

## ARTICLE

# In the Eye of the Beholder? The UN and the Use of Drones to Protect Civilians

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The debate on the UN's possible use of drones for peacekeeping took a turn in 2013 when the Security Council granted the Department of Peacekeeping Operations (DPKO) permission to contract surveillance drones for MONUSCO, its peacekeeping mission in the Democratic Republic of Congo (DRC).

This article examines what drone capability may entail for UN peacekeeping missions. We find that surveillance drones can help missions acquire better information and improve the situational awareness of its troops, as well as inform decision-making by leadership, police, and civilian components of the mission. We see a significant potential in the use of surveillance drones to improve efforts to protect civilians, increase UN troops' situational awareness, and improve access to vulnerable populations in high-risk theaters. The use of drones can dramatically improve information-gathering capacities in proximity to populations at risk, thereby strengthening the ability of peacekeepers to monitor and respond to human rights abuses as well as violations of international humanitarian law (IHL). Drones may also enable peacekeepers to maintain stealth surveillance of potential spoilers, including arms smugglers and embargo breakers. They could additionally improve UN forces' own targeting practices, further contributing to the protection of civilians (PoC). Furthermore, we emphasize how drone capability significantly increases peacekeepers' precautionary obligations under IHL in targeting situations: the availability of drones triggers the obligation to use them to gather information in order to avoid civilian casualties or other violations of IHL or international human rights law.

There may soon come a shift among human rights groups, from being skeptical of the use of drones by UN peacekeepers to demanding that peacekeeping operations be equipped with surveillance drones for humanitarian and human rights reasons – shifting the current debate, which has focused largely on the negative impact of the use of drones, to a more balanced debate that considers more objectively what drones are and what they can be used for. Finally, the debate about armed drones looms on the horizon for the UN as well – and we outline some of the key dilemmas that the inclusion of such a capability will entail.

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## The UN's Previous Experiences with Drones

The UN already has experience using drones for aerial surveillance. In 2006, the peacekeeping mission in the Democratic Republic of Congo (DRC), MONUC (as the mission was then called), was supported for a period

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of time by a European force (EUFOR) and Belgian troops brought with them surveillance drones. Both missions operated under a UN mandate. One of the drones, however, was shot down and the other crashed, killing one person and injuring several others in Kinshasa, ending that particular effort to employ drones (Isango 2006).

There are also less-publicized instances where UN peacekeeping missions have used surveillance drones. On August 31, 2006, UN Security Resolution 1706 mandated the use of aerial surveillance 'to monitor trans-border activities of armed groups along the Sudanese borders with Chad and the Central African Republic in particular through regular ground and aerial reconnaissance activities' (UN Security Council 2006: 4). In 2008, a UN civilian mission (MINURCAT) was deployed alongside EUFOR troops to protect refugees, internally-displaced persons (IDPs), and humanitarian personnel in eastern Chad and the northeastern corner of the Central African Republic. One year later, the force was replaced by UN troops, but as preparations to replace the European forces were still in their infancy, a major portion of the European forces were re-hatted to ensure a continued presence of troops on the ground. One of these troop contributors brought surveillance drone capability as part of its national setup during the EUFOR period; when they were re-hatted, the UN 'inherited' this capability. It was put to use when Chad was invaded by domestic opposition forces that came across the border from Darfur during the spring of 2009. The drone capability proved very useful to the mission, as UN forces could closely monitor the movement of the opposition forces and enhance the protection of refugees, IDPs, and humanitarian aid workers accordingly, thereby living up to the mandate of the mission. In Haiti, immediately following the 2010 earthquake, the Operational Satellite Applications Programme (UNOSAT), part of the United Nations Institute for Training and Research (UNITAR), used satellite imagery to map

disaster-stricken areas (Relief Map Warper 2010). More recently UNOSAT conducted a field mapping operation with drones for the International Organization of Migration (IOM) to map sites of IDPs (Unmanned Vehicles, 2012).

