# Article36

APPROACHES TO TECHNOLOGY AND POLICY: INTERNATIONAL STANDARDS AND ADDRESSING DRONES IN THE USE OF FORCE

States have, over recent decades, multilaterally agreed a range of international arms control and disarmament agreements that aim to address humanitarian or security concerns associated with specific sets of weapons technologies. This range of approaches should offer lessons and examples towards developing an effective international response to the issues raised by the deployment of remotely operated drone technologies in the use of force.

This paper seeks to contribute towards the goal of addressing the humanitarian and international norm-based concerns that have emerged around the use of these drones[1] by assessing the value of weapons-focused approaches to humanitarian and security problems, and considering the different ways in which existing agreements operate to define, and respond to, the problems they focus on.

Following a consideration of the advantages and challenges of a weapons-focused approach to drones, this paper looks at: the range of ways different international agreements frame the problems they respond to; the types of political and legal documents that are agreed; the ways in which implementation and enforcement of these agreements can be approached; the relationship between new agreements and existing law; and the issue of how inclusive agreements and processes should be in order to be effective.

A drone flown by Israeli soldiers trying to intercept Palestinian kites and balloons loaded with flammable materials is pictured in an area where such devices have caused blazes on the Israeli side of the border between Israel and the Gaza Strip, near Kissufim, Israel, June 5, 2018. REUTERS/Amir Cohen
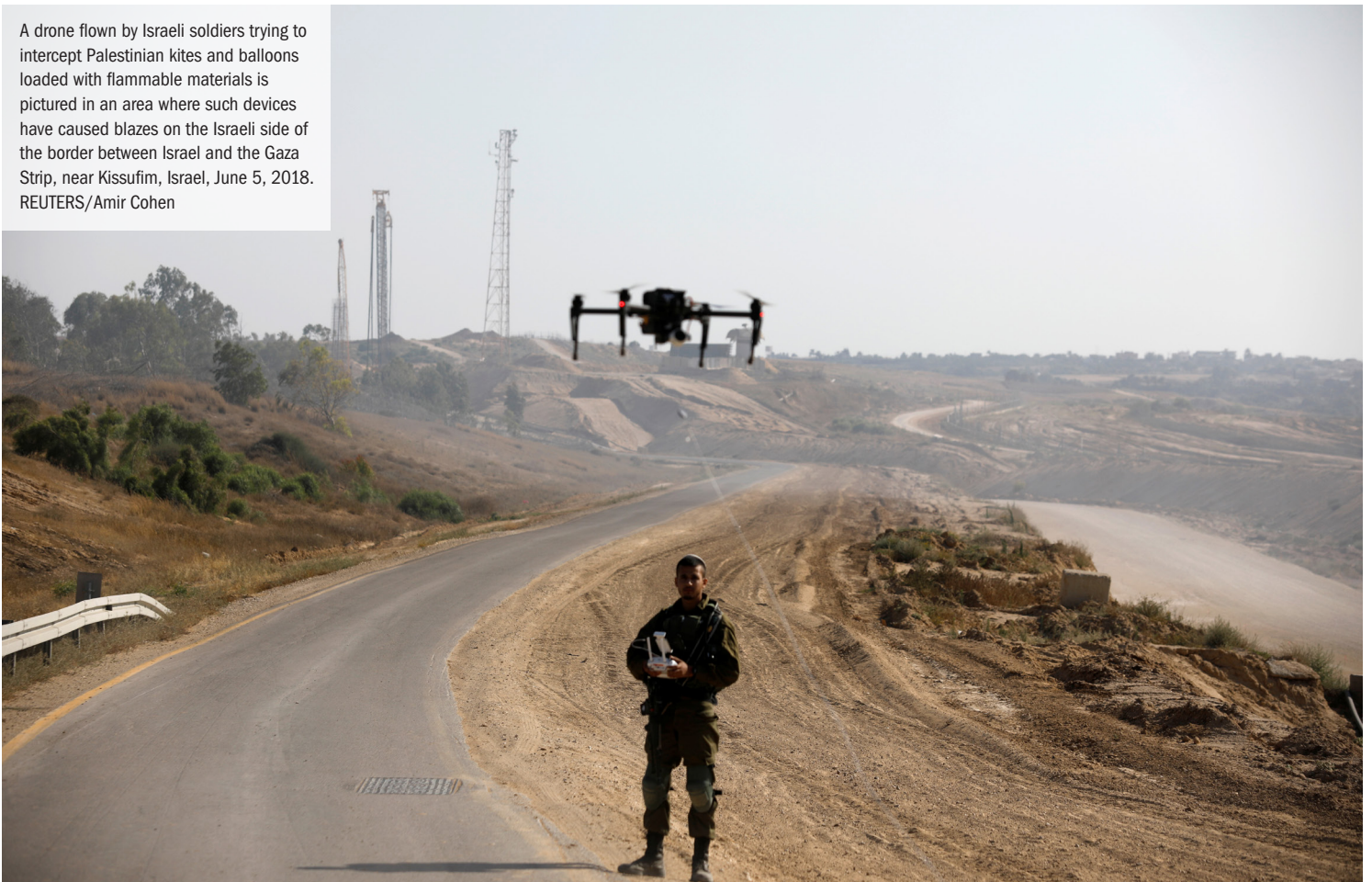
This paper does not propose the form any potential international agreement on drones should ultimately take: an international response to these issues could take many avenues, including the clarification of national policies, practices and legal positions, and/or an international legal or political agreement between states. Instead, it aims, by examining the range of approaches that have been taken to different weapons technologies, to help states and others to conceptualise the issues raised by the emergence of drones in the use of force. Though looking at legal as well as political agreements, it is not intended to be a legal analysis.

