

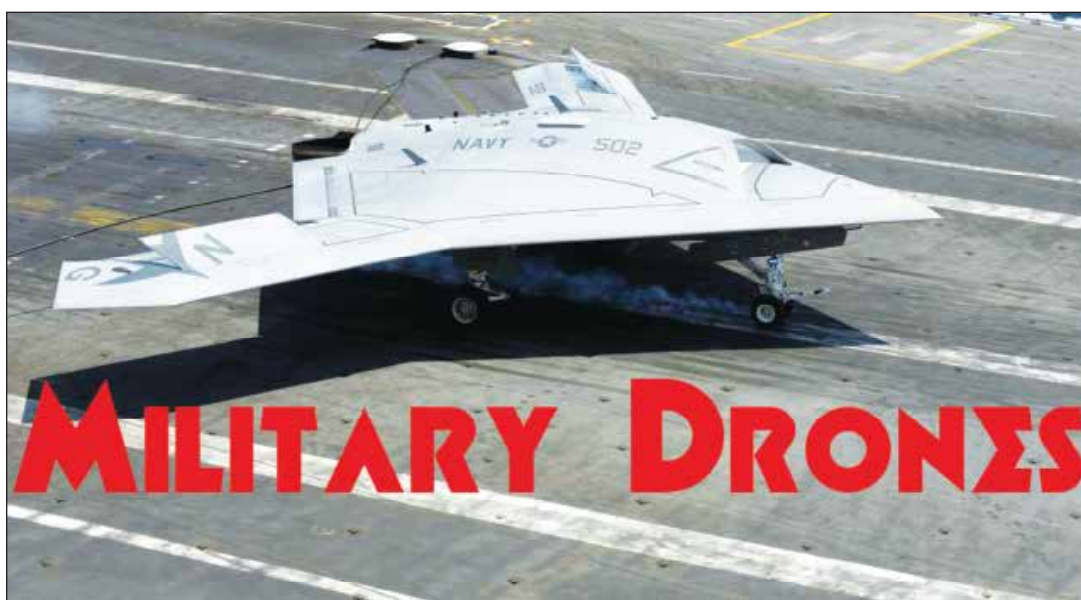
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Drones Don't Wear Uniforms. They Should

Israel's use of consumer drones is problematic under both international humanitarian law and international human rights law, putting aside the country's controversial interpretation of the rules. Israel's use of consumer drones is problematic under both international humanitarian law and international human rights law, putting aside the country's controversial interpretation of the rules.

If international humanitarian law does apply to the Gaza situation, then Israel's use of tear gas may be illegal. The 1993 Chemical Weapons Convention bans the use of tear gas in warfare in most circumstances. Israel hasn't ratified the Chemical Weapons Convention, but that doesn't protect it from criticism under international humanitarian law from the nations that have. On the other hand, if international humanitarian law doesn't apply in this situation, then using tear gas is permitted: The Chemical Weapons Convention makes an exception for law enforcement, which is why tear gas is a regular feature at protests in the United States. The IDF's drones also do not appear to be marked with anything that identifies them as military aircraft or as Israeli. They also don't seem to carry transponders or other electronic means of identification, which would permit them to self-identify as military aircraft. This presents another potential legal problem. Most interpretations of international law state that military aircraft must bear both nationality markings and markings that identify them as military aircraft. These markings allow them to be distinguished from civilians under the principle of distinction, ensuring that both other combatants and civilians can tell them apart from civilian aircraft. Under international humanitarian law, an unmanned aerial vehicle (that is controlled by a human, not autonomously) is subject to the same rules and requirements that manned aircraft are. We could interpret this to mean that Israel is obligated to mark its drones to designate them as military, not civilian aircraft — just as Israel marks its other aircraft.

However, unlike for manned aircraft, there are no standardized or customary markings for drones — and the marking standards that suit much larger manned aircraft will need to be modified to work for them. There is still no good way to tell small drones apart in airspace by electronic or radio means; while many researchers are working on an airspace traffic management system suited to small drones, it remains some distance away.



That makes things especially tricky in contexts where military or police drones may be, in the near future, just some of those buzzing around a conflict. Journalists are making increasing use of drones to record events, while aid workers are currently using them to gain situational awareness of disasters and will likely begin using them to deliver medical supplies and other objects in the near future.

That means this organizational problem isn't just a confusing inconvenience. It's dangerous, and the death of a young Palestinian drone journalist named Yaser Murtaja in April highlights why. His last video, of the border demonstrations, swooped dramatically from scenes of protesters weeping from tear gas to bird's-eye views of green fields and black-burning tire fires. One drone shot followed a group of protesters rushing an injured person on a stretcher back to a medical tent, just as Murtaja would be rushed from the field a few days later.

Murtaja wasn't flying a drone when he was shot, but in the first days after his death, many people assumed he had been.

"I don't know who he is, a photographer, not a photographer whoever operates drones above IDF soldiers needs to understand that he is endangering himself," Israeli Defense Minister Avigdor Lieberman told Haaretz on April 9, implying that Murtaja had put himself in danger with the device.

