The Use of Unmanned Aerial Vehicles (Drones) in United Nations Peacekeeping: The Case of the Democratic Republic of Congo

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Inspired by the successes of unmanned drone (unmanned aerial vehicles or UAVs) surveillance of western countries, the United Nations Department of Peacekeeping Operations towards the end of 2012 announced that it intended to actually begin using such technology in peacekeeping operations.[1] Subsequently, in January 2013, the UN announced that it would deploy UAVs for surveillance in the Kivu provinces (North and South) of eastern Democratic Republic of Congo (DRC) “to improve awareness and promote deterrence to those who move around with bad intentions in that area.”[2] The UN did not reveal the actual deployment date of the UAVs. Because of the sensitivities generated by the continued use of armed UAVs in Afghanistan, Pakistan and Somalia, the UN observed that drones used by UN peacekeepers would essentially be “flying cameras to improve situational awareness.”[3] The UN’s announcement came at the heels of continued instability in the Great Lakes Region, especially in eastern DRC. When the deployment was first announced, some countries in the region, such as Rwanda, opposed it, arguing that, “Africa should not become a laboratory for intelligence devices from overseas.”[4] China, Guatemala, Pakistan and Russia also raised concerns regarding the deployment of UAVs.[5] Later, however, President Paul Kagame indicated that “if the UN thinks the drones will help achieve peace, then let them [deploy them].”[6]

In November 2012, the M23 rebel group overran the regional capital, Goma, which embarrassed the UN and the DRC government. As a result, the UN decided to strengthen its peacekeeping mission, the United Nations Organization Stabilization Mission in the DRC (MONUSCO), by including a special Intervention Brigade (IB) with much more enhanced military capabilities. At the end of the October 2013, DRC government forces, with the support of the IB, launched a military offensive against the M23 group resulting in the government declaring “total victory” over the rebels after only two weeks of military action. It is reported that Rwanda and Uganda, the suspected supporters of the M23 rebels, refrained...
from intervening due to concern that they would be discovered by UAVs deployed by the victorious forces. In December 2013, UAVs were actually deployed in eastern DRC, revolutionizing the way UN peacekeeping missions operate. This paper discusses the use of UAVs by UN-mandated peacekeeping forces and observes that their perceived use contributed to ending the M23 group’s rebellion in the eastern DRC.

History of the Use of UAVs in the DRC

In 2006, the United Nations Organization Mission in the DRC (MONUC) was supported for a time by a European Force and Belgian troops who possessed surveillance drones.[7] One of the drones was shot down while another crashed, injuring and killing some civilians in Kinshasa and ending that particular effort to employ drones in the DRC conflict.[8] In May 2010, the name and mandate of MONUC were changed to MONUSCO with two major priorities, namely: the protection of civilians as well as stabilization and peace consolidation in the DRC. MONUSCO was authorized to use all necessary means to carry out its mandate, which it failed to deliver on as numerous rebel movements in eastern DRC continued to prey on civilians. Often, rebels and militias did not respect MONUSCO personnel.

After the town of Goma fell to the M23 rebels in November 2012, the International Conference on the Great Lakes Region (ICGLR) called for the establishment of a “Neutral Force”[9] to be deployed to neutralize all the negative forces (both foreign and local) operating in the region. In February 2013, the Peace, Security and Cooperation Framework for the DRC and the Region was signed and inter alia called for “strengthening support to the government [of the DRC] to enable it to address security challenges and extend State authority.”[10] Subsequently, the Security Council adopted Resolution 2098, which inter alia formally gave MONUSCO the go-ahead to contract UAVs for the purposes of observing and reporting on flows of military personnel, arms or related materiel across the eastern border of the DRC.

Concerns Over the Use of UAVs by the UN

UN peacekeeping missions have used surveillance UAVs in other, less publicized instances, but typically during peacetime. For example, the Security Council in 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 (CAR). The deployment of drones in the DRC represents a defining moment in UN peacekeeping and aerial surveillance during ongoing conflict. Nevertheless, a number of concerns linger as UAVs become part of the instruments available to UN peacekeepers. The concerns include: the ownership of the data collected and stored, and implications for international humanitarian law. I deal with the concerns in turn.