Multilateral arms control and disarmament agreements, whether politically or legally binding, generally range from those that prohibit a whole set of technologies (for example, anti-personnel landmines), to those that seek to restrict the spread of weapons to what the agreements have defined as the wrong hands (as for example the Arms Trade Treaty does in part). Agreements that lie somewhere in between may seek to restrict particular types of use, or use in certain places (as for example incendiary weapons are treated under the Convention on Certain Conventional Weapons' Protocol III).

With drones, a nuanced approach will likely be needed. Whilst drone warfare so far may represent a novel type of violence, with specific impacts on affected communities (resulting for example from drones' constantly threatening over-flight), the challenges do not relate to the likelihood of force being applied indiscriminately, nor to the general problem of the accumulation of arms that some previous international agreements have sought to address.

Drones represent a significant development in weapons technology, through the new capabilities they make available to states and others, such as surveillance, persistence, and lack of physical risk to the attacker. These raise security and stability concerns around potential lowered thresholds for the use of force and a lack of shared understanding between states as to how drone incursions should be interpreted. They also carry significant humanitarian and human rights implications. When examining the use of armed drones by certain states thus far, it is clear that these unique technological features have enabled activities that have, in turn, been harmful to communities and to international norms in the use of force. Unsound legal and political justifications have then been applied to these activities. The key problem with drones lies at this intersection of risky technological potentials and the erosion of norms, which both need to be addressed.[2]

Given this, an international response to armed drones focussing only on restrictions and good practice in their export or transfer will not be a sufficient response – though it is undoubtedly important.[3] States must find a way to move beyond this, to more specifically define and reinforce the legal and normative boundaries that should govern where and how it might be acceptable for drones to be involved in the use of force – if such a role is to be accepted at all. The case has been made for the prohibition of armed drones as inhumane, unaccountable and dangerous tools of remote violence.[4] Ultimately however, an effective and politically feasible response from states may currently lie somewhere between such a prohibition, and attempts to control the proliferation of drone technologies for the use of force.[5] International agreements on weapons can proceed from the objective of addressing unacceptable humanitarian or other harms, or from the perspective of state security and maintaining

balances of power.[6] For the issue of drones in the use of force, states should focus on a response focused on addressing harm, rights and the protection of communities.[7]

THE VALUE OF CONSIDERING DRONES AS A WEAPONS ISSUE

Arms control and disarmament instruments are based on an assertion of the significance of certain technologies. This can be linked to the problematic characteristics, potentials, or uses of particular sets of weapons technologies (or sub-sets of these technologies), and the effects that these have on people and places, or on concepts of peace, security and stability.

More than fifty states have already endorsed an international agreement that asserts the significance of "armed or strike-enabled unmanned aerial vehicles (UAVs)" as a set of technologies: in 2016 the United States led the publication of a political declaration that outlined general principles pertaining to the "responsible export and subsequent use" of these drones.[8] The declaration is framed around containing the implications of the growing proliferation of these technologies among states, focussing on the destabilising potentials of their misuse, and so the need for export to be guided by existing international principles, transparency and confidence building – whilst not interfering with states' commercial and security interests.