### **'MONUSCO Drones' as a Defining Moment**

In March 2013 MONUSCO was given the formal go-ahead to contract drone capability, as well as a new mandate. This new mandate included an intervention brigade mandated to 'take all necessary measures' to 'neutralize' and 'disarm' groups that pose a threat to 'state authority and civilian security' (UN 2013: 7–8). These two developments stirred up a debate about how drones can be used to document the use of force in the context of UN peacekeeping. According to UN officials, the MONUSCO drones are considered capable of enhancing the ability of the UN to protect civilians. The drones will carry photographic equipment and will be 'equipped with infrared technology that can detect troops hidden beneath forest canopy or operating at night, allowing them to track movements of armed militias, assist patrols heading into hostile territory, and document atrocities' (Lynch 2013).

There is no doubt that the 'MONUSCO drones' represent a defining moment in the history of UN peacekeeping and aerial surveillance. The UN would also like to expand the use of drones to other countries, including Côte d'Ivoire, Sudan, and South Sudan (Lynch 2013). Close attention is thus being paid to how the 'MONUSCO drones' will work out. DRC, however, may not be the best country to start testing the use of drones in peacekeeping. Certain regions of the country are covered with rainforest so dense that neither cameras nor infrared optics are able to penetrate it. Surveillance drones can be useful in areas where the vegetation is less dense, but tropical weather conditions in eastern DRC will put the drones to the test during the rainy season. There will also be many other

lessons to draw regarding contracts and contract management, storage, analysis, and dissemination of drone-collected material.

Similar to other commentators, we argue that drones can dramatically increase the general capability of a UN peacekeeping operation – improving access to vulnerable populations, providing better information on potential threats to civilians, and increasing access to information in cases where the UN must use force to protect civilians. Drones represent a new way of ‘seeing and knowing’ in peacekeeping and can dramatically improve peacekeepers’ access to information. However, there are several issues that need to be considered while shaping an effective UN drone capability, as well as certain questions that must be tackled before drones become a standard component of peacekeeping missions. Consideration must also be given to the rapid advances in drone technology and the changing costs of acquiring and maintaining a drone capability. Larger surveillance drones have been improved, communications technology and monitoring technology have matured, and smaller drones are about to become standard military equipment. In the following sections, we aim to open the floor for a comprehensive discussion of UN missions and the use of drones.

### **Resistance to Drones in Peacekeeping**

First of all, the resistance towards drones in the UN needs to be addressed. The emotionally-laden uneasiness surrounding drones in general has clearly shaped attitudes toward the use of drones in a UN context. Member states have been skeptical, due to concerns about drones being used for intelligence purposes as well as a widespread resistance to targeted killings.

#### ***The UN, Drones, and Intelligence***

MONUSCO’s mandate to employ drones has drawn quite a few headlines. The reason for this is without doubt a sensitivity among UN

member states to all forms of information gathering, including aerial surveillance. As a result, peacekeeping missions have been slow to adopt new technology (Dorn 2010). While member states generally do understand the need for peacekeeping missions to acquire capabilities that can enable them to better fulfill their mandates – including protecting civilians and UN personnel and maintaining sufficient situational awareness – it has taken time for member states to agree to equip UN peacekeeping missions with surveillance and monitoring capabilities. Only quite recently did the UN include a sector devoted to the collection, analysis, and dissemination of information in connection with peacekeeping missions, the Joint Mission Analysis Cell (JMAC), which was established in 2006. Today the JMAC has become a staple ingredient in UN missions, enabling them to collect and analyze information – in essence having a better understanding of the environments in which they are operating – and improving their ability to execute their mandates.

#### ***The UN and the Image of the ‘Killer Drone’***

Even if drones in the context of military operations are used mostly for surveillance, the focus of the current public debate has been on the use of drones for targeting. The controversies here spring primarily from the disputed morality and lawfulness of using drones for targeted and signature killings, often with civilian casualties as collateral damage (see for example OHCHR 2013). In the official discourse on drones, names like ‘Predator’ and ‘Reaper’ connote ‘killer drones’ and US military imperialism. The image of drones in connection with armed conflict has been formed largely by the idea that drones are tools of remoteness and distance, built to execute actions of aggression by remote control. Similarly, in discussing surveillance capability in a national context, debates have tended to focus on the domestic use of drones for policing and how this may encroach upon civil liberties. We argue

that the concerns over the use of drones stem not from the drone technology itself, but rather what it can be used for.

