

Command Responsibility and Lethal Autonomous Robots

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The year is 2034 and the U.S. military has succeeded in creating fully autonomous lethal robots (LARS). Indeed, these systems cover air, land and sea, and the U.S. is able to deploy them in the stead of their traditional human warfighters. In the first large-scale assault using these machines, several ‘rogue’ LARS rewrite their mission objectives and start firing on civilians and the few ‘friendly’ ground troops that remain. At the end of hostilities, international observers call for war crimes tribunals for the ostensibly purposeful targeting of civilians. Yet, in this scenario, who is to be held responsible?

Present day roboticists will answer that the correct locus of responsibility lies with the commanding officer. This is due to the structure of command responsibility, and somewhere, someone granted “the robot permission to act on their [sic] behalf.” This granting of permission apparently solves the sticky question of responsibility for war crimes committed by nonhuman agents. Yet this answer is not as straightforward as it first appears. The doctrine of command responsibility, at a minimum, requires certain epistemic and empirical factors be present for it to be adequately established. I argue that above scenario does not meet these standards.

I argue that the doctrine of command responsibility cannot be applied to LARs, and due to this reality, legal responsibility for *jus in bello* violations will disappear from the battlefield. Part I examines the doctrine of command responsibility and its practice in international law from the early 20th century to the present day. Part II outlines the basic programming structure of learning automata. Part III argues that given the inability to control LARS due to their programming structures, the twin requirements of knowledge and control are absent. I conclude that since these requirements are lacking, any attempt at holding a commanding officer responsible is impossible. I counter the objection that strict liability is the correct way forward, for adopting this position will vitiate the entire doctrine of command responsibility.