

Drones and the Law

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Drones and the Law: International Responses to Rapid Drone Proliferation

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About the Author

Vivek Sehrawat is an Assistant Professor of Law at BML Munjal University. He has extensive research and publication experience in legal issues relating to national security, international humanitarian law, international law, and privacy law. Vivek conducted extensive research on drones during his SJD at University of Kansas. After finishing his SJD, he joined University of California, Davis, as a Visiting Scholar. At Davis, he continued his work on drones as well as the legal implication of autonomous weapon systems. From that research, he authored this book. At Davis, he worked on the UN Human Rights in the field of cultural rights projects with the Special Rapporteur Karima Bennouna. He served on the editorial board of the UC Davis Business Law Journal during his LLM.

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Foreword

There have been a number of technologies introduced that have changed the world over the past several centuries, often in ways that nobody expected. Unmanned aerial vehicles, commonly known as drones, are one such technology. Born from hobbyists' remote-controlled model airplanes, drones have now come to be ubiquitous around the world. They are in use in multifarious ways, from military use as weapons platforms and surveillance devices on the battlefield to civilian uses to deliver packages and provide communications capabilities in rural areas. The use that has attracted the most attention from policymakers, senior military officers, and the general public is for targeted killing, what many refer to as assassination. This latter use, primarily by the United States in the past two decades, has led to a worldwide conversation among scholars about the best ways in which to regulate military drone usage. These discussions have been chaotic and often confrontational. Attempts to actually regulate military use of drones, such as those by the Talinn group, have unfortunately reflected these widespread disagreements and have been unsuccessful.

Dr. Vivek Sehrawat has provided a brilliant analysis of the issues surrounding military use of drones from historical, cultural, and legal viewpoints. His book will serve both beginners to this area as well as those who have studied these problems equally well. It makes a great contribution to an important debate and will provide new insights and guidance to those policy makers who must ultimately find ways to control this new and potentially dangerous technology.

M. H. Hoeflich
John H. and John M. Kane Distinguished Professor of Law
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Introduction

New technologies bring benefits as well as challenges for the society. This book responds to the legal challenges raised by one such emerging technology—drone usage. This book discusses world policy on drone strikes for counterterrorism purposes and the myths about current-generation drone’s capabilities and implications. Military drones’ usage has become more global. Drone strikes have proven to be spectacularly successful—both in terms of finding and killing targeted enemies and in avoiding most of the challenges and controversies that accompany using traditional forces. Therefore, drone policies are criticized by many scholars and most countries are struggling in adopting the drone regulations. The book identifies the legal framework and sources of law applicable to the current conflicts in which drones are employed.

Chapter 1 includes the definition of drones, historical background, and the evolution of predator drones. The chapter discusses the legal posturing and what drones really are: what technologies are out there and what is coming next. The chapter discusses the evolution of drones and a history of the use and rhetoric of drones that serves as the basis for robust analysis in following chapters.

Chapter 2 argues that drones should be treated as any other component of the arsenal. Further the chapter argues that drones offer extensive and enhanced opportunities for compliance with LOAC and other relevant laws governing the use of certain weapons.

Chapter 3 focuses on targeted killing as it pertains to drones employed as a means of warfare by the United States in its War on Terror. The justifications for targeted drone strikes can be broken down along three lines—operational considerations, theories of self-defense, and moral concerns. This project examines whether the use of drones for targeted killings comports with the IHL.

Chapter 4 is a comprehensive assessment of the consequences of current-generation drone proliferation in disputed territories and use by the non-state actors. This chapter analysis three legitimate concerns with drone proliferation: first, the use of drones in disputed territories; second, how it affects the war crisis and war escalation between states; and third, rogue drone use by violent non-state actors.

Chapter 5 analyzes the government and civilian uses of drones in these three countries and identifies the “best-practices” for global application. All three nations have drone regulating agencies. These agencies license drones, but they do

not provide any regulations for privacy issues. This leaves a gap between drone usage regulations and privacy protection of the people. The other areas of law can fill this gap, particularly when drone has a camera mounted. The chapter proposes legal and policy guidelines for the privacy issues of drone usage.