

2024 ANNUAL CONFERENCE REPORT: RECOMMENDATIONS and RESOURCES

The image displays three promotional banners for the 2024 Annual Conference sessions. Each banner includes the date, time, title, and names of the speakers and moderators.

Session 1 (June 4): "Whither Arms Trade Restraint in a Time of Expanded Conflict?" (3:00-4:30 PM EST). Title: "Moving Beyond Rhetoric: Overcoming Challenges to Better U.S. Policy". Speakers: Charles Blaha, Brian Finucane, Amanda Klasing, Elias Yousif (moderator). Co-hosted with ATLM.

Session 2 (June 5): "Whither Arms Trade Restraint in a Time of Expanded Conflict?" (10:00-11:30 AM EST). Title: "Are Legal and Human Rights Challenges at a Tipping Point in Changing the Arms Trade?". Speakers: Chloe Bailey, Michel Paradis, Patrick Wilcken, Roy Isbister (moderator). Co-hosted with ATLM.

Session 3 (June 6): "Whither Arms Trade Restraint in a Time of Expanded Conflict?" (10:00-11:30 AM EST). Title: "The Ongoing Humanitarian Disarmament Agenda". Speakers: Peter Asaro, Christian Guillermet Fernández, Alma Taslidžan, Bonnie Docherty (moderator). Co-hosted with ACCPI.

The Forum on the Arms Trade’s 2024 annual conference “Whither arms trade restraint in a time of expanded conflict?” was held as three virtual sessions on June 4, 5, and 6, 2024. Over the course of the conference, 150 unique individuals participated from 32 countries: Argentina, Australia, Belgium, Brazil, Canada, Colombia, Costa Rica, Czech Republic, Denmark, France, Georgia, Germany, Hungary, India, Iraq, Ireland, Israel, Kazakhstan, Kenya, Mexico, Netherlands, Norway, Peru, Portugal, Spain, Sri Lanka, Sweden, Switzerland, Turkey, Uganda, United Kingdom, and the United States.

Select sessions of the conference were co-hosted with the Arms Trade Litigation Monitor (ATLM), and the Armed Conflict and Civilian Protection Initiative (ACCPI) of Harvard Law School’s International Human Rights Clinic.

The Forum is fiscally sponsored by the Center for International Policy (CIP). In addition to CIP, Amassuru (Network of Women in Security and Defense in Latin America and the Caribbean), the Center for International and Security Studies at Maryland (CISSM) in the School of Public Policy at the University of Maryland, PRISME (Pathways to Renewed and Inclusive Security in the Middle East), Security in Context, SEHLAC (Seguridad Humana en Latinoamérica y el Caribe - Human Security in Latin America and the Caribbean), and Shadow World Investigations are institutional partners of the Forum. Philanthropic support for events such as these is currently provided by the Carnegie Corporation of New York and Rockefeller Brothers Fund.

June 4: Moving Beyond Rhetoric: Overcoming Challenges to Better U.S. Policy

Panelists:

- **Charles Blaha**, former Director, Office of Security and Human Rights, Bureau of Democracy, Human Rights, and Labor, Department of State
- **Brian Finucane**, Senior Adviser for the U.S. Program, International Crisis Group and former attorney-adviser, Department of State
- **Amanda Klasing**, National Director of Government Relations and Advocacy, Amnesty International USA
- **Elias Yousif**, Research Analyst, Conventional Defense Program, Stimson Center (moderator)

Video:

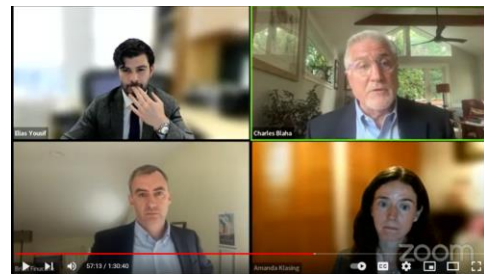
Video available at the Forum website ([link](#)) and can also be watched directly at

<https://www.youtube.com/live/AWSa9UV3Tcl>

Assessments, Recommendations and Resources:

Panelists provided observations and recommendations during the conference, which the Forum synthesized and added suggested resources for this conference report.