Similarly, there have been fears that the cheap, unmanned, and stealth qualities of drones make the transgression of sovereign borders less risky, as has been the case with US drone operations. It has also been pointed out how resistance to drone use among some troop-contributing countries (TCCs) is also based on fears that drones may reduce the need for troops on the ground, that 'drones would replace the legions of U.N. peacekeepers' (Lynch 2013).

We do not deny that there are serious challenges involved in the use of so-called 'killer drones' in e.g. Afghanistan, Yemen, Pakistan, and the Sahel. But we also see how this particular discourse on drones has a very unfortunate impact on the political will to explore the use of drones for protection purposes.

### **Proximity and 'Seeing'**

Another conceptual issue that needs to be resolved is the idea that the use of drones equates to peacekeeping by remote control. To the contrary, drone technology can in certain circumstances help bring peacekeepers closer to adversaries and civilians in need of protection. Having drones in the air over particularly volatile areas would allow peacekeepers to register suspicious behavior, even at night, and monitor movements of groups and individuals, checking for weapons and other items that would indicate hostile intentions. Drones could also be used for detecting arms smuggling and breaches of embargos. There is thus reason to believe that the presence of drones could have a deterrent effect on adversaries. However, we need to do away with the idea that remote-controlled drones embody a new and radicalized 'distance' in the history of armed force. Drones are *not* the final step in a technological development moving from the stone sling, to the longbow, to modern-day cruise missiles and, now, to drones. The most noteworthy historical trajectory of drone technology is not the history of remotely deployed

force, but the history of seeing the enemy in war: a history moving from hilltops and watchtowers to the use of binoculars, balloons, and airplanes, and then on to radar, night vision, satellites...and drones. Drone technology offers a comprehensive surveillance system with extensive capabilities for patrolling and controlling territories. Proximity and visibility, rather than remoteness, should be the main point of departure in analyzing the implications of drone technology (Gregory 2012).

### **Lifting the 'Fog of War'**

In popular discourse people may still associate drones with the 'War on Terror' in Afghanistan and elsewhere, but the fact is that drones are now being used everywhere on a daily basis - from the local real-estate broker who wants to take pictures for a sales brochure, to Haiti after the 2010 earthquake, to London during the 2011 riots. With new technology (better cameras, better algorithms, better means of analyzing data) the proximity factor will only increase - and the 'fog of war' will slowly lift from UN peacekeeping missions. Remote-controlled, unmanned, and unarmed aerial surveillance vehicles - in combination with other information systems like sensors, satellite pictures, and tactical information from peacekeepers on the ground - may lead to a knowledge revolution in UN peacekeeping, as they have already done in other areas. Having state-of-the-art drone technology for peacekeeping in the near future may provide possibilities for the detailed registration of anything that moves within large territories, even at night and zoomed in very closely.

### **Transaction Costs: Economic**

Drones may expand monitoring capacity significantly. However, information will not automatically translate into operationally-improved situational awareness. Analysis and dissemination of information needs specialized capacity depending on how the UN wants to use drones. There is a big difference between using drones for the overall

monitoring of a situation and using them for actual combat support. It is common practice for militaries with extensive drone capability simply to link up individual soldiers by radio to drone operators. This is, in principle, no different from using walkie-talkies with the reconnaissance unit on, say, a hilltop, but the technical set-up for on-site monitoring support by drones is more complicated and also much more expensive.

### **Transaction Costs: Strategic Choices and Responsibilities**

Complex operational environments - along with the fact that unconventional armed groups do not travel in easily detectable military equipment such as tanks and ships, but rather move by foot, pickup, or motorbike - call for a different approach to situational awareness besides radar and high-altitude imaging. Drone technology's possibility of delivering high-quality, close-up images in real time could significantly improve the situational awareness of UN peacekeepers. Consider one possible scenario: an attack on a village a few kilometers from the compound is being reported, yet currently the only way to assess the situation is by moving troops into the area, which could take hours. With drones, it would take only minutes from the arrival of a report before high-quality images could be reviewed.

