities' (*Ethical Norms for a New Generation Artificial Intelligence* 2021).

In the abstract to his paper, *Lethal Autonomous Weapons System: Can Targeting Occur Without Ethical Decision-Making*, LCDR Andrew M Coffin JAGC USN, writing from the US Naval War College, states: '...the use of lethal autonomous weapons crosses a moral line ...when [they] are given ethical agency to make life or death decisions free of human input'. This opinion, coming from a Naval Judge Advocate General's Corps Lieutenant Commander, is not dissimilar to points raised by international human rights organisations and advocates.

While some countries support existing nonbinding rules on autonomous weapons, others, most notably Russia, oppose any action to regulate their use.

In 'A policymaker's introduction to Ethics and Artificial Intelligence', James E Baker points out that 'sound ethical codes and principles can help to identify professional concerns before they become legislative concerns' (2021:9). At the same time he notes that ethical codes alone are insufficient: many codes are not binding, they are often too general to effectively guide, and where they are binding, they 'reflect the lowest common denominator of agreement' (Ibid.19)

Non-binding agreements and ethical codes of conduct are simply not sufficient, especially given the increased use and killing capability of the autonomous weapons systems.

We were heartened to learn that on 12 October 2023 the United Nations General Assembly accepted a resolution on lethal autonomous weapons systems (A/C.1/78/L.56). Australia's 'yes' vote is appreciated. Item Two of the resolution seeks the views of Member and Observer States on lethal autonomous weapons systems and the issues they raise from the humanitarian, legal, security, technological and ethical perspectives. We assume that this Inquiry is, at least in part, the Australian Government's effort to satisfy this request. The statement by Egypt's representative, 'an algorithm must not be in full control of decisions that involve killing or harming humans' summarizes the importance of this topic.

We believe, like many others, that moving this debate into the UN's General Assembly broadens the perspectives beyond those countries which manufacture (often for significant financial gain) and deploy autonomous weapons.

We support the joint appeal by the United Nations Secretary-General and the President of the International Committee of the Red Cross for the urgent establishment of new 'international rules on autonomous weapons systems, to protect humanity' by 2026 (UN press release 5 October 2023).

We strongly encourage the Australian Government to take a leadership role in developing the necessary legal and practical protocols for international rules on autonomous weapons systems. To support the Government, we suggest re-establishing the 1980s National Consultative Committee on Peace and Disarmament to develop productive dialogue between non-government organisations and relevant Government departments. This would be similar to the NGO Forum on Human Rights and the Working Group on the Death Penalty, both of which are facilitated by the Department of Foreign Affairs and Trade. QPLC is a member of both of these consultative processes and we would be happy to discuss this proposal with DFAT, other departments or Parliamentary Offices.

Thank you for this opportunity to contribute to the Government's Inquiry on critical national security issues.

Submitted by

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