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Charles Blaha, former Director, Office of Security and Human Rights, Bureau of Democracy, Human Rights, and Labor, Department of State

Assessment:

At the start of the Biden administration there was optimism. There was an initial withholding of some arms to Saudi Arabia and the new CAT policy introduced the “more likely than not” standard and added concerns about security sector governance. Monitoring of actual use of weapons does not occur in the current end-use monitoring process, but the CHIRG was put in place to help fill that gap – but there is not a lot of external transparency into the CHIRG. Via demarches with some countries, the Department has received assurances that mitigate human rights and international humanitarian law concerns.

Information gathering, especially on end-use in war zones, is very difficult and often there is a conflict of interest within country embassies. Work typically falls to a very junior human rights officer. Often the political will is not there to deny or condition transfers due to human rights/international humanitarian law concerns Civil society, media, and Congress can play a crucial role.

Israel can provide information about use of weapons when it wants quickly, as it did when the World Central Kitchen was hit, for example.

Media reporting can make a big difference and helped lead to recent civilian harm efforts (CHIRG, CHMR-AP) in which the departments of Defense and State do work together. Defense has learned that they were not sufficiently taking into account information from those on the ground.

Recommendations:

- Enshrine the current CAT policy in law, as well as other approaches such as the CHIRG. Make Leahy-like approaches apply to arms transfers.
- The Arms Export Control Act, and State and Defense Department policy should positively state that end-use monitoring includes investigation as to whether items have been used in violations of human rights or international humanitarian law. This effort should include providing additional resources at embassies for monitoring and, in the State Department, for the CHIRG. Human rights officers should proactively reach out to local NGOs to gather information.
- Transparency should be improved. The Department of State should publish a fact sheet about the CHIRG process.
- Human rights and international humanitarian law concerns can often be mitigated by requesting reasonable conditions on arms transfers. This avoids yes/no decisions on transfers, which most often result in human rights and international humanitarian law concerns losing out. This can over time normalize that conditions should apply.
- More combatant commands should have human rights offices (only SOUTHCOM currently has).

Brian Finucane, Senior Adviser for the U.S. Program, International Crisis Group and former attorney-adviser, Department of State

Assessment:

There is a distinction between laws and lawyering because laws do not implement and interpret themselves. Key laws, policies, and standards include the Arms Export Control Act, the Conventional Arms Transfer Policy, and war crimes “aiding and abetting” considerations. Standards for understanding and implementing many of these are not codified in law. The executive branch has significant discretion in how to implement these and there is a norm amongst government lawyers to not constrain the executive.

In thinking about possible aiding and abetting concerns for U.S. officials, there are parallels to the war in Yemen (especially at the end of the Obama administration) and war in Gaza right now. Actions by the International Criminal Court are much different now given its engagement on the war in Israel/Gaza. Over time, it is possible to imagine U.S. officials facing legal exposure as they travel abroad, especially as norms around universal jurisdiction evolve. Foreign

domestic courts have done this in the past and we are seeing more recent and frequent examples.

Political will is a significant challenge.

Recommendations:

- Improve the practice of lawyering. Be willing to speak law to power, even if it ties the hands of those in power in difficult situations.
- To improve end-use monitoring, tighten U.S. law and make ambiguous provisions explicit. This includes defining what constitutes legitimate self defense, and mandating information gathering.
- In cases where the United States is not getting information on weapons use, as appears to be the case with Israel, it could add conditions to its support that require timely transfer of information.