While this intuitively sounds like a positive development, increased situational awareness would also put additional pressure on commanders by expanding the range of strategic options. In a typical peacekeeping environment where smaller violent incidents frequently take place, real-time awareness may place an extra burden on decision-makers to determine whether or not to engage - compared to situations with less available information where errors and mistakes may be excused by non-transparent or confusing environments. The expanded scope of strategic choices produced by more detailed situational awareness will demand more comprehensive decision-making processes, affecting the responsibilities of officers. Peacekeepers

will have less leeway for failing to respond to atrocities if knowledge is available in real time; this will significantly lower the acceptance threshold for civilian casualties.

### **Precautionary Obligations**

The increasing availability and impending omnipresence of drones will have important consequences for how IHL is understood, as was the case when radar was introduced to modern warfare. Radical improvements in knowledge accessibility will also lead to heightened requirements for the application of this knowledge when using force, as well as an increase in the demand for the use of force. We thus argue that the debate that has focused thus far on 'killer drones', while important, has been able to capture only part of the larger picture. A knowledge revolution is underway that will have dramatic implications for the interpretation of IHL in modern warfare.

From an IHL perspective there is little doubt that drones significantly increase the precautionary obligations of peacekeepers (Rosén 2013). With increased access to information and knowledge, peacekeepers must use force in a manner that is proportional, taking all due precautions to avoid civilian casualties. This has not been reflected upon in the debate surrounding drones in the UN and deserves further attention.

The debate can also lead to greater awareness about the potential use of drones to strengthen PoC in conflict settings, as well as the legal obligations of those operating drones to ensure that all data captured with drone technology are saved for scrutiny in cases of dispute and loss of civilian lives. The principles of proportionality, 'all feasible precaution', and other relevant rules of war will have to be reinterpreted in light of new realities. The UN will, as always, be expected to perform to the highest possible standards. This implies that all actions that may involve the use of force must be filmed and stored for possible post-action scrutiny. It may also involve a demand to share such documentation with the wider public to

ensure full transparency and accountability for such actions. A further question that has to be asked is whether there will be moral, or even legal, responsibility for member states or the UN to procure the newest available technology, if such technology could reduce civilian casualties.

### Ownership of Data

The sensitive aspects of information collected by drones in humanitarian and peacekeeping operations concern not only the targets of the surveillance drones - such as the Lord's Resistance Army (LRA), the M-23, or the *Forces Démocratiques de Libération du Rwanda* (FDLR) (UN 2013) - but also the large amounts of extra-data which are collected and stored. The sensitivity of drone technology in peacekeeping missions thus looks a lot like the CCTV dilemma: most people have no problem with the filming of perpetrators in public spaces - the problem is all the other private data also captured by CCTV technology. The following questions will have to be addressed should the UN engage drones for peacekeeping operations in a more comprehensive manner:

- What should be done with the information gathered by UN drones?
- Who could and should have access to live video streams?
- Who could and should have access to recorded streams?
- Could the information gathered be used as evidence by, for instance, the International Criminal Court?
- Should drones also be used as a conventional police tool, for instance, to fight organized crime?

To protect the integrity of UN peacekeeping, there must be effective regulation to ensure that any information collected with drones is the property of the UN alone. Any leaks of information collected in this manner would rapidly destroy the legitimacy of UN drones.

