

Title: Curb your banphobia: It's critical to ban killer robots now!

A proposal Submitted to

TOGETHER FIRST

“A Global System That Works For All”

1. Introduction

It is critical to ban killer robots because they are, indeed, **a global catastrophe risk**. It is fundamental to do so **now** because there is no time. Killer robots are robotic weapon systems that once activated, are able to make decisions as to who to harm or kill without any further human intervention. In January 2020, the United Nations (UN) Secretary General, Antonio Guterres, identified killer robots as **one of the current main threats to international security** and maintains that they are morally repugnant and should be banned by international law.

The need for a legally binding instruments prohibiting the development and use of killer robots is an urgent matter as there is a rapid development of enabling technologies. **African states have a critical role to play in the regulation of killer robots.**

Killer robots raise far-reaching legal, ethical and security concerns. On the legal front, killer robots cannot comply with international humanitarian law (IHL) and international human rights law (IHRL). **Killer robots will undermine the protections afforded to civilians and other protected persons.** If allowed to enter the battlefield, we lose any sense of humanity in war. The world as we know it today will never be the same – that is, if anything of it will remain.

Further, the use of killer robots will create an accountability gap in violation of international laws on responsibility. War crimes will characterise the battlefield, but **there will be no hands to cuff, only the victims of killer robots – in their thousands**

- will sprawl dead on the battlefield, their blood in the sand to be a permanent reminder to survivors that we failed to act when there was time.

Yes, humanity would have failed such victims because many are sounding the clarion note today: **It is morally unacceptable for killer robots to make decisions about who lives or dies.** Our humanity demands that we respect and value each other, regardless of our differences. In Africa, it is called the spirit of Ubuntu – our collective humanity. “I am because we are. We are, because I am”. To allow killer robots to come into this world is to cross the Rubicon and smash the holy grail of humanity.

Killer robots will make it too easy for States to use force, thereby undermining international peace and security. Their use will also have far reaching implications on the survivability and vulnerabilities of nuclear arsenals. Indeed, introducing killer robots to the world is like opening the Pandora box of world catastrophes.

More than 30 States, hundreds of NGOs, thousands of scientists, the African Group on Disarmament, the European Parliament and the general public have explicitly called for a ban on killer robots. The discussion on killer robots was first introduced in the UN Human Rights Council. However, States resolved that discussions on killer robots should occur within the framework of the UN Convention on Certain Conventional Weapons [UNCCW] which subsequently established a UN Group of Governmental Experts (UNGGE) on killer robots.

The UNCCW operates on consensus. For any form of regulation to be adopted, there has to be consensus among the High Contracting Parties. Since 2014, there has not been consensus among States on major issues relating to killer robots and progress has been very slow.

The Campaign to Stop Killer Robots (CSK) have criticised the UNCCW process on killer robots for “moving forward at a snail’s pace”. Recently, the Global Coordinator of the CSK, Mary Wareham, noted that “the incremental gains achieved to date [in relation to killer robots discussions in the UNCCW] are not impressive”.

In multilateral processes that are characterised by consensus in decision-making such as the current UNCCW process on killer robots, the political interests of

the mighty powers may overshadow common values that majority States seek to codify. The majority stakeholders – believing in the purity and inviolability of the values they seek to salvage in banning killer robots – are pitted against powerful States who are certain in the supremacy of their own cause.

Thus, while the current lack of consensus in the UNCW process on killer robots have been attributed to lack of shared definitions and common understanding of killer robots, the lack of consensus can be largely explained by diverging political interests in power politics and national security. Such political interests are rooted in the significance of killer robots to global power and dominance; national security and territorial sovereignty of smaller or less powerful States.

The current break down in multilateralism and strained geopolitics in the area of arms control makes it difficult to reach consensus on killer robots. In 2019 and early 2020, global powers like the United States have already walked back on commitments relating to nuclear weapons, anti-personnel landmines and cluster munitions.

Furthermore, in recent years, some delegations and diplomats have developed a ‘banphobia’ and anti-NGOs sentiments. NGOs are perceived by some stakeholders as hell-bend to take every weapon from the arsenals of States. There are States who view NGOs’ initiatives in disarmament as an attempt at usurping the States’ sovereign powers to make decisions in the international fora. This has led or at least intensified some States’ opposition to NGO’s initiatives in disarmament. In February 2020, Mark Perry notes, for example, that “landmines were never important to the military – until NGOs tried to ban them”. This feeling among some States and certain stakeholders negatively impacts on chances of consensus to ban killer robots. It is, indeed, a bitter-freezing winter for multilateralism on arms control.