This initiative has significant weaknesses and limitations – including the vagueness of the principles outlined; their weakness in comparison to recently developed standards, such as those contained in the Arms Trade Treaty; the restriction of the scope to export and future recipient users, to the exclusion of current use and indigenous producers; and the fact that it is being led by the state whose use of drones has the caused most concern, harm and controversy so far, and so who might not be considered in the best position to help define 'responsible use.'[9]

Nevertheless, the declaration's concern with 'proliferation' demonstrates that at least some states recognise armed drones as a significant development in weapons technology that may have specific implications.[10] Concern about proliferation implies that the technology itself presents particular challenges: otherwise, general existing rules and regulations that apply to all weapons might be considered adequate to deal with a proliferating technology.

Addressing drones as a weapons technology gives states the opportunity to identify and respond to the specific risks these technologies pose, and the harms they have caused or could enable. At the same time, it can also provide states with the opportunity to strengthen support for international norms around the use of force that provide greater protection to communities more broadly, through clarifying and reaffirming how these apply to drones specifically.

There are additional logistical advantages to an arms control or disarmament approach to drones. It offers established international forums and treaty frameworks within which to pursue discussions,[11] notwithstanding the potential for issue overload or congestion. Considerable expertise on disarmament issues already exists within the UN system, amongst a large civil society community, and amongst state representatives who specialise in this area.

Weapons-specific approaches do, however, also have limitations. Much of the concern that has been raised about drone use, for example, has centred on the interpretation of the law by user states – criticisms that can apply equally to other tactics in their counterterrorism campaigns. While contributing to broader standard setting, an international response to drones cannot address all of these issues directly. Similarly, international responses to particular weapons technologies can tend towards the exclusion of uses in law enforcement contexts and human rights from the agenda, and towards a focus on armed conflict.[12] This would be important to avoid with drones, where the attempted erosion of the legal boundaries between armed conflict and other contexts has been a key issue. Furthermore, a focus on drones as a weapons technology cannot directly resolve the complex political issues and conflicts that current drone use sits within, nor the global power dynamics that make non-proliferation and containment strategies appear more attractive to some states than addressing the root causes of these conflicts.

Despite these limitations, weapons-focussed approaches can make a contribution within a complex global landscape by tackling specific aspects of the problem and contributing to broader norm building, making use of existing forums and established ways of working. Deploying these international resources to the issue of drones would have significant value, including in the context of wider questions around how new technologies are shaping states' use of force, and how the international community can effectively monitor, regulate and control these developments. The international policy landscape is currently not keeping pace with developments in technology and use – and drones have not yet seen significant international discussion on the level of general principle (rather than a focus on the conduct of particular states) about what their role should be.

HOW WEAPONS AGREEMENTS FRAME THE PROBLEMS THEY CONTROL

Multilateral agreements responding to arms issues frame and draw the boundaries around the systems that they seek to control in different ways.[13] The way the problem is stated, in turn, supports and informs the type of solution that is offered and agreed in the instrument. A spectrum of approaches can be observed,[14] whereby states may decide that certain weapons are a 'problem' for the sake of an international agreement for the following reasons:[15]

1. Availability to undesirable users
Preventing access to weapons by "unauthorised" end users and for "terrorist acts" is part of the stated problem with the global trade in all conventional weapons that the Arms Trade Treaty (ATT) aims to respond to, for example. The ATT recognises the right of states to trade arms. Non-state armed groups are often considered to be undesirable users by states.

2. Availability to states beyond a certain group, or to some definition of 'too many' states
A key measure agreed in the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), was to prevent the spread of these weapons of mass destruction after the date of the agreement, at which point five states were in possession of them. This represented a prohibition to "non-nuclear weapon states," and a prohibition on transfer and a commitment to disarmament for other states. The NPT remains a very important measure for addressing the danger nuclear weapons pose to all. However, a central tension in 'non-proliferation' approaches today is why, rather than being restricted for all states, problematic technologies should be available to some – who see themselves as having particular security interests or important global roles – but not others.

3. Availability that might enable already unacceptable practices/uses
The Hague Code of Conduct on Ballistic Missile Proliferation focuses on preventing access to systems that can be used to deliver weapons of mass destruction – around which there are already international taboos. The ATT also seeks to prevent exports where end uses may be illegal or undesirable. Due to their scope, these kinds of agreements do not address current possessors' abilities to carry out unacceptable practices with the same weapons.