Amanda Klasing, National Director of Government Relations and Advocacy, Amnesty International USA

Assessment:

While the CAT policy does include a “more likely than not” standard, how to understand and implement that has been unclear. We and others in civil society have engaged, which has been better with this administration, but there is frustration in terms of impact of policy and on the ground for those affected by arms transfers. The CHIRG process allows a path for Amnesty’s and other organizations’ information to get into government considerations, as does the Leahy portal, but what happens next is not clear to us. There was hope the NSM-20 report would provide clarity, but it also could not make a determination that led to suspension of arms to Israel that would be consistent with U.S. policies.

NGOs such as Amnesty are often relied on for providing information on harm and weapons use, which is a very extensive and sometimes dangerous work. The United States is not using its leverage and capabilities to gather information or pressure Israel for information it has.

There is today much more interest and discussion in Congress to leverage oversight and close gaps in U.S. arms policy.

Recommendations:

- Codify the CAT policy into law.
- International law should be applied consistently. This (and previous administrations) undermine international law when they apply international legal frameworks against adversaries but not allies.
- The SAFEGUARD Act is one of the legislative approaches that would be valuable to closing gaps in acting on human rights in U.S. arms policy.

Assessment:

There is a disparity between the promise of policies and laws and the practice of U.S. security assistance, seen not only in Israel/Gaza but also in other places around the world. Without greater transparency, it is next to impossible for civil society to identify successes of law and policy.

We are often much more sensitive to the risk of saying “no” to arms transfers and less sensitive to the risks of saying “yes.”

Suggested Resources:

- Conventional Arms Transfer policy: [official policy](#), Forum [resource page](#)
- National Security Memorandum 20: [official policy](#), May 10 [report](#)
- Civilian Harm Mitigation and Response Action Plan (CHMR AP): [official policy](#)
- Civilian Harm Incident Response Guidance (CHIRG): *Washington Post* [article](#)
- Section 502B of the Foreign Assistance Act: John Ramming Chappel, “[A Long-Forgotten Law Could Force the U.S. to Re-Evaluate its Relationship with Saudi Arabia](#),” *Just Security*, March 29, 2023.
- Section 620I of the Foreign Assistance Act: Brian Finucane, “[Section 620I: No Military Assistance to States Restricting U.S. Humanitarian Assistance](#),” *Just Security*, March 19, 2024.
- U.S. arms transfers to Israel: Forum [resource page](#); Amnesty [resource page](#) (see “Reports” section); Cob Blaha, “Israel and the Leahy Law,” *JustSecurity*, June 10, 2024; Brian Finucane and others, “[All Eyes on The Hague: The ICC Prosecutor’s Move against Hamas and Israeli Leaders](#),” International Crisis Group, May 24, 2024; Elias Yousif, “[Learning from Ukraine to Strengthen Oversight of US Military Aid to Israel](#),” Stimson Center, November 3, 2023.
- “[Demystifying End-Use Monitoring in U.S. Arms Exports](#),” Stimson Center, Center for Civilians in Conflict (CIVIC) and the Security Assistance Monitor (SAM), September 2021.
- Leahy: Human Rights Reporting [Gateway](#); State Department [page](#) (see annual reports); “[Global Human Rights: Security Forces Vetting \(“Leahy Laws”\)](#)” Congressional Research Service, April 25, 2024.
- Amnesty International [lobbying](#) on SAFEGUARD Act.

June 5: Are Legal and Human Rights Challenges at a Tipping Point in Changing the Arms Trade?

Panelists:

- **Chloé Bailey**, Senior Legal Advisor, Business and Human Rights, European Center for Constitutional and Human Rights (ECCHR)
- **Michel Paradis**, Lecturer in Law, Columbia Law School; Partner, Curtis, Mallet-Prevost, Colt & Mosle LLP
- **Patrick Wilcken**, Researcher/Adviser on Military, Security and Policing Issues at Amnesty's International Secretariat
- **Roy Isbister**, Head of Arms Unit, Saferworld (moderator)

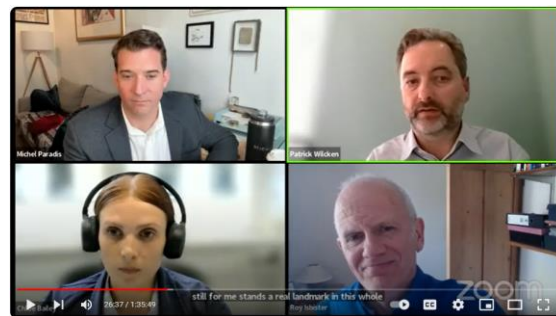
This event was co-organized with the Arms Trade Litigation Monitor.