Thus, given the UNCCW’s consensus rule, it is difficult, if not impossible, for a ban on killer robots to emerge from the current UNCCW process. Hope to avoid the potential global catastrophe of killer robots rest with majoritarian institutions like the UN General Assembly which can adopt a legally binding instrument outlawing killer robots.

This is where African regional bodies and African States can play an important role in mobilising and creating a **critical mass** calling for a ban on killer robots. African States have already played an important and similar role in the development and adoption of treaties such as the one on Nuclear Weapons.

2. Description of proposal

The proposal articulates practical strategies in finding a lead-country from Africa to champion the ban of killer robots by the year 2021. This proposal builds from the already existing outreach initiatives in Africa.

There has already been, and continued to be engagement with African States, African regional organs such as the Pan African Parliament [PAP] and the African Commission on Human and Peoples' Rights [ACHR] on the issue of killer robots.

The already existing working relationship between civil society and African States will be essential in steps towards a ban on killer robots. Prior engagement with the African Group on Disarmament in Geneva in 2017 and 2018 was fruitful. In 2017 and 2018, the African Group on Disarmament participated in the UN Group of Governmental Experts on Lethal Autonomous Weapon Systems and specifically called for a ban on killer robots.

3. Proposed strategies for implementation

In the history of multilateral disarmament, African states are more effective when they act as a block. The chances of a lead-state emerging from Africa are more likely when the regional block – the African Union and its organs – have taken a position on killer robots. Like the African proverb goes, "if you want to go fast, go alone; but if you want to go far, go together."

3.1 Implementation strategy

The strategy is to first get a strong position by the African Union bodies, namely, the Pan African Parliament [PAP] and the African Commission for Human and Peoples' Rights [ACHR].

a) Course of action 1 – Representations to PAP

There should be efforts to seek representations on killer robots in the upcoming sittings of PAP Permanent Committees sessions and Ordinary sessions in Midrand, South Africa.

- 27 February - 7 March 2020: Sittings of Permanent Committees, in Midrand, South Africa.
- 29 April - 16 May 2020: Ordinary Session, in Midrand, South Africa.
- 30 July - 8 August 2020: Sittings of Permanent Committees, in Midrand, South Africa.
- 8 - 24 October 2020: Ordinary Session, in Midrand, South Africa.

Of more relevance may be the PAP Committees on International Relations and Human Rights and Justice. The aim of the representations is to have a PAP resolution calling for a ban on killer robots, something similar to the 2018 European Parliament Resolution on killer robots. PAP, as the legislative body of the African Union, can also place the issue on the agenda of the African Union.

Prior discussions with PAP officials revealed willingness to cooperate on the issue of killer robots and it fits in the 2020 agenda of the African Union, namely, 'Silencing the Guns'.

b) Course of action 2: – Reach out to PAP parliamentarians

Engaging PAP should also include liaising with the six South African PAP members, namely Mr. M.J. Mahlangu, Ms. Suzanne Vos, Ms. Baleka Mbete, Ms. Fatima Hajaig, Ms. Sandy Kalyan and Mr. Julius Malema. PAP parliamentarians from South Africa also have the potential to take the agenda to the national South African Parliament.

There is also potential to liaise with other parliamentarians from Southern African countries, for example, the Deputy President of PAP from Zimbabwe, Chief Fortune Charumbira.

c) Course of Action 3: – Engage the African Commission for Human and Peoples' Rights [ACHR]

The ACHR is one of the more active and effective body of the African Union. It is important to engage the ACHR especially on the human rights implications of killer robots. Prior engagements with officials of ACHR have shown willingness to cooperate on issues of human rights and technology, including the issue of killer robots. The ACHR's Declaration on the Right to Life already gives reference to the need to maintain human control over emerging technologies on use of force.

d) Course of action 4: - Finding a lead-state

Once there is a strong regional position on killer robots, South Africa has a potential to be a lead-state on killer robots. South Africa is preferred because it is currently active in the killer robots discussions in the UN and cooperates with civil society in Africa.