4. Unintended harms from use need to be mitigated
Protocol V to the Convention on Certain Conventional Weapons (CCW) aims to "minimise the risks and effects of explosive remnants of war in post-conflict situations." It requires states to undertake clearance activities and protect populations, and also to undertake documentation/recording of weapon use and assist victims.

5. Certain types or subsets of a technology are seen as particularly problematic
Protocol II to the CCW, and the more recent Amended Protocol II, contain very detailed specifications of the exact types of mines and booby traps they prohibit. These include those disguised as harmless objects, mines that are undetectable, or those that are activated by mine detectors. Many states found the technical specification approach of AP II insufficient to deal with the overarching humanitarian problem of anti-personnel landmines, leading to the negotiation of the Anti-Personnel Mine Ban Convention. This prohibited these technologies as a whole.

6. Use in certain places is seen as particularly problematic
The use of incendiary weapons in populated areas or "concentrations of civilians" is the main problem addressed in CCW Protocol III, which also addresses the problematic nature of incendiary attacks on forests or "plant cover." Protocol III prohibits attacks on targets with air-delivered incendiary weapons in concentration of civilians, and of attacking targets in concentrations of civilians at all unless these are "clearly separated" from civilians.[16] Place also features in AP II, with the use of otherwise prohibited technologies permitted within a "perimeter-marked area" controlled by a state, and restrictions placed on use in "concentrations of civilians." The use of mines in the sea or waterways is excluded from the scope of Protocol II.

7. The weapon is not acceptable in particular contexts defined in other ways, such as the legal context

Legal context can affect states' choices in the tools employed in the use of force. For example, explosive weapons are rarely used, though not explicitly prohibited, in policing.[17] The permissibility of certain weapons in different legal contexts can also feature in treaties. Riot control agents are widely used in policing for example, but are prohibited for use in war by the Chemical Weapons Convention. The amendment of the CCW in the early 21st century saw its scope expand to cover Non-International Armed Conflicts as well as International Armed Conflicts.

8. The whole set of technologies is seen as unacceptable in the use of force

A number of treaties prohibit an entire category of weapons, such as anti-personnel landmines, or cluster munitions (whose treaties also contain positive obligations for land clearance and the assistance/rights of victims). Though categorical, these prohibitions may exclude related technologies by the definitions they use, or through the category they adopt (for example, other landmines are not addressed by the anti-personnel mine prohibition). Categorical prohibitions may also need to manage issues around when certain substances might be considered to meet the definition of a weapon, as the Biological and Toxin Weapons Convention does.

This range of approaches is relevant to consider with respect to drones. States may wish to take an approach to addressing acceptable use that is based on considering different factors of context or place for example, in addition to looking at questions that are already emerging in international discussion regarding the availability of the technology to different users.

THE RANGE OF LEGAL AND POLITICAL RESPONSES

International agreements addressing weapons issues can take a variety of forms. It is beyond the scope of this paper to give a detailed assessment of what the efficacy of different approaches have been so far, and the factors that may have informed different levels of success. Rather, the approaches seen in the texts of different agreements are discussed here for consideration.

States may negotiate international legal agreements that place prohibitions or restrictions on what has been deemed problematic. These often contain certain caveats or explicit descriptions of permitted activities. A range of politically binding responses also exists. These include regulatory regimes that define common objectives and good practices, and other political instruments such as declarations that can serve broader goals and offer statements of principle.

Political commitments can, broadly, be divided in to declarations, regulations, guidelines and manuals.[18] 'Manuals' are longer documents giving technical guidance and stating the law; 'regulations' are politically binding but may resemble treaties more closely in how they are written; 'guidelines' can help to clarify existing law and its application, and establish progressive standards; and 'declarations' are generally more broadly worded and can leave a reasonable amount of discretion to states in how they should be implemented. These different types of instrument can interact – for example, a declaration can lead to the elaboration of more detailed regulations, or can refer itself to the implementation of guidelines.[19]

Implementation and enforcement

Two main approaches were seen for encouraging or ensuring the implementation of provisions in the international arms control and disarmament instruments analysed for this paper. These are, first, a reliance on strong norm setting, and the power of international political pressure, stigma and taboo in encouraging compliance from states. Concepts of responsibility, and adherence within a community of states with common goals, may also be important to agreements that operate on this basis. Such an approach is seen strongly in the text and operation of the Anti-Personnel Mine Ban Convention, for example. This is framed as a positive effort by states to confront a collective moral and humanitarian problem, and it invites and seeks to benefit from scrutiny by civil society.