Video:

Video available at the Forum website ([link](#)) and can also be watched directly at <https://www.youtube.com/live/7as-E0hNzsY>

Assessments, Recommendations and Resources:

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Chloé Bailey, Senior Legal Advisor, Business and Human Rights, European Center for Constitutional and Human Rights (ECCHR)

Assessment:

We are not yet at a tipping point in terms of legal accountability efforts, but there are early signs of positive shifts in some jurisdictions. Arms trade litigation is a long-term strategy, especially regarding corporate accountability, as seen in ECCHR's case(s) related to Yemen that remain ongoing. Our strategies are informed by the objectives of local partners, such as Mwatana (in Yemen), that impact on how one thinks of remedy and success.

Business and human rights litigation is still a developing field, therefore creativity is important to leverage different legal approaches to advance accountability objectives. For example, in 2019 ECCHR joined with partners to file a Communication with the International Criminal Court to investigate the potential criminal responsibility for complicity in violations of international

humanitarian law of arms companies in Spain, Germany, the UK, France, and Italy that supplied arms to the Saudi-led coalition. More recently, in 2022, we filed a criminal complaint against three French arms companies for aiding and abetting crimes against humanity.

The carve out to exclude arms exports from the scope of the Corporate Sustainability Due Diligence Directive (CSDDD) in Europe is disappointing, but there remain other opportunities in the corporate accountability landscape.

Recommendations:

- It is important to challenge the justiciability argument that arms exports licenses are purely a political decision and not something that the courts should be involved in. The arms trade is not a neutral business – it has massive impacts on human rights.
- We need to be aware of the limitations of the law and the pace of justice. Litigation is much more powerful when combined with parallel advocacy efforts to increase pressure on governments and business.
- We shouldn't forget about the importance of access to justice in the context of the arms trade, and how litigation can support the broader accountability objectives in conflict and post-conflict settings.

Michel Paradis, Lecturer in Law, Columbia Law School; Partner, Curtis, Mallet-Prevost, Colt & Mosle LLP – speaking in his personal capacity

Assessment:

The number and variety of litigation opportunities have multiplied in recent decades, including in jurisdictions which are typically quite hostile to such actions, such as the United States. Also important is the growing use of human rights due diligence and due diligence obligations. Corporations, especially consumer-facing and public companies, have a business stake in ensuring compliance with human rights due diligence obligations.

Litigation creates a public record and NGO evidence is very important. Not only do cases in one jurisdiction impact another jurisdiction in terms of litigation, but also has value with policymakers and keeping public and media attention on arms issues.

While cases can take some time, some do move quickly. For example, while Nicaragua did not win its recent case against Germany in the ICJ, it did force disclosure of German practices, finding it is taking steps to follow the ATT and international humanitarian law. Even those that take time or are not resolved make a difference. Mexico's case against arms manufacturers in the United States will resonate with public corporations and concerns about shareholder risks.

Recommendations:

- In looking at what can be done related to small arms, there are some under-explored options in the U.S. context that could be developed including anti-terrorism laws in cases where a U.S. national is injured. The Alien Torts Statue, which provides civil remedies for violations of international law, has been sanded down but in 1996 the Torture Victim Protections Act was passed by Congress that provides for civil action for torture and also

for extrajudicial killings, which is very broadly defined and could encompass political violence. Trade law provides mechanisms for accountability, as do sanctions regimes. Mexico's using public nuisance laws (within individual U.S. states) is also a creative developing approach.

