SUBMISSION TO THE DEFENCE POLICY REVIEW

MINES ACTION CANADA PROFILE

Mines Action Canada (MAC) is a non-governmental organization founded in 1994. MAC is an international leader working to eliminate the serious humanitarian, environmental and developmental consequences of indiscriminate weapons. We work to reduce lethal barriers to peace and development such as landmines, cluster munitions, and explosive remnants of war (ERW). MAC is the Canadian partner of the International Campaign to Ban Landmines (ICBL), the 1997 co-recipient of the Nobel Peace Prize. MAC is also a founding member of the Cluster Munition Coalition (CMC) and the Campaign to Stop Killer Robots.

GOALS

This policy review and its recommendations can be seen with two main goals in mind; the protection of civilians must be of utmost importance in conflict, and international law must be at the forefront of all current and potential military practices. Though the Canadian Armed Forces (CAF) operate with rigorous attention to minimizing civilian impact, as was made apparent by the discontinued use of cluster munitions and landmines, practices must continue to be monitored to keep pace with evolving technology. Similarly, international law must be added to when new technology or practices are present in order for it to remain a strong and robust. Canada should play a leading role in strengthening international law diplomatically as well as integrating it within domestic military practices.

PRINCIPLES

The following principles are the foundations of MAC’s responses.

1. Prohibit the use of weapons of mass destruction in all conflict.
2. Ensure that banned weapons are not used by allies or in joint missions
3. Women are integral to peace building operations, security and disarmament
4. Human security is vital to national security and should underpin all national policy.

A SUCCESSFUL HISTORY

Canada has much to be proud of in its defence history. Canada's leadership in peacekeeping missions is commendable as well as our commitment to international treaties banning indiscriminate and dangerous weapons, including landmines and cluster munitions. Canada's history of disarmament is a proud one and was exemplified in Cambodia. Through a United Nations mission, many Canadian soldiers worked as peacekeepers monitoring the cease-fire in the country. However, after seeing the widespread effect of landmines in Cambodia, many soldiers would return after the day's tasks had ended in a mine action capacity. Soldiers clearly saw the
devastating effects of landmines the resulting deterioration situation in the communities. Battlefield clearance was and remains an important part of Canadian military efforts.

However, given the number of mine action organizations involved in mine clearance it is more cost-effective and efficient to support civil society clearing contaminated communities.

Canada’s defence policy should include progressive pathways to peacekeeping and defence and a focus on creating a more gender inclusive force.

The Ottawa Treaty banning anti-personnel landmines has done more to eliminate unnecessary human suffering than virtually any other foreign and defense policy in Canadian history. Canadians should be justly proud of the country’s efforts in this area for which Canada is known worldwide. The basis of this activity was disarmament driven by humanitarian principles.

**PREVENTION, PEACEMAKING AND PEACEBUILDING**

The protection of innocent civilians should be a paramount concern for Canada’s defence policy. Therefore, Canada does have an important role in preventing conflict, peacemaking and peacebuilding in large part through a whole of government approach combining defence policy, development policy and diplomatic efforts. Canada should engage in diplomatic dialogue that supports civil society peacebuilding and peacekeeping as well as engaging allies and states facing instability. This dialogue, for MAC, must include a discussion and review of best practices, keeping in mind the goals stated on page 1.

In the following sections, MAC outlines key humanitarian disarmament issues to bear in mind during the defence policy review.

**WEAPONS OF CONCERN**

* Autonomous Weapons Systems

It is our recommendation that Canada should not invest in autonomous weapons systems because of their incompatibility with international humanitarian law and numerous ethical and moral challenges. Mines Action Canada is strongly in support of the international efforts to ban autonomous weapons systems currently being discussed under the auspices of the United Nations Convention on Conventional Weapons. Banning autonomous weapons systems sends a clear message that weaponry should remain under meaningful human control. Meaningful human control supports accountability and humanitarian law, while emphasizing the importance and weight of the decision to end human life.

