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Norm-making and the Global South: Attempts to Regulate Lethal Autonomous Weapons Systems

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The international community has been debating lethal autonomous weapons systems (LAWS) under the auspices of the UN Convention on Certain Conventional Weapons (UN-CCW) since 2014. Here, a growing number of states from the Global South have been active participants and expressly support a preventive legal ban of fully autonomous systems. This is an interesting observation for two reasons: first, their vocal activism within a UN disarmament forum is noteworthy as these states have often not been associated with significant representation from the Global South, not least due to financial pressures. Second, their engagement speaks to an evolving critical agenda in norm research, recognising developing states as norm-makers rather than norm-takers and thereby counteracting a long-standing hierarchical depiction of norm promotion, development, and diffusion. The article therefore studies ongoing international deliberations on LAWS from the perspective of the Global South as potential norm-makers.

States parties to the UN Convention on Certain Conventional Weapons (UN-CCW) have been discussing lethal autonomous weapons systems (LAWS) since 2014. Since the creation of a Group of Governmental Experts (UN-GGE) in December 2016, a move indicating a formalisation of deliberation, a growing number of states have supported a comprehensive, preventive legal ban of LAWSⁱ, acting in close alignment with the NGO coalition *Campaign to Stop Killer Robots*. This group of 28 is primarily composed of states from the Global South. Further, these states have been among the most active participants at the four GGE meetings in November 2017, April 2018, August 2018, and March 2019 in terms of both the number and the substance of their interventions.

That these interventions happen within the context of a UN disarmament forum is insightful as such forums are often not associated with significant representation from the Global South. Data collected by Article 36 reveals that ‘the lower a country’s income category, the less likely they will [...] attend, speak or hold formal roles at any given meeting’ across international disarmament fora (2016 p.6). This underrepresentation has not only been associated with a decreased effectiveness of disarmament negotiations (Borrie & Thornton 2008 pp.53–70), but also has an effect on how disarmament norms are framed to the detriment of priorities associated with the Global South (Nash 2015 p.120).

Such dynamics make studying the Global South’s deliberation efforts on LAWS an interesting case to highlight their agency in potential *norm-making at the international level*. Norm localisation scholars have long investigated the agency of Global South countries in dynamic processes of norm translation (Acharya 2011, 2014; Zimmermann, Deitelhoff &

Lesch 2017). Their efforts echo postcolonial scholarship in examining global governance as a process integrating multiple actors at various levels rather than as a top-down process that is determined by the so-called “great powers” (Epstein 2012). But efforts to study Global South norm-making *at international sites* have only recently gained more attention in norm research (Bode 2014a; Sikkink 2014; Helleiner 2014; Bode & Karlsrud 2018; Acharya 2014; Stalley 2018; Thakur 2017) – notwithstanding the fact that post-colonial states have long engaged in these activities, in particular at the UN as initiatives centred around the so-called New International Economic Order demonstrate (Rothstein 1979).

Through studying how Global South countries contribute to potential norm-making on LAWS, the article speaks to this critical debate and contributes to addressing a Western bias in norms research. Due to this focus, I frame the debate on LAWS in the context of norms research rather than reviewing the substance of arguments put forward in support or in opposition of a ban on LAWS at the UN-CCW. I first survey literature in critical norm research and subsequently apply these insights to analysing ongoing deliberations at the UN-CCW, gained through participant observations of two UN-GGE meetings as well as two expert interviews (conducted under the Chatham House Rule).

1. The Global South and norm-making

Scholars of International Relations (IR) have frequently captured the processes leading to the institutionalisation of new norms, loosely understood as ‘standards of appropriateness’ (Bode & Huelss 2018 p.394) in this article, as shaped by global power relations that divide international actors into norm-makers and norm-takers. Norms are portrayed as entities that are created in ‘a consolidated centre of the world’ (Draude 2017 p.577), in international deliberative forums that privilege Western actors, while the peripheral regions of the Global South are cast as recipients, or simply “norm-takers”.

