The Unchecked Machine: Trump's Erosion of the Laws of Armed Conflict in Artificial Intelligence and Nuclear Policy

By Jules Zacher, Esq. (2133 Saint James Place, Philadelphia PA 19103, Zacherlaw@gmail.com)

Bottom Line Up Front

Artificial Intelligence's (AI) integration into nuclear systems without legal review constitutes a grave threat to international humanitarian law and global stability. Compliance with the Law of Armed Conflict (LOAC) is not optional—it is the essential safeguard against unlawful, potentially apocalyptic use of force.

Overview

The Trump administration's approach to AI in nuclear command and control (NC2/NC3) undermines LOAC and the Geneva Conventions' Additional Protocol I (AP1)—particularly Articles 36 (review of new weapons) and 57 (precautions in attack).

Under President Biden, AI governance in national security was guided by Executive Order 14110 (2023), which required compliance with international law, risk management, human oversight ('man in the loop'), and prohibitions on autonomous nuclear launch. The Biden framework demanded legal review, red-teaming, and civilian-harm assessments before any AI-enabled targeting or nuclear application.

President Trump rescinded these safeguards through Executive Order 14179 and eliminated important constraints on AI use, prioritizing economic dominance and deregulation. Trump's policy, framed as freeing innovation from 'ideological bias,' replaced multilateral cooperation and LOAC compliance with a unilateral, commercially driven agenda.

Even though the U.S. did not ratify API in 1987, including Article 36 as written, it accepts the principles behind Article 36 through longstanding policies and procedures. The U.S. has also accepted the principles underlying Article 57, with an emphasis on feasible precautions. Abandoning Articles 36 and 57 reviews exposes the U.S. to illegality, destabilizes alliances, and risks catastrophic escalation.

Meanwhile, private contractors (e.g., Lockheed Martin, Raytheon, Palantir, Anduril) are rapidly integrating AI into surveillance, data-fusion, and command-and-control systems under programs like Project Maven and JADC2, blurring the boundary between conventional and nuclear operations without legal oversight.

AI's opacity, speed, and bias undermine LOAC principles of distinction, proportionality, and precaution— for example, misclassifying dual-use targets or underestimating civilian harm. It is critical to reinstate Article 36 reviews for all AI-nuclear applications, mandating precautionary procedures and public documentation under Article 57, ensuring human override in all AI-driven targeting systems, and Congressional legislation conditioning funding on LOAC compliance.