Members of the CAF should remain in significant control of military weapons. CAF soldiers are forced to make difficult decisions with regard to individual attacks and these decisions require ethical considerations and deliberative thinking. CAF personnel are highly trained to make these decisions in line with international humanitarian law, rules of engagement and Canadian values. This type of judgment cannot be replaced by autonomous weapons. To do so would mean losing the understanding of the value of human life and the humanity, valor and honour embedded in military culture. Civilians have the right to expect that every effort is taken to protect them from harm.
Autonomous weapons are limited to what can be programmed. Programming cannot account for the complex decision making abilities of soldiers which includes moral considerations, understandings of international humanitarian law and consideration of ethical implications. Those characteristics remain uniquely human. Machine learning will never be able to replace these vital characteristics.

Additionally, the use of autonomous weapons against the CAF is inevitable without a pre-emptive ban and puts soldiers in harm’s way. How can a soldier in combat surrender to an autonomous weapon? How will Canada ensure accountability exists for killed soldiers and how will CAF protect Canadians from autonomous weapons? Autonomous weapons threaten the security of our men and women in the armed forces as well as civilians in conflict zones and therefore must not be pursued as potential weapons.

Lastly, Canada must consider the possibility of a robotic arms race. In the absence of a preventive ban if any one military power decides to push ahead with an autonomous weapons program, a global arms race will certainly become inevitable. The cheap and easy to obtain raw materials will prove no barrier to production and could further push other countries into the race.

This scenario begs a number of important questions. Given Canada’s proud history and tradition of highly trained, professional military forces, are we ready to replace decades of knowledge and expertise with autonomous weapons? How much of our fiscal budget are we willing to dedicate to this arms race? Given the possibility of hacking and other security risks they pose, how would Canada maintain the operational security of a fleet of autonomous weapons?

Given the fact that autonomous weapons have the potential to drastically change the way warfare is conducted, governments have the obligation to communicate these considerations to their constituencies. Autonomous weapon systems could impact combat and, therefore combatants and civilians in ways that have not been contemplated. A national dialogue is needed to explain the consequences of autonomous weapons and incorporate the opinion of civil society in the decision-making progress. There is no shortage of expertise within Canada on artificial intelligence, robotics, computer science, engineering, law, ethics, morals, human rights and humanitarian issues to participate in the first comprehensive national dialogue anywhere in the world. Similarly, current and former CAF personnel should be consulted in all decisions; as their experience and expertise would provide invaluable insight in the consequences of employing autonomous weapons. Such efforts would show much needed Canadian leadership at a time when it is urgently required.

**RECOMMENDATION:** CANADA SHOULD NOT USE, PRODUCE, INVEST IN OR ACQUIRE AUTONOMOUS WEAPONS

**RECOMMENDATION:** CONSULT CURRENT AND FORMER CAF PERSONNEL IN THE DECISIONS AND ENGAGE IN A NATIONAL DIALOGUE ON THE CONSEQUENCE OF PROCURING AUTONOMOUS WEAPONS

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**Cluster Munitions**

MAC commends the Canadian government for joining the Convention on Cluster Munitions (CCM). Up to 95% of casualties are civilians and unexploded submunitions continue to kill and maim for decades after the conflict.
Children – who represent 40% of casualties - are often attracted to the unusual shape and size of submunitions with deadly results. Cluster munitions remain lethal barriers to development perpetuating suffering for decades after the conflict is over. Clearance initiatives help to remove these lethal barriers to development and improve security and the potential for peace. These initiatives have been successful in reducing civilian casualties and should be seen as an essential to post-conflict efforts.

**RECOMMENDATION: CANADA SHOULD INCREASE CLEARANCE AND VICTIM ASSISTANCE FUNDING**

However, Canada’s existing domestic legislation has worrisome loopholes that are contrary to the spirit of the treaty. MAC hopes to see a review of the loopholes in the current legislation. MAC suggests replacing the focus on interoperability with a focus on universalization and compatibility.

**RECOMMENDATION: CANADA SHOULD REVIEW ITS EXISTING LEGISLATION RELATING TO THE USE OF CLUSTER MUNITIONS IN JOINT OPERATIONS**

Canada can further its success in this area by facilitating a dialogue with allies about the importance of stockpile destruction and joining the CCM. Article 21 obligates States Parties to encourage States not party to the convention to ratify the agreement with the goal of attracting adherence from all States. This is a leadership role for Canada to undertake and an extremely important obligation to peacekeeping.