While early constructivist norm research departs significantly from previous IR theories in concentrating on ideational components, their (implicit) assumptions in this context mirror to an extent those of prior approaches: neo-realism with its focus on the distribution of capabilities to explain international rule-making and neo-liberalism’s perspective of rational cost-benefit calculating actors competing over setting particularistically beneficial rules. The language of norm-takers and norm-makers suggests a clear-cut division of roles into those who set international standards and those who are supposed to comply with them. This portrayal of norm diffusion solidifies present hierarchical power structures in continuing to constitute states of the Global South as

objects rather than authors of new international law and norms (Thakur 2001 p.20).

Apart from these detrimental hierarchical connotations, portraying the Global South exclusively as “norm-takers” is also historically inaccurate. It forgets or actively omits the many instances across the UN’s history, for example, when Global South individuals have contributed decisively to the making of international norms (Bode 2014a, 2014b, Anon 2008; Love 1980; Sikkink 2014; Helleiner 2014). As Skard (2008) clarified in examining the drafting process of the UN Charter, the document only includes its provisions on the equal rights of men and women due to the efforts of a handful of Latin American women who represented their countries at the San Francisco conference, chief among them Bertha Lutz of Brazil.

Critical norm studies have challenged the division between norm-makers and norm-takers in two ways: first, scholars of norm localisation have demonstrated how regional, national, and local implementation processes of international norms cannot be simply subsumed under the passive label of “norm-taking”, but necessarily leave room for different instantiations, interpretation, accountability, and practice (Acharya 2009; Zimmermann 2017). Such studies concentrate on the ‘agency of the governed’ (Draude 2017 p.577) in changing normative meaning when diffusing content. Still, localisation studies remain, to some extent, attached to top-down dynamics in focussing on processes at the regional and local levels. The flip side of this focus is that peripheral actors of the Global South are portrayed as having limited immediate agency in processes of norm-making *at the international level*. Second, the most recent wave of studies in critical norm research have begun to address this blind spot (Wiener 2017; Stalley 2018), for example through introducing concepts such as norm subsidiarity (Acharya 2011). Research on China’s emerging (leadership) role in global governance can also be connected to this endeavour (e.g. Lee, Chan & Chan 2012; Reilly 2012), given that China continues to be listed as an official development assistance recipient on the OECD-DAC list.

Still, norm research has typically cast Western liberal democracies, in particular Scandinavian states (Egeland 1988; Finnemore 1996; Ingebritsen 2002), in the role of norm entrepreneurs, that is ‘actors committed to a particular idea set out to change the existing normative context and alter the behaviour of others in the direction of the new norm’ (Björkdahl 2002 p.46). This literature associates two strategies with how small or middle power states attempt to create leverage for their norm-making practices: using international institutional platforms and forging coalitions with non-governmental organisations (Nadelmann 1990; Finnemore & Sikkink 1998; Hampson & Reid 2003; Behringer 2005). Studies on global disarmament efforts, such as the 1997 Chemical Weapons Convention, the

2001 Ottawa Convention, or the 2010 Cluster Munitions Convention have therefore demonstrated how small Western-liberal states used institutional platforms and coalitions with (networks of) NGOs to promote new international norms (Price & Tannenwald 1996; Donaghy 2003; Rosert 2019). Analytically, there is nothing to suggest that (small) states of the Global South should not also be able to adopt these strategies.

In fact, observers of the process leading to the 2017 Nuclear Weapons Prohibition Treaty (NWPT) note how a group of states that included Mexico and later Chile, South Africa, and Costa Rica worked closely with the International Campaign to Abolish Nuclear Weapons to centre-stage the humanitarian impact of nuclear weapons (Sauer & Pretorius 2014; Potter 2017; Thakur 2017). Their engagement was, and the likely impact of the NWPT is, primarily normative in nature.ⁱⁱ The NWPT provided an opportunity to express their disillusionment and dissatisfaction with the Nuclear Non-Proliferation Treaty (NPT) (Thakur 2017 p.71), in particular their “dominated” status as non-nuclear states in light of how nuclear states fail to uphold their side of the NPT compromise in failing to progressively get rid off their nuclear arsenals. Also, practically all Western-liberal states that have typically been chiefly associated with humanitarian arms control initiatives, except for Norway and Austria, did not participate in the talks that led to the NWPT because of their embedding in the US alliance system (Potter 2017; Knopf 2018). Notably, a whopping 98 (80%) of the 122 states that voted in favour of the NWPT in July 2017 were states of the Global South (UN General Assembly 2017). In light of this, Thakur stipulates that ‘the [...] historic significance of the NWPT might well be that the non-Western and small states of international society have forced through an instrument of international humanitarian law against the will of most Western countries and all major powers’ (Thakur 2017 p.84).