- We should take care in accusing an administration of war criminality by virtue of their participation or permission for arms trade of war crimes. Reckless accusations of war criminality risk delegitimizing international humanitarian and human rights law. There is an important distinction between legal and value-based/political arguments, and we should try not to use legal-based arguments to replace value-based arguments.

Patrick Wilcken, Researcher/Adviser on Military, Security and Policing Issues at Amnesty's International Secretariat

Assessment:

We are at a crucial point in time and should not be too binary about what success means; we could have judicial failure but still highlight important issues. The tipping point is often thought of using a progressive narrative of restricting unlawful transfers. But we have seen regressions – for example, judicial deference to executive power comes up in many jurisdictions.

Some of Amnesty's first work in strategic litigation came shortly after the Arms Trade Treaty came into existence, as a response to failures in applying the treaty provisions. Civil society partnerships and collaborations have been fundamental in this space. The UK case on arms to Saudi Arabia yielded important information during the process and also positively recognized NGO evidence (especially in the appeal decision).

Regarding Israel today there is pre-existing learning from earlier cases and in many ways the legal case is stronger given incriminating statements, Israel's actions, and the situation on the ground. There is still deference to executive decisions, but important cases now include the Netherlands and Denmark cases, as well as actions in Belgium suspending shipments.

Recommendations:

- We should be naming and shaming even in places where there is no prospect of litigation, such as Russian and Chinese transfers to Sudan and Myanmar; and Iranian transfers to Russia and armed groups across the Middle East.
- In future litigation, it is important for civil society to find ways of countering arguments that arms transfers are the prerogative of the executive for reasons of national security/foreign policy imperatives.

Roy Isbister, Head of Arms Unit, Saferworld (moderator)

Progress through strategic litigation in this area might be very slow, and we might not yet be at a tipping point, but as became clear over the course of the webinar, it's actually come quite a long way in the last ten years or so. Strategic litigation is now a useful page in the playbook for challenging bad arms transfer decisions, and new avenues are opening up that suggest further

advances can be made. So keep watching this space, including by keeping an eye on the [Arms Trade Litigation Monitor](#).

Suggested Resources:

- Arms Trade Litigation Monitor: [homepage](#), search [cases](#)
 - ECCHR: business and human rights [resource page](#); *cases related to arms used in Yemen*: Italy [case](#); [ICC request](#); [French case](#)
 - Other Saudi Arabia/Yemen related cases: [UK](#)
 - Israel/Palestine cases: International Court of Justice (ICJ) *South Africa vs Israel* [case](#) and *Nicaragua vs Germany* [case](#); International Court of Justice ([ICC](#)); Netherland F-35 [case](#); Danish transit [case](#); German license [case](#)
 - Mexico's legal cases in the United States: Mexico resource [page](#); GAGV [page](#); Forum-Asser [event](#) Feb 2024
 - UN Guiding Principles on Business and Human Rights ([UNGPs](#)); Amnesty International 2019 [report](#)
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June 6: The Ongoing Humanitarian Disarmament Agenda

Panelists:

- **Peter Asaro**, Associate Professor, School of Media Studies, The New School (New York City), and vice-chair (Campaign to Stop Killer Robots)
- **Alma Taslidžan**, Disarmament and Protection of Civilians Advocacy Manager, Humanity & Inclusion, and board chair (International Campaign to Ban Landmines-Cluster Munition Coalition) and board member (Control Arms)
- **Bonnie Docherty**, Director, Armed Conflict and Civilian Protection Initiative, International Human Rights Clinic at Harvard Law School, and Senior Arms Advisor, Crisis, Conflict and Arms Division, Human Rights Watch