**RECOMMENDATION: CAF SHOULD ADVOCATE FOR THE IMPORTANCE OF HUMANITARIAN DISARMAMENT TREATIES SUCH AS THE MINE BAN TREATY AND THE CONVENTION ON CLUSTER MUNITIONS**

Under Article 21 of the CCM, Canada and other State Parties have to obligation to encourage States not yet party to the Convention to ratify, accept, approve and accede to the Convention with the goal of universalization of the treaty. MAC believes in the importance of this mandate and advises the defence department to keep Canadians informed about these efforts by annually reporting to the parliament on the progress of Article 21 obligations.

**RECOMMENDATION: SENIOR DEFENCE STAFF SHOULD REPORT ANNUALLY TO PARLIAMENT AS TO THE PROGRESS OF ARTICLE 21 OBLIGATIONS**

While the importance of treaties is clear in preventing conflict, military advocacy can play a crucial role in securing understanding. The knowledge CAF members have about the on-the-ground benefits of being a member State of these treaties is invaluable and the stories of success hold weight with members of militaries in other countries. In the past, the Department of National Defence has seconded a senior officer to Global Affairs Canada to engage with other militaries in support of humanitarian disarmament treaties including the Ottawa Treaty. This position should be reinstated.

The Minister of Defence should condemn the use of banned weapons where they are used and promote the treaties that Canada has signed as tools to peacebuilding.

**RECOMMENDATION: SENIOR DEFENCE STAFF SHOULD BE LEADERS IN MILITARY TO MILITARY DIALOGUE ABOUT BANNED WEAPONS AND TREATIES**
Explosive Weapons in Populated Area

The use of explosive weapons in populated areas is devastating to communities, both in terms of casualties and infrastructure. Attacks of this nature overwhelmingly kill or injure civilians. Damaged infrastructure only fosters further civilian casualties whether through disease or exposure to the elements. Though it is clear that Canada ensures every effort to minimize civilian casualties, the changing landscape of combat reveals many new and complex practices of warfare. Civilian safety must be advocated as paramount importance in a mission. As was mentioned under Cluster Munitions, compatibility in joint operations is in Canada’s best interest, and reducing the risk of weapons banned in Canada being used by allied armed forces will prevent the long term effects of war and cut down on the post-conflict reconstruction required in many communities.

RECOMMENDATION: CANADA SHOULD CONSISTENTLY REVIEW AND IMPROVE PRACTICES TO ENSURE EVERY EFFORT IS BEING TAKEN TO PROTECT CIVILIANS FROM EXPLOSIVE WEAPONS

Landmines

Nearly 20 years ago, Canada demonstrated true leadership by working with like-minded states and civil society organizations to lead a process of banning landmines and the creation and signing of the Ottawa Treaty. Since then more than 80% of the world’s states have joined the Ottawa Treaty. The number of civilians killed or injured by landmines has dropped dramatically and as of November 2015, 29 states and one other area have declared themselves cleared of mines since the treaty entered into force in 1999. While this is something to be celebrated, there is still more clearance to be done to finish the job Canada set out to do two decades ago. Canada used to be a top 5 donor to mine action and with a renewed commitment, further progress can be made to ensure states are landmine free. Support to mine action does not only have to come from Global Affairs, the Department of National Defence and the CAF have skills and experience to contribute as well.

RECOMMENDATION: CANADA SHOULD RETURN TO ITS PREVIOUS STATUS AS A TOP 5 DONOR TO MINE ACTION

Though Canada has been a leader in the fight against landmines, there is a role for advocacy to ensure allied countries follow suit. Canada’s leadership with the Ottawa Treaty helped to convince otherwise opposed states to prioritize a landmine ban. Canada should advocate that allied countries destroy operational stockpiles of landmines as the presence of such a stockpile is a barrier to disarmament goals. To do so, Canada should begin destroying its remaining stockpile of mines for research and development purposes. Annual transparency reports indicate only a very small number of these mines are being used annually so destruction of the majority of the remaining stockpile will not impact research and development. CAF should also engage in military to military dialogue with states not yet party to the convention and share their stories of success in complying with the Convention.