Discussions about LAWS at the UN-GGE represent a similar type of opening for the norm-making efforts of the Global South. Yet, in this case, commentators still tend to replicate the Western bias associated with norm-takers/norm-makers in two ways: first, by evaluating the ongoing cooperation between Global South states and civil society (that literature has identified as characteristic of many humanitarian disarmament efforts) in hierarchical terms, e.g. based on an information deficit (Galliott 2018),ⁱⁱⁱ or second, by remaining attached to the idea of a Western-liberal democracy, for example Germany, becoming a ‘champion’ for the cause against LAWS (Reuters 2019). In contrast, I analyse Global South strategies in the LAWS debate as typical of international norm-making efforts.

2. Lethal Autonomous Weapons Systems and the Global South

I examine international deliberations on LAWS under the auspices of the UN-CCW from 2014-2019 as attempts at norm-making by countries of the Global South. Entering into force in 1983, the UN-CCW is composed of an “umbrella” document and five protocols.^{iv} As a result of its limited achievements to date (Fenrick 1982; Parks 2007; Thakur & Maley 1999), its operation by consensus, as well as the Cold War dynamics the UN-CCW was a product of, ‘the document and its protocols constitute a relatively unloved treaty [...] largely forsaken by humanitarians and viewed sceptically by military lawyers and state actors’ (Carvin 2017 p.38). It is interesting to consider the UN-CCW’s backstory in light of the fact that it currently serves as the only international deliberative forum where LAWS are substantially and regularly discussed and has become the focal point of norm-promotion and lobbying activities of civil society actors, such as chiefly the Campaign to Stop Killer Robots.

To assess Global South attempts towards norm-making, I first compare numbers of states that have participated in debates at the UN-CCW since 2014. This helps in assessing whether states consider the UN-CCW an important forum for potential norm-making on LAWS, as well as the share of Global South contributions. Second, I turn towards a cursory overview of selected Global South statements in greater detail and supplement this (publicly available)^v material with my own observations gained from participant observation of the November 2017 and August 2018 GGEs.

The UN-CCW has 125 high contracting parties, 72 of which are Global South states parties, and 50 signatories. Some vocal Non-Aligned Movement (NAM) countries such as Egypt or Indonesia, representing an important grouping when it comes to UN voting patterns, are not states parties to the UN-CCW. This means that Global South and Global North states parties are likely to have a more equal share of contributions, compared to the principal UN organs that see the Global South clearly outnumber the Global North. 74 states parties have contributed formally^{vi} to the seven meetings on LAWS from 2014-2019. Of these, 39 are states parties of the Global South and 35 are states parties of the Global North.^{vii} Figure 1 presents data on numbers of states contributing per year, categorized into three groups: Global North, Global South, and states that support a preventive ban on fully autonomous weapons.^{viii}