A second approach in agreements is to rely on detailed systems of verification, and other methods of practical enforcement and sanctions, using highly elaborated provisions. The Chemical Weapons Convention, or the agreements that states conclude with the International Atomic Energy Agency, are examples of this approach. This operates partly on the assumption that states might find value in 'cheating' the regimes. Agreements may also contain elements of both of these broad approaches to compliance and implementation. Differences in approach may be informed by how much a technology or practice is seen as still desirable, despite the restrictions being put on it.

A woman listens to speakers below a model of a drone at a demonstration to protest overseas wars the United States is involved in and actions of U.S. Republican presidential candidate Donald Trump in New York, March 13, 2016, REUTERS/Lucas Jackson

Whichever general approach is taken, political and legal agreements also rely on tools such as regular meetings for review, transparency reports, institutionalisation through bodies such as secretariats, and the promotion of national implementation measures. These tools can help to advance the goals of international instruments by ensuring that work continues beyond the agreement of a political or legal document.

NEW AGREEMENTS AND EXISTING LAW

States have, on occasion, put forward an argument that addressing specific weapons systems with new agreements could be dangerous or confusing for the existing international legal regime. Alternatively, they may argue that a new agreement that goes beyond reiterating a specific legal interpretation is the wrong response, if merely the correct application of the law is needed to address a problem.[20] Some states have stated that existing law is adequate to deal with drones, as these technologies should be subject to the same legal considerations as other weapons.[21]

Many of the agreements examined for this paper make substantial and explicit references to existing law and how the new agreement builds on and fits in to the international legal regime, in order to avoid these issues. None represented any rejection of applicability of the wider legal framework. Danger or confusion with existing law would only

generally result if a new instrument sought to set lower or weaker standards than those previously considered applicable.

New agreements can enable the collective clarification of obligations in relation to specific practices or technologies where these may have been unclear, or where there may have been disagreement in interpretation or inconsistent application of the law between states. Patterns of harm have persisted with technologies that states had not initially considered inherently problematic or indiscriminate under existing laws, such as cluster munitions. This has led to the agreement of new, stronger standards to fill the legal gap. New agreements should seek to strengthen the overall framework and shape practice towards greater protection and security, through addressing specific systems and the issues they raise. This should not lead to fragmentation.

Finally, concerns are often raised over the problem of dual use or 'peaceful uses' of technologies, and the possibility that these may be undermined by agreements on the role of particular technologies in the use of force. A number of international agreements, including the biological and chemical weapons conventions, explicitly reference and deal with these issues in order to minimise the possibility of technical problems or the restriction of scientific research that may be beneficial to humanity.

INCLUSIVENESS AND INTERNATIONAL STANDARD SETTING

Inclusion, participation and how decisions are reached (for example, by consensus or otherwise) are political issues in international arms control and disarmament forums. Any new process should consider these.

An important question for any new international agreement on a weapons issue is how widely adopted it should be, or whether it must include certain states (such as the biggest users and producers), to be effective. There are currently no international weapons agreements that are endorsed by every country. However, this does not mean that progress has not been made amongst states parties to these agreements, or even states outside them. Many states that do not join particular agreements – even major users and producers – can still feel political pressure to conform to changes in the international regulatory environment, and the behavioural standards these set. This may be due to the positions of their allies, or in order to uphold their international standing in the context of increased stigma around certain behaviours or technologies.[22] Agreements that set clear standards even without the participation of all states, or without consensus agreement, can still be highly valuable to strengthening international norms.

In terms of which countries and other stakeholders should be included in the generation of international agreements, the consideration of issues of global concern such as the future of the use of force must arguably be open to all states and to others such as industry, civil society, and international organisations. These conversations should not be limited to states considered the most powerful, or the main users, producers, or likely future adopters of the technologies in question. A broader range of states and others have a stake in the implications of new technologies in the use of force, even if they will not have access to them. Research by Article 36 showed a clear pattern of the underrepresentation of lower income countries in multilateral processes dealing with disarmament and weapons issues, despite these countries often being more likely to be negatively affected by the trade and use of the systems under discussion.[23] States should carefully consider how a broad and inclusive conversation could be built to address the issues that new developments in weapons technologies raise.