### Outsourcing Drone Capability

Drone technology gets complicated as soon as drones move up in size. Smaller low-altitude drones (like the Raven) can be controlled by hand-held remote controls. But larger drones with longer range and heftier surveillance technology require a satellite base and fairly sophisticated piloting technology. Nothing indicates that the UN will or should build its own drone fleet in the near future. UN DPKO and the Department for Field Support (DFS) would thus be dependent on contributing states or would have to purchase services from private companies. In both cases, questions arise as to the handling of such outsourcing. Contracting services from a company would entail the usual complications of outsourcing with regard to implementing contracts and obligating funds. In addition to transparency and accountability issues, contracts would also need to regulate the specialized task of monitoring. Contracting for situational awareness is a crucial task of great importance to decision-makers and this needs to be recognized in the contracts. Decisions made by contractors with regard to maneuvering drones over this, and not that, area could have grave consequences for troops or civilians. The UN therefore needs to consider the intricate questions of responsibility when outsourcing situational awareness. The critical question of ownership over video streams and recordings also needs to be addressed. Furthermore, there will be concerns as regards possible links between contracting companies and member state defense and/or intelligence industries. In order to accommodate outsourced drone capability, the UN will need to develop specialized contracting policies and contract management officers to manage the sensitive issues entailed in contracting drones.

### The Future

Reading this, some supporters of drones – and of UN peacekeeping in general – may change their minds and want to reverse the implementation process. From experience

we know that in war and peacekeeping operations actions are often messy and full clarity is reached only with the benefit of hindsight. This hindsight will be greatly improved through the use of drones, which, while generally a positive, would also be a legal liability for the UN in cases where civilians are killed. Legal action from groups that could be the victim of disproportional use of force should thus be anticipated.

However, the processes described here cannot be reversed. Acquiring and operating drones is becoming less expensive every day and we believe that soon human rights groups will actually be demanding that drones be included as a staple ingredient in peacekeeping operations. The UN will need to recognize that opting *not* to use drones could indeed someday be considered a breach of IHL.

We also foresee an expansion of the debate on what purposes drones can be used for in peace operations, as well as humanitarian and development work. This could include a wide range of areas, including humanitarian action, disarmament, monitoring of population movements (displacement, resettlement), and banditry (e.g. cattle rustling in South Sudan).

Finally, we foresee that a debate over whether the UN should have weaponized drones is not too far away. In the case of MONUSCO, the use of armed drones appears to be in line with the protection mandate issued by the Security Council, where there is specific mention of 'the effective protection of civilians, humanitarian personnel and human rights defenders under imminent threat of physical violence, as well as the protection of United Nations personnel, facilities, installations and equipment'. For that reason, if the UN employs drones capable of carrying weapon systems able to minimize harm and enable the UN to implement its mandate more effectively, it is difficult to find arguments against such armament. Some hold that using armed drones may in fact 'be ethically obligatory, because of their

advantages in identifying targets and striking with precision' (Shane 2012).

### Conclusions and Recommendations

We would like to warn against the belief that technological solutions can alone solve complex problems. MONUSCO has repeatedly asked for more troops, more helicopters, and other forms of support to help it implement its mandate. Drones and the Intervention Brigade are the latest of many capabilities provided to the mission to help it protect civilians and remove threats. However, without political solutions and the provision of security and services by the government in areas like eastern DRC, no amount of troops or capabilities can enable the UN to successfully implement its mandate. Surveillance drones are merely a technical tool that can provide peacekeeping operations with better knowledge. Like any technical aid they are not a cure-all; they cannot mediate between parties or help societies emerge from conflict and rebuild. Furthermore, the use of drones in areas such as South Sudan and other theaters where low-level threats across vast areas are a dominant feature (particularly in regions with less dense vegetation than the DRC) may be more relevant when future operations are to be considered.

With regard to the recent mandate and the Intervention Brigade, we would caution against the aggressive posture that MONUSCO has now been given by the Security Council. Combined with the newly acquired drone capability, this may lead to unforeseen consequences for mission leadership and UN headquarters. The use of drones combined with the robust use of force will trigger considerably stricter precautionary obligations on behalf of the mission, and the use of force will have to be monitored with all means possible. Drone capability will not only help the mission monitor and track groups that represent a threat to civilian security, but will also place an obligation on the mission to monitor and record its own actions.

