Above the Law: Drones and the Remaking of International Humanitarian Law

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Drone sensors play a central – and increasing – role in military operations, informing military decision-makers in real time. While adding relevant and time-sensitive information, the visuals they produce construct an imperfect representation of people and spaces, placing additional burdens on decision-makers, and creating a persuasive virtual representation of the actual conditions on the ground. This presentation explores interdisciplinary literature from critical security studies, behavioral economics, and international law, to shed light on the role of military drones in military fact-finding and risk assessment processes. Based on rich data from U.S. and Israeli military investigations into military operations spanning from 2009 to 2021, the presentation identifies three types of challenges stemming from the mounting reliance on drone visuals to inform military operations: technical challenges, relating to the technical capabilities and blind spots of aerial vision technologies; cognitive challenges, relating to decision-making biases affecting human decision-makers; and human-technological challenges, relating to the human-machine interaction itself. To mitigate these challenges, the presentation suggests ways to improve this human-machine interaction and protect people, animals, and the environment during armed conflicts.