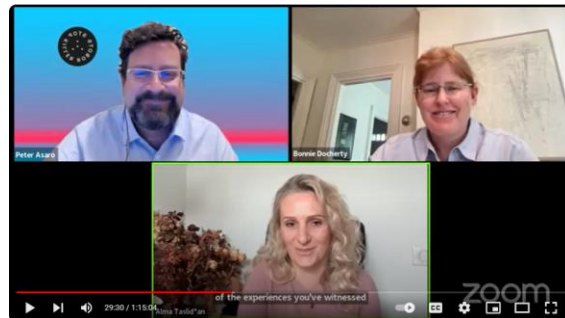
This event was co-hosted with the Armed Conflict and Civilian Protection Initiative (ACCP) of the International Human Rights Clinic at Harvard Law School.

Video:

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Peter Asaro, Associate Professor, School of Media Studies, The New School (New York City), and vice-chair (Stop Killer Robots campaign)

Assessment:

Today's armed conflicts represent numerous challenges for civilian protection, but we also recognize humanitarian disarmament as a tool to address them. Stop Killer Robots has long focused on the issue of target identification and use of lethal force. We have been watching the development of these capabilities. In the war of Ukraine, initially we were seeing lots of adaptation of commercial drones, but not full autonomy. We are starting to see short-term autonomy and noting that the pace of adaptation and change is quite rapid. More recently, in Israel and Gaza there continue to be new concerns, and we need to recognize that technology use is part of a broader ecosystem that includes sensors, surveillance, collection of personal data, etc. In systems such as Lavender, a concern is that algorithms are generating targets

and allowing for a more rapid response that increases devastation without meaningful human control at all levels.

There is a good deal of momentum on killer robots with a joint call by the UN Secretary-General and ICRC President for a two-year process to negotiate an agreement, including via a report to the General Assembly this fall, regional declarations and a conference earlier this year in Vienna. There is a need to move out of the stalled discussions in the Convention on Certain Conventional Weapons (CCW).

More broadly, efforts via humanitarian disarmament provide a space for states and civil society to come together to discuss ongoing challenges. Civil society brings in expertise that can be a model for dealing with other issues, such as the global governance of AI. Already the concept of “meaningful human control” is being applied to self-driving cars, for example.

Recommendations:

- There is a need for a universal treaty on autonomous weapons.
- As technology develops and at times can be used to circumvent rules and accountability, we must pay attention to the humans involved and hold them accountable. We cannot let AI be used as an excuse to avoid accountability.
- Transparency and accountability in the arms trade as well as in the development of new technologies are paramount. Computer systems collect a ton of information and that information should be transparent and accessible, which could enable holding states and individuals accountable. Laws should be put in place to put in transparency measures.
- In thinking more broadly, we should remember destruction of the environment as well as the power of corporations, rather than narrowly focusing on just civilians harmed in conflict or state actions. Work with robotics companies and AI industry has proven useful in discussions, for example.
- What is happening now with AI could be compared to the “Oppenheimer” moment with nuclear weapons with much work to be done to put in norms and regulations so that this technology is used for benefit not for harm.

Alma Taslidžan, Disarmament and Protection of Civilians Advocacy Manager, Humanity & Inclusion, and board chair (International Campaign to Ban Landmines-Cluster Munition Coalition) and board member (Control Arms)

Assessment:

One of the biggest challenges we face today is the nature of urban warfare coupled with the use of inappropriate and indiscriminate weapons, which as a result causes great civilian harm. We need to not only look at those who use these weapons but also at those who supply them. The challenge is both legal and ethical. There is, at times, disappointment in political leadership as it regards humanitarian disarmament initiatives when cluster munitions and landmines are used despite bans, for example. But it is important to recognise how strong the Convention on Cluster Munition and the Mine Ban Treaty are and how they are still enabling assistance to conflict-affected regions and localities. The Arms Trade Treaty continues to set legal baselines in the

arms trade. More broadly, humanitarian disarmament has involved impacted communities and made their involvement a norm.

In disarmament initiatives, we ensured that survivors and representatives of affected communities have a platform to express their needs and participate in policy-making processes.