RECOMMENDATION: CANADA SHOULD ADVOCATE ON BEHALF OF THE OTTAWA TREATY AND ENCOURAGE STATES NOT YET A PARTY TO BECOME MEMBERS OF THE TREATY

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Armed Drones

Armed drones have received widespread criticism from the international community for a number of reasons including military blowback and international human rights considerations. The United States drone policy has come under scrutiny from academics and civil society alike. There are numerous legal, ethical and security concerns about the use of armed drones.

In the consideration of armed drones, the protection of civilians should always remain of paramount importance. The lack of reliable or firm numbers of casualties of drones makes it very difficult to determine how many civilians have been unintended victims to drones strikes some of which have amounted to extrajudicial killings. Civil society organizations such as PAX estimate several hundred civilians have lost their lives to drones strikes. Furthermore, it is impossible to guarantee civilians will not be harmed or killed in drone strikes as the ‘battleground’ is undefined. Civilians cannot stay clear of a battleground since there simply is no clear definition of one. A policy of pursuing armed drones is one accepting the inevitability of civilian casualties as a direct result of Canadian operations.

In researching the effect of drone strikes on civilians and, beyond understanding how injury or death can severely damage a family’s economic and social future, psychological trauma has been reported as a consequence. Drones hover over communities and strike without warning. Their presence in communities “terrorizes men, women, and children, giving rise to anxiety and psychological trauma among civilian communities”. This psychological trauma can also foster resentment and can engender support for armed groups. This prolongs conflict and is contrary to Canadian interests in preventing conflict.

Additionally, psychological effects have been attributed to drone pilots. The use of armed drones requires long periods of surveillance for CAF personnel following a target and thus personnel see and understand intimate aspects of a target’s life. This level of intimacy with the target can result in post-traumatic stress disorder in CAF personnel. This potential risk to CAF mental health should be taken into consideration when discussing armed drones.

Since Canada does not currently have a drone policy, legality and transparency considerations are based on the US model of drone policy. Legally, drones operate in an increasingly gray area of international law.

The drone policy in the US is increasingly being seen as incompatible with international law and detrimental to the protection of civilians. The use of Pakistani and other States’ airspace to conduct strikes potentially violates their sovereignty. The US government has not been transparent about the drone policy and thus provides no recourse for ensuring accountability and compliance with international law. While it is unlikely that the CAF would use armed drones in the same manner as the United States military, many concerns remain.

It should be noted that drones for surveillance and intelligence purposes represent understandable potential military assets. Past successful deployment of surveillance drones in aid of natural disaster mitigation or the

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2 PAX for Peace: Drones [http://www.paxforpeace.nl/our-work/programmes/drones](http://www.paxforpeace.nl/our-work/programmes/drones)
4 Ibid
5 The European Forum on Armed Drones Call to Action [http://www.paxvoorvrede.nl/media/files/efad-call-to-action.pdf](http://www.paxvoorvrede.nl/media/files/efad-call-to-action.pdf)
supervision of territory in unforgiving climates such as the Arctic are not being questioned. The issues presented above relate to the arming of drones. MAC notes that other submissions have indicated support for Canada obtaining surveillance drones in the near future and potentially arming them at a later point in time. Such a suggestion is problematic at best. Any changes or arming of drones would have to go through an in-depth Article 36 review.

Canadian drone procurement and use would be a disappointing step away from Canada’s peacekeeping roots and a step towards inevitable civilian harm and resentment.

**RECOMMENDATION: CANADA SHOULD NOT USE, ACQUIRE, PRODUCE OR INVEST IN ARMED DRONES**

**Depleted Uranium**

Depleted uranium (DU) is a by-product of the uranium enrichment process, which contains proportionally less of the fissionable uranium isotope U235, and more of the isotope U238 than natural uranium. The radioactive and chemically toxic nature of DU weapons has meant that their use has been followed by claims that they are responsible for increased rates of cancer and birth defects in the areas where they have been used. Buildings and civilian infrastructure have been targeted with DU and its use can contaminate soils and groundwater and create vast quantities of contaminated military scrap.

Unfortunately, the last few years Canada has focused solely on the impact of DU on CAF personnel, which deserves valuable study but ignores the impact of DU on civilian populations. A Parliamentary study on the issue of DU and military personnel was commissioned in 2013 and found that the risks were low. However, the study’s scope did not encompass the effects of DU on civilians and thus missed the health risks of high risk groups such as scrap metal workers and children.