First, the use of UAVs in peacekeeping missions raises the question of ownership of the large amounts of data collected and stored. The UN, it has been observed, needs to address the following questions if it is to integrate UAVs in its peacekeeping missions:[12] What should be done with the information gathered by the UN UAVs? Who could and should have access to live video streams? Who could and should have access to recorded streams? To protect the integrity of UN peacekeeping, Karlsrund and Rosen have counseled that there must be effective regulation to ensure that any information collected with UAVs is the property of the UN alone.[13] Otherwise, they warn, any leaks of information collected in this manner will rapidly destroy the legitimacy of UN UAVs.[14] Possibly in anticipation of problems associated with the use of new technologies by the UN, as early as 1999 the UN General Assembly (GA) adopted a resolution expressing concern that the latest information technologies and means of telecommunication “can potentially be used for purposes that are inconsistent with the objectives of maintaining international stability and security, and may adversely affect the security of states.”[15] The Assembly therefore requested member states
to inform the Secretary General (SG) of their views and assessments on a number of issues including
general appreciation of the issues of information security and the definition of basic notions related to
information security. Subsequently, the SG has produced several reports and also set up a Group of
Government Experts (GGE) on Developments in the field of Information and Telecommunications in the
context of International Security. In its June 2103 report, the GGE acknowledged that the use of
information and communication technologies (ICTs) has reshaped the international security
environment.[16] (/print/1105#_edn16) It also observed that, “ICTs are dual-use technologies and can be
used for both legitimate and malicious purposes. Any ICT device can be the source or the target of
misuse.”[17] (/print/1105#_edn17) Thus the group concluded that “international law and in particular the
UN Charter, is applicable and is essential to maintaining peace and stability, and promoting an open,
secure, peaceful and accessible ICT environment.”[18] (/print/1105#_edn18) Following from the GGE’s
conclusion, the use of UAVs by the UN must comply with international law, especially the provisions of
the UN Charter.

The other concern raised by the use of UAVs in peacekeeping missions, in particular in the DRC, relates
to the law. The first legal question is: is it legal for non-military personnel to operate a drone in a combat
zone? UAVs in DRC are being operated by civilian contractors who are not UN peacekeepers, which
raises issues under the customary law principle of distinction. The principle denotes that parties to an
armed conflict must distinguish between the civilian population and combatants, and between civilian
objects and military objectives.[19] (/print/1105#_edn19) The significance of the principle lies in the fact
that it is essential to define who and what may be attacked. The overarching aim is to spare civilians and
the civilian population from hostilities and their effects. Civilians not incorporated into the armed forces
who unlawfully take a direct part in hostilities lose their protection against attacks, as long as they
directly participate. The civilian operators of UAVs are deemed to be directly participating in hostilities
(i.e., legitimate combatants) and thus open to attack by enemy forces. Is the UN ready to take
responsibility for these civilian contractors? There is also the concern of civilians being used in combat
by the UN, an issue that has “so far elicited nary a sideways glance.”[20] (/print/1105#_edn20)

Secondly, Article 57(2)(a) of Protocol Additional to the Geneva Conventions of August 12, 1949, and
relating to the Protection of Victims of International Armed Conflicts (Protocol I), June 8, 1977 sets forth
the requirements with respect to attacks during conflict of an international character. Under these
requirements, known as the principle of precaution in attack, UAVs would significantly increase the
precautionary obligations of peacekeepers. In the case of the recent fighting in eastern DRC, no report
has emerged that MONUSCO personnel deliberately targeted civilians with no military value.
MONUSCO’s actions seem to only have resulted in the internal displacement of civilians. [21]
(/print/1105#_edn21) No report has emerged that the peacekeepers killed civilians. It appears
MONUSCO/IB’s targeting was well orchestrated, justifying the use of UAVs in UN peacekeeping
missions.

Conclusion

The UN has contemplated UAV deployment in its peacekeeping missions for years. UAVs, the UN
believes, are a modern response that can rapidly improve success and reaction rate of peacekeeping
forces through surveillance. Whilst there are still lingering concerns in law on the use of UAVs, it appears
their perceived deployment—apparently at the time the IB launched its offensive against the M23 rebel
group, the UAVs had not been deployed yet—partly played a role in finally ending the M23 rebellion of
the M23 group in eastern DRC. In the end, with the rapid changes in the world, especially developments
in ICTs, the UN has to adapt by creating and maintaining structural and operational flexibility. The use of
UAVs in UN peacekeeping missions is such an adaptation.

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[8] Id.


[13] Id.

[14] Id.


[17] Id. ¶ 5
[18] (/print/1105#_ednref18) ld. at p. 2.


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