3.2 Obstricals & solutions

First, since African States are not developing killer robots and many have no capacity to do so, there may be questions as to the relevance and urgency of the killer robots issue to Africa.

To **overcome** this, when engaging African States, it is important to emphasise that in the UN debate on killer robots, the voice of African States is critical, in particular, on issues relating to human dignity and the implications of killer robots on racial and gender discrimination. Furthermore, killer robots may be used against African States and their citizens.

Second, the issue of killer robots is highly technical and specialised; some African States may not have the technical capacity to participate in the killer robots debate. There may be limited accessible experts on killer robots from the African continent.

This can be **overcome** by offering technical support to relevant AU organs like PAP, ACHR and the African Group on Disarmament. Already, some experts from the civil society have been cooperating with African States on the matter.

4. Political willingness to ban killer robots in Africa

Prior engagement with African regional organs such as the Pan African Parliament [PAP] and the African Commission on Human and Peoples' Rights [ACHR] on the issue of killer robots have shown that there exists political willingness to engage on the issue of killer robots.

For example, engagement with the African Group on Disarmament in Geneva in 2017 and 2018 showed political willingness on the part of African States which was coupled with improved participation in the UN Group of Governmental Experts on Lethal Autonomous Weapon Systems (UNGGE).

The African Group of Disarmament submitted two statements to the UNGGE calling for the ban of killer robots. In emphasising that killer robots should be banned before they come into existence, the African Group of States noted as follows: "Notions of human dignity and humanity are the parents of all other humans' rights and should govern human conduct including human inventions. The African Group finds it inhumane, abhorrent, repugnant, and against public conscience for humans to give up control to machines, allowing machines to decide who lives or dies, how many lives and whose life is acceptable as collateral damage when force is used. The African Group strongly asserts that technology should be solely dedicated for the prosperity and progress of human beings in all spheres of life."

Furthermore, in its General Comment Number 3 on the Right to Life, the African Commission on Human and Peoples' Rights stated that "in any machine autonomy in the selection of human targets or the use of force should be subject to meaningful human control".

Moreover, of the 30 states that have so far explicitly called for a ban on killer robots, 8 are African states. Against this backdrop, the proposal to develop a strong regional position is feasible and within reach.

5. How this proposal seeks to mitigate global catastrophic risks

As already indicated in the introduction of this proposals, killer robots raise far-reaching legal, ethical and security concerns. They cannot comply with laws

applicable to armed conflict and will undermine protections afforded to civilians. They will commit war crimes and yet it will be difficult if not impossible to hold someone accountable. Indeed, it is unethical for machines to make decisions about who lives or dies. Killer robots will make it too easy for States to use force, thereby undermining international peace and security. Further, killer robots present capabilities that may undermine the survivability of nuclear arsenals and potentially render them vulnerable resulting in overwhelming threats to global security. There is an URGENT need for a legally binding instrument outlawing killer robots.

Yet, with the current threats to multilateralism which have seen powerful states walking back on their commitments on disarmament issues, it is a tough battle to produce a ban on killer robots in time, especially within consensus-based institutions like the UNCCW. This is made worse by the AI arms race between global powers such as the United States and China which may lead them to deploy killer robots "without adequate safeguards against brittleness, unpredictability, and systemic risks that will arise when algorithms interact at machine speed."

Hope in the mitigation of this global catastrophic risk may rest with majoritarian-based institutions like the UN General Assembly or other processes outside the UNCCW. For this to succeed, there is need for like-minded States and regional blocks to come together and ban killer robots.

Getting the African regional block to take a strong position on killer robots and finding a lead-state from the African continent will be a huge step towards provision of alternative process outside the UNCCW. As already indicated, it is easier for African States to take positions if they are backed by the regional bodies.

6. How this proposal seeks to reduce conflict and political violence

As already indicated above, there is already an AI arms race between major powers that threaten global security. In January 2020, the United Nations Secretary General, Antonio Guterres, identified killer robots as one of the four main threats to global

security. There are scholars who have identified killer robots as one of the likely causes of World War III.

Killer robots will make it too easy for states to go to war and will reduce the threshold at which force is used in law enforcement situations. Just as armed drones were once thought to be the only game in the fight against terrorism, they ended up marking unprecedented deaths of civilians, among them, women and children.

Furthermore, killer robots may be used for politically motivated violence, in particular, political assassinations. Targeted killings on the basis of facial recognition will become more prevalent. In contexts of demonstrations, for example in contested elections in Africa, it may make it too easy for dictators to crush any opposition.

