

Non-Lethal Weapons Areas of Concern

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BNLWRP: An Overview

Aims and Objectives:

- Review and describe non-lethal weapons (NLWs), which are being developed and deployed.
- Identify and track defence and related research institutes involved in the development and manufacture of NLWs.
- Follow doctrine and policy debates related to the use of NLWs.
- Monitor the operational use of NLWs.
- Examine the impact of NLWs on international laws, arms treaties and conventions.
- Highlight the ethical questions that surround the research, development, deployment and use of such weapons.

Project Staff:

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Research:

- BNLWRP Research Reports available online.
- *Non-Lethal Weapons: Developments and Deployments: A Soft Power Approach to Conflict Resolution?* Frank Cass 2005 (Forthcoming)

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A Definition

'Non-Lethal Weapons are explicitly intended, designed and employed to incapacitate people or disable equipment with effects that are temporary and reversible. A NLW should cause no permanent deleterious change to the person, whether physical, physiological or psychological, and minimal collateral damage to property and the environment. It should be discriminate and not cause unnecessary suffering. It should provide an alternative to, or raise the threshold for, the use of lethal force.'

AREAS OF CONCERN:

- Use of Force: Tensions Between Aims and Policy
- Threats to International Law
 - Riot Control Agents in Warfare
 - Biological “Non-Lethal” Weapons
 - Biochemical Incapacitating Agents
 - Non-Lethal Alternatives to APM's
 - Calls to Place NLW's Outside International Law
- Abuse and Misuse
- Torture
- Proliferation and Criminal Use
- Health Effects
- Stretching a Definition: Rheostatic Weapons



Use of Force: Tensions Between Aims and Policy

MILITARY

- **Aim:** ‘reduce casualties’
- **Policy:**
“Non-Lethal Weapons may be used in conjunction with lethal weapon systems to enhance the latter's effectiveness and efficiency across the full spectrum of military operations”
NATO NLW Policy, 1999

LAW ENFORCEMENT

- **Aim:** ‘alternative to lethal force’
- **Policy:**
“There is also evidence to suggest that, far from being used to avoid lethal force, many US police agencies are deploying tasers as a routine force option to subdue non-compliant or disturbed individuals who do not pose a serious danger to themselves or others.”
Amnesty International, November 2004



Threats to International Law: Riot Control Agents in Warfare

- Article I of the 1993 **Chemical Weapons Convention (CWC)** prohibits the use of Riot Control Agents (RCAs) “as a method of warfare.”
- The reasons for this are:
 - History has shown their use leads to escalation to lethal agents, as happened in World War I (From CS to Chlorine, Phosgene and Mustard) and the Iran-Iraq War (From CS to Mustard and Nerve Agent)
 - RCAs would likely be used to enhance the lethality of conventional force rather than reduce it, as happened with use of CS by the US in Vietnam.
- Yet in 2003, in the run up to the invasion of Iraq, the US Secretary of Defense described the CWC as a “straitjacket” and wanted to “fashion a rule of engagement” for the use of RCAs in combat.
- And in 2004 the US Army was seeking a company to manufacture 58,200 M7A3 riot control grenades, described as “...a CS filled burning type grenade used to control counterinsurgencies and other tactical missions.”
 - These stated uses do not fall within the CWC’s exception for “law enforcement including domestic riot control purposes”.



Threats to International Law: Biological “Non-Lethal” Weapons

- Article I of the 1972 **Biological and Toxin Weapons Convention (BTWC)** prohibits the development, production, stockpiling or acquisition of biological agents for offensive purposes.
- This includes agents promoted as “non-lethal” such as:
 - Genetically engineered fungi that destroy drug crops. These are simply anti-crop biological weapons agents.
 - Anti-materiel microorganisms that degrade metals, plastics, fuels etc.
- The US Biological Weapons Anti-Terrorism Act of 1989 includes in its definition of biological weapons agents those that cause “...deterioration of food, water, equipment, supplies, or material of any kind.”



Threats to International Law: Biochemical Incapacitating Agents (i)

- Also known as: incapacitating agents, immobilizing agents, calmatives, pharmacological agents, knock-out gas....
- They are distinct from Riot Control Agents (RCAs) due to:
 - Mechanism of action: RCAs have *local* effects on eyes, mucous membranes and skin whereas incapacitating agents have *central* effects on cell receptors in the central nervous system.
 - Effects: RCAs cause irritation of the eyes and respiratory tract whereas incapacitating agents can cause sedation, disorientation, unconsciousness, or death.
- Their development and use for military purposes is prohibited by the **Chemical Weapons Convention (CWC)**.



Threats to International Law: Biochemical Incapacitating Agents (ii)

- As synthetic analogues of naturally occurring bioregulators the development and use of many such agents is also prohibited by the **Biological and Toxin Weapons Convention (BTWC)**.
 - The BTWC does not make an exception for “law enforcement including domestic riot control purposes”.
- Current research and development of these biochemical weapons agents is extraordinarily short-sighted.
- A recent Council on Foreign Relations report on NLWs recognised the dangers of an new arms race:
 - “Nonmilitary research in biology and medicine will lead to understanding that can greatly facilitate the development, production, and use of lethal and largely nonlethal chemical and biological agents. But NLW-focused research will hasten the day that such materials are available not only to the United States but also to those who would use them against us.”

Nonlethal Weapons and Capabilities, Council on Foreign Relations, 2004



Threats to International Law: Non-Lethal Alternatives to APMs

- **1997 Ottawa Convention** (Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction).
- The Convention's definition of APMs does not necessarily exclude proposed non-lethal mines, which incapacitate and are victim operated:
 - "Anti-personnel mine" means a mine designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons.
- The requirement for weapons systems to operate in a manner that discriminates between combatants and civilians is central to the **Law of War**. Victim operated non-lethal APMs would by their nature be indiscriminate, acting on whoever encountered the device, whether combatant or civilian.