This October, the UN will consider its sixth resolution on DU weapons. The last resolution in 2014 passed with 150 votes but an abstention vote was cast by Canada. MAC calls on Canada vote in favour of the 2016 resolution to indicate concern about DU’s harmful effects on environment and civilians.

**RECOMMENDATION: CANADA SHOULD SUPPORT THE UN RESOLUTION ON DEPLETED URANIUM WEAPONS IN OCTOBER 2016**

**NUCLEAR DISARMAMENT**

Nuclear weapons poses a serious threat to both Canada’s and the world’s interests. Nuclear weapons have highly destructive power and potentially catastrophic consequences for the environment and civilians pushing them far beyond acceptable limits of defence. A nuclear war would mean the death of tens of millions of civilians. The accidental or intentional detonation of a single nuclear warhead will have long-term and widespread humanitarian consequences. Often forgotten in discussions of the threat of nuclear war are the victims of nuclear attacks and testing. Victims of previous nuclear detonations show that the damage of nuclear weapons can be felt for generations. The genetic contamination caused by radiation exposure may have an impact on future generations. The extensive damage and contamination of the environment can create displacement and impede the rights of victims to assistance as well as rendering contaminated soil unusable, obstructing sustainable agriculture post-
conflict. A multitude of civil society organizations and multilateral organizations have said there is no adequate humanitarian response to the damage nuclear weapons will have on communities.

Nuclear weapons are an increasingly serious security threat in the 21st century. The possession of nuclear arms distorts the feeling of security of a country. The security felt by the notion of deterrence is an illusion. The possession of nuclear arms perpetuates a state of fear and constant concern about volatile states acquiring nuclear capabilities. This tension coupled with the catastrophic humanitarian harm caused by nuclear weapons in no way makes civilians safer. Furthermore, nuclear weapons fundamentally violate the principles of international humanitarian law. Nuclear non-proliferation treaties are not enough to protect civilians from the consequences of nuclear weapons. The International Committee of the Red Cross (ICRC) spoke in the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons about the ‘very real danger’ of accidental nuclear weapon detonation. Given the comments from international and Canadian civil society, Canada must review its nuclear weapons policy and hold the protection of civilians as a central aspect of consideration.

RECOMMENDATION: CANADA SHOULD REVIEW ITS NUCLEAR WEAPONS POLICY WITH CONSIDERATION OF THE HUMANITARIAN CONCERNS ON THE USE OF NUCLEAR WEAPONS

POST-CONFLICT

Peacekeeping operations that focus on post-conflict communities must do so with a focus on infrastructure reconstruction and civil society partnerships. Infrastructure is an imperative for post-conflict reconstruction as it affects the ability of communities to move forward. Explosive weapons can destroy critical infrastructure that humanitarian organizations use to deliver services. The destruction of roads, hospitals, schools and sewer systems prevent communities from rebuilding. Peacekeeping operations that help to rebuild critical infrastructure are helping improve post-conflict communities and increase sustainability.

RECOMMENDATION: CANADIAN PEACEKEEPING SHOULD INCLUDE SUPPORT FOR POST-CONFLICT CLEARANCE AND INFRASTRUCTURE RECONSTRUCTION

WOMEN, PEACE AND SECURITY

This is also an area where women must play a central role. First, it must be understood that the differing work between men and boys, and women and girls, means different relationships to violence and conflict. For example, while men and boys are more often survivors of landmines, ERWs and drone strikes, women feel the secondary effects of this violence socially, emotionally, economically and psychologically differently.

UNSCR 1325 on Women, Peace and Security was adopted on October 31, 2000. The resolution calls for the full and equal participation of women at all levels ranging from conflict prevention to post-conflict reconstruction, peace and security. MAC is encouraged by statements from members of the Department of Defence that this resolution will be integrated into CAF policy. This is an essential step in improving peacekeeping and peacebuilding capabilities as well as representing Canadian values.

The United Nations states that women in peacekeeping roles are critical to empower women in the host community as well as addressing specific needs of female ex-combatants during the process of demobilizing and reintegrating into civilian life.⁸ Women as a part of post-conflict reconstruction facilitate a more comfortable environment and encourage local women to become involved in reconstruction. Involvement of local women in post-conflict efforts is widely understood by civil society as an integral part of successful projects.