CONCLUSION

With a greater number of states now acquiring drones for use of force purposes, the international community has an opportunity to set clear standards around drone technologies. Any international process to explore the role of drones in the use of force should be inclusive. It must go beyond addressing issues of responsible transfer, and necessary processes for accountability for past use, towards defining what the limits are to the acceptable uses of these technologies. In building such a conversation, it may be helpful to consider how humanitarian and security problems arising from the use of other weapons systems have been defined and controlled.

The restatement by states of their commitment to international law, and pressure on certain users of drones, has not so far succeeded in ending practices that have caused harm in communities and to international norms. This has broad implications for the control of violence internationally, as well as for democratic control and oversight, and the rights of victims and their communities. Addressing the role of drone technologies in the use of force would give states the opportunity to help strengthen international norms, whilst addressing the particular implications of the technologies themselves, using available international forums.

Taking as a starting point the harm current drone use is causing in communities, states should consider what trends they wish to prevent, and how a response might therefore be described. This could address in specific terms issues such as the limits and acceptable scope of military use and surveillance practices; how the rights of victims and the recording of casualties can be ensured; and how transparency, accountability and oversight procedures can be developed in order to help mitigate the risks of unacceptable practices and lowered thresholds for the use of force. International action is urgently needed to address harm already caused, and to prevent unacceptable patterns of harm in the future.

ENDNOTES

1 For an overview of the issues and next steps that could be taken, see Article 36, 'Drones in the use of force: A way forward,' 2018 http://www.article36.org/publications/

2 For further discussion, see 'Drones in the use of force: A way forward.'

3 And the applicability of the Arms Trade Treaty to drones should already be recognised: Rachel Stohl and Shannon Dick, 'The Arms Trade Treaty and Drones,' Stimson Center 2018 https://www.stimson.org/content/arms-trade-treaty-and-drones

4 See for example the in-depth research and analysis produced Drone Wars UK, https://dronewars.net/role-and-aims/; see also the 'Ban Weaponized Drones' campaign supported by over fifty organisations https://act.rootsaction.org/p/dia/action/public/?action_KEY=6180

5 The many other non-military applications of drone technologies - from photography to agriculture - are not discussed in this paper. It is not considered that these would be affected by any international agreement on limits to the role of drones in the use of force, if this was well constructed

6 See Bonnie Docherty, 'Ending Civilian Suffering: The Purpose, Provisions, and Promise of Humanitarian Disarmament Law,' Austrian Review of International and European Law 15: 7-44, 2010

7 For an elaboration of the different aspects of the harm caused by drones in the use of force, see Women's International League for Peace and Freedom, Pace University and Article 36, 'The Humanitarian Impact of Drones,' October 2017 https://bit.ly/2NOc7kT

8 The declaration was endorsed by 53 states. US Department of State, 'Joint Declaration for the Export and Subsequent Use of Armed or Strike-Enabled Unmanned Aerial Vehicles (UAVs),' October 2016 https://www.state.gov/t/pm/rls/fs/2017/274817.htm

9 For a further elaboration of concerns about this initiative, see Article 36, 'Joint civil society statement on US-led drone export initiative,' http://www.article36.org/updates/joint-statement-standards-sep-17/ endorsed by twenty civil society organisations

10 A range of states have also recognised the variety of other challenges posed by drones, through statements to international forums. For an overview of state discourse on armed drones at the UN General Assembly First Committee in recent years, as well as the Human Rights Council during 2014, see Article 36's mapping of statements, last updated July 2018 http://www.article36.org/wp-content/uploads/2018/09/Mapping-UN-and-state-activitiy-on-armed-drones-July-2018.pdf

11 For a summary of the international mechanisms through which the issue of drones could be discussed, see UNIDIR, 'Increasing Transparency, Oversight and Accountability of Armed Unmanned Aerial Vehicles,' 2017 https://bit.ly/2s2CJVl

12 This can be seen in for example the main focuses of discussion on autonomous weapons at the Convention on Certain Conventional Weapons currently, following its original treatment through UN Human Rights mechanisms

13 For a detailed compilation and analysis of information on the regulation of weapons under public international law, see Geneva Academy of International Humanitarian Law and Human Rights, 'Weapons Law Encyclopedia,' 2017 http://www.weaponslaw.org