With the inclusion of drones in UN peacekeeping, many questions and issues are emerging. There is a strong need for more knowledge and research on the implications of adding this new capability to missions in terms of: carrying out mandates (PoC in particular); rules of engagement when using direct and indirect force; monitoring and storing information regarding the use of force; monitoring, reporting, and acting on human rights violations in the mission area; transborder monitoring; command and control of the use of surveillance drones in UN missions; contracting versus including drone capability in the regular mission setup - to mention only a few.

In light of the inclusion of the Intervention Brigade in MONUSCO, the Security Council asked MONUSCO and the DPKO to 'update the mission concept, concept of operations, rules of engagement, and all other relevant UN planning documents' (UN 2013: 11). We suggest that the DPKO and DFS should also begin developing policies, doctrines, and manuals for the use of drones, including such aspects as the use of indirect force when a drone capability is deployed or available in the mission. These need to include clear guidelines for all levels of information collection, sharing, managing, and storing. UN peacekeeping missions are held to the highest standards; MONUSCO, for instance, is expected to perform 'in strict compliance with international law, including international humanitarian law, and with the human rights due diligence policy on UN-support to non-UN forces (HRDDP)' (UN 2013: 8).

The African Union Mission in Somalia (AMISOM) has developed a policy for the use of indirect force in instances where the chances of civilian casualties are significantly high (AU 2011), as well as authorized the inclusion of a civilian casualty tracking, analysis, and response cell (CCTARC) (Grubeck 2013). In the recently revised UN Infantry Battalion Manual, the duty to identify targets before the use of indirect fire is clearly spelled out: 'Assured identification of hostile forces prior to engagement is required.

Unobserved indirect fire is prohibited' (UN 2012: 253). With the inclusion of drones, a new means of observation is added, creating new opportunities and challenges. We recommend that the UN further develop its guidelines along the lines of those of the AU - more clearly specifying the rules of engagement and when and how to use indirect force - and consider the inclusion of a drone capability in this context. We would also recommend that the AU update its indirect fire policy to include the consequences of having a surveillance drone capability, not least since Ugandan troops in Somalia have already this capability.

The financial cost of drones is dropping fast. The UN now needs to build up its own expertise and modalities to handle the use of drones and the information produced by them. This could be done by including a call for surveillance drone capability in the list of capabilities to be provided by TCCs. The UN could also choose to include the capability and the costs in its support division through the DFS.

Guidelines have to be developed for three sets of modalities 1) when drone capability is contracted from a private company, 2) when it is provided by a TCC, and 3) if the mission decides to include this capability in its support pillar. In the first and last instances, the drone capability will be under the direct authority of the Special Representative of the Secretary-General (SRSG), while if it is provided by a TCC, the Force Commander will have the main tasking authority. As drones also can be used for humanitarian and civilian purposes, there are important advantages in placing the authority directly under the SRSG.

Drones can help the UN closely monitor potential spoilers before using force, to monitor and record incidents where peacekeepers are using force to protect civilians, and to save all information thus gathered for later scrutiny and to share with the wider public for accountability purposes. However, surveillance drones are not a panacea for the challenges facing UN peacekeeping mis-



sions. In fact, as we have pointed out, they may well add to the complexity, and thus the challenges, faced by UN peacekeeping operations - by establishing higher standards as to when and how force is applied and requiring documentation at all times in case civilian casualties should occur. This adds to the burdens placed on UN and other peace operations. In the current debate on drones, the UN will be expected to lead the way in documenting all instances of the use of force and drones are indeed a good tool for this. Including drones in UN peacekeeping missions may prove to be more than the UN bargained for - but there is no turning back.

### Acknowledgments

We would like to thank Marina Caparini, Cedric de Coning, Erin Weir, and two anonymous peer reviewers for thoughtful comments and inputs. Any errors and omissions remain our own.

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**How to cite this article:** Karlsruud, J and Rosén, F 2013 In the Eye of the Beholder? The UN and the Use of Drones to Protect Civilians. *Stability: International Journal of Security & Development*, 2(2): 27, pp. 1-10, DOI: <http://dx.doi.org/10.5334/sta.bo>

**Published:** 21 June 2013

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