Therefore, a legally binding instrument banning or prohibiting killer robots will go a long way in avoiding future conflicts and political violence.

Of course, there are some scholars who have argued or suggested that the use of killer robots will reduce or do away with the brutalities that are currently being committed by human soldiers. The main basis of this suggestion is that killer robots will not act out of prejudice or ill-will. Yet, this suggestion has already been disproved by the existence of algorithmic bias and prejudice against people of colour.

7. Whether this proposal have the converse effect in increasing poverty and inequality

One of the questions that is asked is whether a legally binding instrument banning killer robots will negatively affect other AI technologies meant for civilian use like those that can be useful in development and poverty alleviation.

On several occasions and in this proposal, it is made categorically clear that a ban on killer robots will not negatively impact on the civilian uses of AI technology. If anything, with a ban on killer robots, States and other stakeholders will focus and invest more on the research and development of AI technology that is meant for the good of humanity instead of death and distraction.

Just as the current theme of the African Union states “Silencing the Guns: Creating Conducive Conditions for Africa’s Development”, a ban on killer robots will create a conducive environment within which AI applications meant for development and poverty alleviation are given a priority.

8. Whether this proposal have the converse effect of reducing inclusivity and accountability

A legally binding instrument prohibiting the development and use of killer robots will, in fact, reduce chances of algorithmic bias in the use of force. It will also that humans remain accountable for the use of force both domestically and at the international level.

Killer robots create an accountability gap. Because they are unpredictable, it would be difficult or impossible to establish legal responsibility of humans in cases where killer robots commit crimes. In such cases, killer robots undermine accountability, a very important component of global governance.

Further, in 2019, UN Group of Governmental Experts on Killer Robots and the UN Working Group on the Rights of Peoples of African Descent, noted that the development and potential use of killer robots may worsen racial and gender discrimination which can be perpetuated through algorithmic bias.

There are historical examples of injustices that show that in certain cases, the choice of weapons used were informed by racial prejudices. Nuclear, biological and chemical weapons have been used in furtherance of racial discrimination, for example, in Holocaust in Germany and the targeting of Nagasaki and Hiroshima in Japan. In the recent past, the use of armed drones has already exhibited religious and racial discrimination both in Africa and in the Middle East.

In September 2019, the United Nations Working Group of Experts on People of African Descent presented their annual report to the UN Human Rights Council. The report is titled “Data for racial justice” and discusses amongst other things, algorithmic bias and the disproportionate effect it has on the human rights of people of African descent.

The relevant paragraphs from the Working Group reads as follows: “The Working Group notes with concern that little or no effort has been made to ensure that racial biases reflected throughout society have not been embedded in algorithms, coding and data-driven commercial and military products, like facial recognition software, autonomous weapons systems and signature strike targeting programs. The development of new technologies must reflect a strong commitment to human rights and human dignity. The reliance on algorithms to identify risk, target misconduct and carry out operations should not violate the human rights of people of African descent. The Working Group understands the ongoing influence of mindsets that channel certain narratives, including racially-biased beliefs, and remain embedded in decision-making and the importance of surfacing those views to mitigate their impact, particularly in computerized algorithms that may lack reflective capacity or effective independent oversight.”

It can also be discerned that killer robots will have an impact on economic development and also affect issues of economic rights that are important to African peoples.

As such, this proposal is, in fact, in the interest of an inclusive and equal society that holds criminals to account while striving for economic development for all.

9. Concluding remarks on the proposal

Killer robots pose serious risk to global security and international peace. If allowed to be developed and used, they will violate human dignity and laws that govern armed conflict and seek to protect civilians. The most effective way to avoid this catastrophe is the adoption of a legally binding instrument prohibiting the development and use of killer robots. While there are current discussions on killer robots in the UNCCW, it is unlikely that the talks will produce any consensus on the matter. Hope for humanity is in galvanising the critical mass of States in support of a ban of killer robots outside the UNCCW process. The African continent has several states and they have in the past played an important role in regulation of certain arms. Yet, African States act more effectively when there is a strong regional position by the African Union and its

organs. It is in this regard that this paper has proposed practical steps to engage with the PAP and the ACHR as steps towards a strong regional position on killer robots and finding a lead-state from the African continent by year 2021.