There are positive developments around the Political Declaration on explosive weapons in populated areas with a conference earlier this year in Norway, a troika of countries issuing a declaration and setting a process forward, including a meeting next year hosted by Costa Rica.

Recommendations:

- In addition to strengthening existing treaties and declarations, it is necessary to always continue to develop new agreements and be sure that impacted communities are involved in those processes as has been the norm in humanitarian disarmament efforts. There is a need to maintain a multi-stakeholder approach that leads to a feeling of responsibility by states and civil society.
- One critical area where humanitarian disarmament needs to evolve is in raising awareness about the human costs of armed conflict and the benefits of humanitarian disarmament. Building public support and mobilizing all involved from affected countries in a responsible way is crucial for driving meaningful change.
- All countries should more strongly condemn the use of banned weapons, such as landmines and cluster munitions. States Parties to both treaties should defend treaties' norms that they have signed on to, and condemn the use of banned weapons.
- Evidence collection around weapons use is critical. States need to be pressured to significantly improve transparency to ensure compliance with international laws and to protect affected communities.
- Arms sellers have legal and ethical obligations to deny sales to states and/or actors that pose a potential threat to civilians. By refusing to supply weapons to such states and actors, arms sellers can play a pivotal role in preventing atrocities, protecting human rights, and promoting peace.

Bonnie Docherty, Director, Armed Conflict and Civilian Protection Initiative, International Human Rights Clinic at Harvard Law School, and Senior Arms Advisor, Crisis, Conflict and Arms Division, Human Rights Watch

Today's armed conflicts have presented numerous challenges to civilian protection. In particular, we have seen the use and transfer of controversial conventional weapons and developments in autonomy in military technology. Nevertheless, there have also been positive developments in the humanitarian disarmament sphere over the past year. States that endorsed the explosive weapons political declaration held a constructive first meeting. The last state party to the Convention on Cluster Munitions destroyed its stockpile. The UN General Assembly resolution's call for the UN secretary-general to study autonomous weapons systems suggests the debate on the issue may shift away from the CCW to a more productive forum.

Recent conflicts have also illuminated how humanitarian disarmament has influenced other efforts to address the effects of armed conflict that go beyond the impacts of a specific weapon.

Notably, the approach has informed measures to address the effects of conflict on the environment.

Humanitarian disarmament is characterized by both its purpose and its process. It seeks to reduce arms-inflicted human suffering and environmental harm. It does this through a collaborative approach that involves partnerships of states, civil society, and international organizations and includes affected communities. Both of these qualities will help it serve as a tool to address the harm inflicted by contemporary conflicts going forward.

Suggested Resources:

- Humanitarian disarmament website: <https://humanitariandisarmament.org/>
- Explosive weapons in populated areas: INEW [website](#); Reaching Critical Will conference [resources](#); 2024 conference [outcome statement](#)
- Killer robots (sometimes referred to as lethal autonomous weapons systems): Stop Killer Robots [website](#); Vienna [meeting](#) this year; Automated Decision Research [website](#); UN General Assembly resolution [78/241](#) on lethal autonomous weapons systems;
- Additional campaigns related to humanitarian disarmament treaties: Control Arms [website](#) (Arms Trade Treaty), International Campaign to Ban Landmines-Cluster (ICBL-CMC) Munition Coalition [websites](#) (Mine Ban Treaty, Convention on Cluster Munitions)
- Bonnie Docherty, Allison Pytlak, Jillian Rafferty, Patrick Wilcken, and Wim Zwijnenburg, [“What is Humanitarian Disarmament?”](#) Armed Conflict and Civilian Protection Initiative, October 2023.
- [“More than 250 humanitarian and human rights organisations call to stop arms transfers to Israel and Palestinian armed groups,”](#) Amnesty International, January 24, 2024.
- Protection of the Environment in Relation to Armed Conflict ([PERAC](#)) principles