Threats to International Law: Calls to Place NLWs Outside International Law

- **Rationale:**
 - ‘These weapons are aimed at reducing death and destruction in war so should not be restricted’.
- **Reality:**
 - They are still weapons – tools for use of force – and as such should be subject to proper legal review.
 - They are perceived by the military as an ‘adjunct to’ or ‘enhancement of’ lethal force just as much as weapons for ‘reducing casualties’.
 - Many NLW systems are offshoots of lethal weapons technologies.
 - Rheostatic weapons are envisioned - from lethal to non-lethal.
 - Some proposed NLW systems (e.g. biochemical incapacitating agents, biological agents) or proposed uses of NLWs (e.g. use of RCAs in warfare) violate existing arms control treaties (i.e. the CWC and the BTWC).



Abuse and Misuse

- Potential for suppression of civil dissent → ‘technologies of political control’
- Wider introduction of NLWs combined with incoherent and relaxed policies on their use can lead to abuse and misuse.
- The prime example is the experience of electrical weapons in the United States:
 - Mission creep – from ‘alternative to lethal force’ to ‘indiscriminate compliance tool’
 - Use on restrained individuals, children, and the elderly.
 - Repeated shocks; targeting of sensitive areas such as the groin.
 - Policy of use against those showing only passive resistance
- Amnesty International report: ‘Excessive and lethal force?’, November 2004:
 - “In many reported instances police actions using tasers appear to have breached international standards on the use of force as well as the prohibition against torture or other cruel, inhuman or degrading treatment or punishment.”
- An example from a *Denver Post* study, September 2004:
 - Out of 112 people shot with a Taser in Pueblo County, Colorado, a third were handcuffed at the time



Torture

- Some NLWs are recognised as weapons that can facilitate torture:
 - e.g. “We are committed to preventing British companies from manufacturing, selling or procuring equipment designed primarily for torture and to press for a global ban. There is clear evidence that certain equipment has been used for torture or other cruel, inhuman or degrading treatment or punishment. ...
Portable devices designed or modified for riot control purposes or self-protection to administer an electric shock, including electricshock batons, electric-shock shields, stun guns, and tasers, and specially designed components for such devices.” *Robin Cook, UK Foreign Secretary, 1997.*
- Worryingly there have been attempts to redefine torture:
 - “Where the pain is physical it must be of an intensity akin to that which accompanies serious physical injury such as death or organ failure. ... there is a significant range of acts that though they might constitute cruel, inhuman, or degrading treatment or punishment fail to rise to the level of torture.”
Office of Legal Counsel, US Department of Justice, August 2002.
- Reports of NLWs being used for torture include the following case:
 - 4 US soldiers were disciplined for using the Taser to abuse prisoners at a detention centre near Baghdad airport:
 - “Based on the results of this specific investigation, four individuals received administration [sic] punishments for excessive use of force. In particular I'm advised that it was the *unauthorized use of Taser.*” [emphasis added]
Lawrence Di Rita, Principal Deputy Assistant Secretary of Defense for Public Affairs, at a DOD news conference on 8 December 2004.



Proliferation and Criminal Use

- Wide availability of electrical stun weapons and pepper sprays combined with their suitability for crimes such as robbery, assault and abuse has led to increasing criminal use.
- Availability:
 - Legal ‘personal defence’ market: pepper spray, ‘Citizen’s Taser’
 - Internet; smuggling.
- Suitability
 - Incapacitating effects
 - Lighter punishment for possession than firearm
- “Numerous stun weapons are being recovered from scenes of crimes, found on suspects, and seized during searches carried out for other offences. There are also many reports of this type of weapon being used despite no weapon being recovered.”
National Criminal Intelligence Service, UK, 2003.
- Headlines...
 - “Man arrested for using a stun gun on daughter”, *Capital News 9*, 3 June 2004
 - “Pepper Spray Abduction”, *Sky News*, 8 August 2004.
 - “Man shot with stun gun and robbed”, *BBC News*, 12 January 2005.
- “Increasing the marketing of these weapons to the public and increasing their availability will surely lead to greater misuse.” *BNLWRP Research Report No. 6, October 2004.*



Health Effects

- Little independent research
- Little openly published information
- Little consideration of psychological effects
- There are open questions about the health effects of weapons that are being used very widely, for example the Taser electrical stun weapon:
 - Insufficient research into health effects?
 - Associated deaths in the USA and Canada? – Taser cited as a contributing factor in some cases
 - Increased susceptibility to cardiac arrest of those under the influence of drugs or with weakened hearts?
 - Dangers of receiving multiple 'hits' from a Taser?
 - Psychological effects?



Stretching a Definition: Rheostatic weapons

- There is an oft-mentioned desire by military and law enforcement end-users for the development of rheostatic or ‘tuneable’ weapons.
- “In a sense, “nonlethal weapons” is a misnomer...And there is no requirement that NLW be incapable of killing or of causing permanent damage. Moreover, the ideal NLW would be a system with continuously variable intensity and influence, ranging from a warning tap to a stunning blow to a lethal effect.”
Nonlethal Weapons and Capabilities, Council on Foreign Relations, 2004
- This approach raises alarm for a number of reasons, not least the theory that the ideal *non-lethal* weapon would be one designed to be *lethal* :
 - These weapons would have an inherently lethal design and therefore should not be classified as non-lethal weapons.
 - Opponents would find it difficult to know what degree of force is to be used against them and this has implications for their own response.
 - The added decision-making burden on the part of the operator could lead to accidental use of lethal force.
 - Use of the label ‘non-lethal’ can become a strategy for avoiding scrutiny of what is really advanced lethal weapons development.