14 The agreements analysed for this paper were: 'The Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare,' 1925 http://disarmament.un.org/treaties/t/1925/text; 'Antarctic Treaty,' 1959 http://disarmament.un.org/treaties/t/antarctic/text; 'Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction,' 1997 http://disarmament.un.org/treaties/t/mine_ban; 'Arms Trade Treaty,' 2013 http://disarmament.un.org/treaties/t/att/text; 'Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction,' 1972 http://disarmament.un.org/treaties/t/bwc/text; 'Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction,' 1993 http://disarmament.un.org/treaties/t/cwc/text; 'Comprehensive Nuclear-Test-Ban Treaty,' 1996 http://disarmament.un.org/treaties/t/ctbt/text; '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) 1980 http://disarmament.un.org/treaties/t/ccwc/text; 'Amendment to the CCW,' 2001 http://disarmament.un.org/treaties/t/ccwc_a1; 'Protocol on Non-Detectable Fragments (Protocol I to the CCW),' 1981 http://disarmament.un.org/treaties/t/ccwc_p1/text; 'Protocol on Prohibitions or Restrictions on the use of Mines, Booby Traps and Other Devices (Protocol II to the CCW),' 1981 http://disarmament.un.org/treaties/t/ccwc_p2/text; 'Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Amended Protocol II to the CCW),' 1996, http://disarmament.un.org/treaties/t/ccwc_p2a/text; 'Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III to the CCW),' http://disarmament.un.org/treaties/t/ccwc_p3/text; 'Protocol on Blinding Laser Weapons (Protocol IV to the CCW),' 1998 http://disarmament.un.org/treaties/t/ccwc_p4/text; Protocol on Explosive Remnants of War (Protocol V to the CCW),' 2003 http://disarmament.un.org/treaties/t/ccwc_p5/text; 'Convention on Cluster Munitions,' 2008 http://disarmament.un.org/treaties/t/cluster_munitions/text; 'Treaty on the Non-Proliferation of Nuclear Weapons,' 1968 http://disarmament.un.org/treaties/t/npt/text; 'Treaty on the Prohibition of Nuclear Weapons,' 2017 http://disarmament.un.org/treaties/t/tpnw/text; 'Missile Technology Control Regime,' 1987 http://mtcr.info; 'The Wassenaar Arrangement On Export Controls for Conventional Arms and Dual-Use Goods and Technologies,' 1996 https://www.wassenaar.org; 'The Hague Code of Conduct against Ballistic Missile Proliferation (HCOC),' 2002 https://www.hcoc.at; 'Joint Declaration for the Export and Subsequent Use of Armed or Strike-Enabled Unmanned Aerial Vehicles (UAVs),' 2016 https://www.state.gov/t/pm/rls/fs/2017/274817.htm; 'UN Programme of Action on Small Arms,' 2001 https://www.un.org/disarmament/convarms/salw/programme-of-action/

15 This should not be treated as an exhaustive list

16 Protocol III has not yet been sufficient to fully address the horrific humanitarian impact of incendiary weapons. For latest documentation and analysis, see Human Rights Watch, 'Incendiary Weapons,' n.d. https://www.hrw.org/topic/obychnye-vooruzheniya/incendiary-weapons

17 See for example Article 36, 'Explosive weapons: Protecting civilians from the use of explosive weapons in populated areas,' 2018 http://www.article36.org/wp-content/uploads/2018/09/EWIPA-report-2018-A36.pdf

18 According to Human Rights Watch and the International Human Rights Clinic at Harvard Law School, 'Making a Commitment: Paths to Curbing the Use of Explosive Weapons in Populated Areas,' 2015 https://www.hrw.org/news/2015/06/19/making-commitment See this paper for an analysis of the types and modes of operation of different political commitments

19 ibid

20 This observation is based on Article 36's work on a range of different weapons issues over the years

21 See for example 'UK Statement on UNGA Report of the Special Rapporteur on extra-judicial, summary or arbitrary executions, Christof Heyns,' 2014 https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/26thSession/Pages/OralStatement.aspx?MeetingNumber=9&MeetingDate=Thursday,%2012%20June%202014

22 This has been argued in the context of the Anti-Personnel Mine Ban Convention, for example, where most states that are not party are in de facto compliance with the treaty, as documented by the Landmine Monitor http://www.the-monitor.org.

23 See Elizabeth Minor, 'Disarmament, development and patterns of marginalisation in international forums,' Article 36, 2016 http://www.article36.org/wp-content/uploads/2016/04/A36-Disarm-Dev-Marginalisation.pdf