Women’s involvement in peace negotiations increase the chances of successful implementation over a longer period of time. The participation of women and women’s groups in peacebuilding efforts facilitates a more comprehensive dialogue.

**RECOMMENDATION: CANADA SHOULD MAKE A CONCERTED EFFORT INVOLVE AND SUPPORT WOMEN AND WOMEN’S GROUP INTO PEACEKEEPING AND PEACEBUILDING EFFORTS**

The efforts of the Department of National Defence to integrate a gendered perspective into CAF training and operations are laudable and extremely important in recruiting and retaining women in the armed forces. Improving the dialogue surrounding gender and the military is crucial to the success of planning and operations. The use of the Gender Based Analysis Plus (GBA+) represents a helpful tool in assessing how intersecting identity factors affect planning and operations. Using tools like this will help to integrate and retain women in peace and security efforts.

**RECOMMENDATION: CANADA SHOULD CONTINUE TO INTEGRATE A GENDERED PERSPECTIVE INTO MILITARY PLANNING AND OPERATIONS**

**ARTICLE 36 REVIEWS**

All new weapons technology should be studied extensively under Article 36 of Additional Protocol 1 of the Geneva Conventions. Article 36 requires study of any new weapons to ensure they comply with international law. Autonomous weapons are particularly concerning because they blur the line between soldier and weapon. Not only does the technology of a drone need to be studied to ensure it is not excessively injurious, but the liability of decision-making, specifically the ‘kill decision’ must be studied as a part of the weapon itself. Recently, Canada has been more open about the Article 36 process and has been encouraging robust reviews by all states. These first steps are excellent but there is room for improvement. These reviews must be transparent to ensure the Canadians understand why the CAF uses specific weapons. Weapons reviews are only useful once questions of the moral, ethical, political and public acceptability of a weapon have been dealt with thus they cannot be used as a substitute for a pre-emptive ban on autonomous weapons systems.

**RECOMMENDATION: ARTICLE 36 REVIEWS OF ALL NEW WEAPONS MUST BE STRONGER AND MORE TRANSPARENT**

**CONCLUSION**

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MAC is encouraged by this policy review and the renewed focus on peacekeeping efforts as a valuable form of defence. Canada’s leadership on banning landmines is commendable but the underlying goal of minimizing civilian harm that was present in those decisions, must be extended to the rapidly changing weapons environment. The men and women that serve in the CAF possess a diversity of capabilities that cannot be replaced by autonomous technology. Ultimately, Canada’s defence policy must be robust and progressive, both in increasing women’s participation in the CAF as well as refocusing defence priorities to innovative peacekeeping operations.

ANNEX OF RECOMMENDATIONS

1. Canada should not use, produce, invest in or acquire autonomous weapons
2. Consult current and former CAF personnel in the decisions and engage in a national dialogue on the consequence of procuring autonomous weapons
3. Canada should increase clearance and victim assistance funding
4. Canada should review its existing legislation relating to the use of cluster munitions in joint operations
5. CAF should advocate for the importance of humanitarian disarmament treaties such as the Mine Ban Treaty and the Convention on Cluster Munitions
6. Senior defence staff should report annually to Parliament as to the progress of Article 21 obligations
7. Senior defence staff should be leaders in military to military about banned weapons and treaties
8. Canada should consistently review practices to ensure every effort is being taken to protect civilians from explosive weapons
9. Canada should return to its previous status as a Top 5 donor to mine action
10. Canada should advocate on behalf of the Ottawa Treaty and encourage states not yet a party to become members of the treaty
11. Canada should not use, acquire, produce, or invest in armed drones
12. Canada should support the UN resolution on depleted uranium weapons in October 2016
13. Canada should review its nuclear weapons policy in consideration of the humanitarian concerns of the use of nuclear weapons
14. Canadian peacekeeping should include post-conflict clearance and infrastructure reconstruction
15. Canada should make a concerted effort to involve and support women and women’s groups into peacekeeping and peacemaking efforts
16. Canada should continue to integrate a gendered perspective into military planning and operations
17. Article 36 reviews of all new weapons must be stronger and more transparent