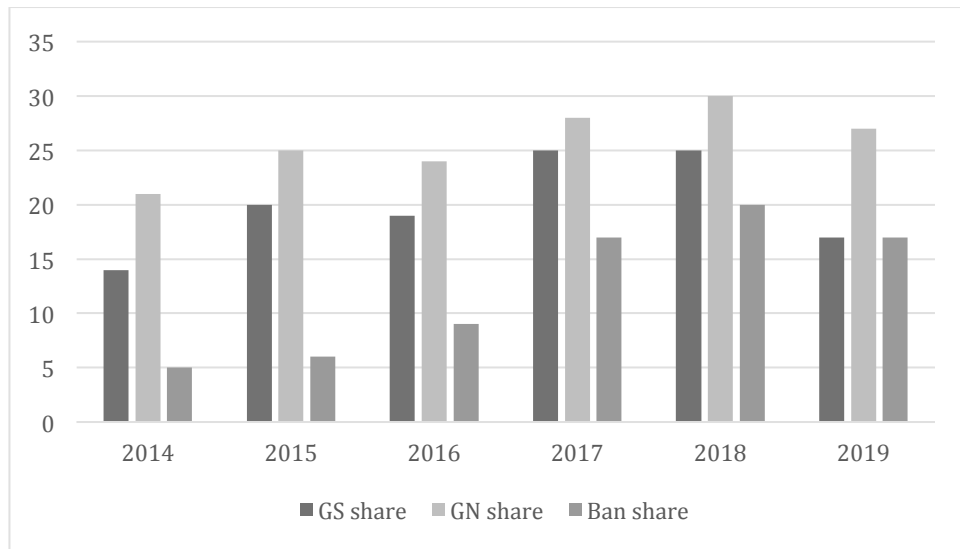


Figure 1: *Formal contributions to debates on LAWS at the UN-CCW (2014-2019)*

The data summarised in figure 1 demonstrates three interesting observations. First, the number of formal contributions made by states parties has increased over time and across both North and South until 2018. A particular jump can be seen after 2016, indicating a growing interest in the then newly created UN-GGE. 2019 numbers of participation are currently below 2018 numbers. This could either indicate that the peak of interest was reached in 2018 or could simply be due to the fact that there is a second UN-GGE meeting scheduled for August 2019. Second, the number of contributions by the Global South has doubled when comparing 2014 and 2018. Third, data also clearly indicates the growing voice of ban supporters at the UN-CCW: while only five supporters of the ban on LAWS contributed to debate in 2014, this number has grown to 18 in 2018. As noted in the introduction, this group includes predominantly states of the Global South, with the exception of Austria and Holy See.

Taken together, these observations speak of a growing Global South participation at the UN-CCW and are, in particular, linked to supporters of a comprehensive ban on LAWS. I illustrate this further through providing a cursory trajectory of some Global South statements. When the discussions started, Global South countries typically perceived LAWS as a 'science fiction issue that does not affect them directly' (interview 1, 25.04.2017). A notable exception was Pakistan who was quick to latch on to the topic and became the first Global South state to deliver statements, not least due to the history of targeted killing via drone strikes on Pakistani territory. Early notable contributions by Global South countries therefore turned around core NAM issues: political independence and the protection of territorial integrity and sovereignty (e.g. India, Mission of 2014). Initially, likewise, there was considerable cynicism and scepticism among the Global South disarmament community

about whether debates on LAWS could be helpful at all as powerful countries are still perceived to do whatever they want in terms of weapons systems (interview 2, 26.04.2017).

But Global South representatives quickly began to raise a distinct normative agenda, highlighting the ‘negative consequences’ of LAWS (Mexico, Mission of 2014) and voicing questions as to whether machines will ever be able to distinguish between civilian and combatants and therefore be able to adhere to key principles of international humanitarian law (Brazil, Mission of 2014). More fundamentally, countries such as Ecuador have consistently condemned the delegation of kill decisions to machines as ‘inacceptable and inadmissible’ (Ecuador, Mission of 2014, 2015, 2016). As the debate on LAWS progressed, Global South statements have become more forceful and coordinated: in November 2017, the NAM delivered a first joint statement urging states parties to move towards a negotiation mandate and a preventive ban on LAWS on the basis of ‘mounting expressions of concerns about how these weapons change warfare’ (Non-Aligned Movement 2017 p.2), including their destabilising potential in terms of lowering use-of-force thresholds. NAM delivered further joint statements of a similar character in April and August 2018. Similarly, in April 2018, the African Group delivered a strongly-worded joint statement supporting a ban on LAWS: ‘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’ (2018 pp.1–2). Over the duration of debates, many statements and comments by individual Global South states parties increasingly speak of a concerted effort towards defining and understanding meaningful human control, a concept originally introduced by the NGO Article 36 (Roff & Moyes 2016), according to clear legal principles and making this the foundation of novel international legislation (e.g. Brazil, Mission of 2019; Costa Rica, Mission of 2018).

We can therefore identify two norm-making strategies pursued by the Global South in making these increasingly forceful statements. First, Global South states parties use the institutional platform provided by the UN-CCW to position their calls towards new normative guidance on LAWS at the international level. Second, Global South states parties have worked closely with civil society representatives, such as the *Campaign to Stop Killer Robots*, whose contributions they also mention favourable in numerous statements. In doing this, they use institutional platforms and build coalitions between states and civil society similar to those associated with other disarmament issues such as landmines and cluster

munitions. But, in the case of LAWS, it is countries of the Global South rather than Western states such as Norway or Canada that are taking the lead.

At present, we do not know whether these norm-making attempts will be successful. Norm-making success can be associated with a growing number of states expressing their support for the concept of meaningful human control at the UN-CCW or other international institutional platforms, its integration into national weapons technology practices and security doctrines, as well as its legal institutionalisation in the context of an international legislative ban or other regulation on LAWS. However, we should not expect overnight results: although recent humanitarian disarmament efforts, such as the NWPT, came to fruition in a (surprisingly) short amount of time, many other non-proliferation or disarmament issues have taken decades to enter the negotiation stage.

Conclusion

While norm-making in international relations has often been associated with Western states, this article joins a growing critical chorus indicating that this casting of the Global South as recipients of norms is inaccurate both in historical and current perspectives. The ongoing debate about LAWS at the UN-CCW in Geneva demonstrates this point nicely as it has become an increasingly important institutional platform of norm-making attempts by the Global South over the last four years. This speaks towards casting a close and serious analytical look at the potential of countries from the Global South to be norm-makers in their own right.

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ⁱ Numbers of states supporting a ban of LAWS are recorded by the Campaign to Stop Killer Robots (Campaign to stop killer robots 2018). This compilation only includes states that have explicitly supported a ban in official statements delivered at the UN-CCW.

ⁱⁱ I want to thank an anonymous reviewer for drawing my attention to this point.

ⁱⁱⁱ Writing after the third UN-GGE meeting in August 2018, Galliot summarised the state of debate in the following way: “Lack of consensus among the 125 nations involved in the UN meetings in Geneva [...] has created a vacuum in which a consortium of non-government actors led by the Campaign to Stop Killer Robots *has encouraged ill-informed countries subscribe to a ban* on lethal autonomous weapon system” (2018 emphasis added).

^{iv} The five protocols are: Protocol I on weapons with non-detectable fragments (entered into force 1983), Protocol II on landmines (entered into force 1983), Protocol III on incendiary weapons (entered into force 1983), Protocol IV on blinding laser weapons (entered into force 1998), and Protocol on explosive remnants of war (entered into force 2003).

^v The UN Office at Geneva (UNOG) has published the full text of formal contributions on its website since 2014 (UNOG 2018).

^{vi} I understand formal contributions to consist of either delivering statements to the debate or contributing working papers ahead of the meetings. Many meetings provide states parties with the opportunity to contribute formally multiple times – especially the meetings in 2015, 2018, and 2019. All data is based on lists of statements as delivered at the UN-CCW collected by the civil society organisation *Reaching Critical Will* (Reaching Critical Will 2019).

^{vii} I have classified states parties as belonging to the Global South if they appeared on the OECD’s Development Assistance Committee’s list of official ODA recipients (OECD 2018).

^{viii} As of April 2019, these are 1. Algeria, 2. Argentina, 3. Austria, 4. Bolivia, 5. Brazil, 6. Chile, 7. China, 8. Colombia, 9. Costa Rica, 10. Cuba, 11. Djibouti, 12. Ecuador, 13. Egypt, 14. El Salvador, 15. Ghana, 16. Guatemala, 17. Holy See, 18. Iraq, 19. Mexico, 20. Nicaragua, 21. Morocco, 22. Pakistan, 23. Panama, 24. Peru, 25. State of Palestine, 26. Uganda, 27. Venezuela, 28. Zimbabwe (Campaign to stop killer robots 2018).