Lieberman inadvertently captured the central problem created by the murky and confused status of small drones and the inability of actors on all sides to gauge what a drone's intentions are. Before civilian drones became widespread, it was easy to make the argument that everyone who flew a drone in a conflict area was likely a combatant. It was also easy to argue that civilians knew that drones were intrinsically dangerous, and that there was therefore no need to mark them as military aircraft. That's just not true anymore, in the era of near-ubiquitous consumer drones. Technology has, once again, outpaced both the law and our culture. Technology has, once again, outpaced both the law and our culture. We are running out of time to firm up our collective cultural and legal response to small drones in conflict. Israel is unlikely to be the last nation to use drones against protesters — and it is also unlikely that arms manufacturers will stop at tear gas. Take Duke Robotics' Tikad, a multirotor drone that can carry a machine gun, a grenade launcher, and other offensive weapons. According to Defense One, a consumer-drone prototype of the Tikad killed a target in 2015, and while Tikad doesn't appear to have been used in battle yet, it is only a matter of time. In 2017, Connecticut lawmakers proposed a bill that would permit police to add lethal weapons to their drones, while North Dakota legalized the police use of nonlethal weapons on small drones in 2015.

Drones should be accessible to the civilians who benefit from them, but freedom must be balanced with safety. First, the international community should establish a standardized, international marking system, light pattern, or color to designate different kinds of drones under international humanitarian law — say blue for press, red for aid, and black for armed groups. The establishment of these markings will allow civilians like journalists and aid workers to distinguish their drones from those used by other actors in conflict, reducing the risk of a deadly case of mistaken identity.

This will be a start, but it won't be enough. It is fiendishly hard to see a drone in flight, and all parties who operate drones in conflict and other complex environments will ultimately need standardized, reliable electronic solutions to reliably identify drones in airspace.

This might take the form of small ADS-B transponders like those used by manned aircraft, or an "electronic license plate."

There is also a place for new regulations and legal pressure. Researchers at the Omega Research Foundation called in 2015 for the Organisation for the Prohibition of Chemical Weapons to conduct a legal review on the dispersal of chemicals by drones. Lawmakers, on both the national and international level, should follow suit on clarifying the legal status of drones that are used for dispersing tear gas and for other law enforcement purposes, both lethal and less so.

We have already entered the age of the drone. Yet we still don't know where drones fit into international customary law, or into our existing ethical and operational systems. The drones might have cameras, but everyone else is flying blind.



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Palestinians Have Been Abandoned by Their Leaders



Reversing this sad state of affairs is an unattainable objective in the existing Palestinian political system. Yet it is a prerequisite if upcoming generations of Palestinians are to have brighter prospects.

If they hope to reinvent the current political system, the Palestinian people and a new generation of leaders must expose the current political elites as they continue to divide, disempower, and marginalize the population. This process of reinvention goes beyond the question of dissolving the Palestinian Authority (PA), the Fatah-Hamas binary, and the frameworks dictated by the Oslo Accords 25 years ago. It will require greater political representation, a more inclusive approach to national planning, and the imagination to transcend the antiquated ideas and blinkered worldview that currently dominate the Palestinian leadership's political thinking.

The current Palestinian leadership is neither willing nor interested in the people's grievances because they threaten PA rule in the West Bank (and Hamas rule in Gaza). The leadership thus continues with its authoritarian ways, seeking to suppress any voices that put its legitimacy at stake or challenge its monopoly on governance. Over the last decade, numerous local and international human rights organizations have documented the excessive use of force by the Palestinian security forces to suppress protesters. There have also been politically driven detentions, limits on freedom of speech and political participation and mobilization, as well as surveillance, acts of torture, and grave human rights violations in response to political activism in the streets or on social media. The recent demonstrations at the Gaza border and the clashes in Jerusalem in the summer of 2017 must be understood in this context. Frustration over the status quo and the lack of future prospects and dire living conditions led to the confrontation at the Gaza Strip military fence, explicit Israeli settlement policies intended to bolster the Jewish population in East Jerusalem led to the clashes there, and repression by both Israel and the PA led to resistance in the West Bank. Palestinian collective action today is an expression of resistance to the violence of the Israeli occupier but also to the Palestinian leadership.

It is therefore not surprising that tensions escalated after the April 30 PLO meeting. Though many Palestinians due to the PLO's historical role in bringing the Palestinian struggle to the global stage continue to romanticize the organization as the "sole legitimate representative of the Palestinian people everywhere," Palestinians also saw live on TV, as one youth from Gaza says, "the extent that this body and its institutions are rotten." He adds, "When the last hope evaporates ... you lead an uprising to be heard, to be seen, to be recognized." For the younger generation, the reaction to frustration has been to organize and mobilize. For the younger generation, the reaction to frustration has been to organize and mobilize. As another youth activist from Gaza insists, "We saw that in the summer of 2017 in Jerusalem, and now we see it in Gaza. Even if these cycles of confrontation don't last ... only the people — not the political leadership will change the imbalances of power between the colonizers and colonized."

A third Gaza youth activist angrily argues, "It is us, the people, the future generation, the young and not Hamas who are protesting." The struggle, in her view, is one

of "popular resistance against all forms of control and domination, be it Palestinian or Israeli or Egyptian or any other... We have had enough of the top-down model that only creates dictators and VIP elite who cause us harm."

It is clear that there is a new entry point for leaders in the making: local, bottom-up activism that generates leaders attached to their social circles and linked to the daily struggles of the people rather than an aloof and distant elite in their fancy offices in Ramallah.

The protests in Gaza are the product of this grassroots anger. Israel has sought to misrepresent Hamas's involvement in the border demonstrations in order to criminalize and discredit the protests. Although Hamas is not the organizer of the march, it is directly and indirectly involved as it is one of the main actors governing Gaza. It is vital to recognize that Hamas is an integral part of the Palestinian political scene regardless of the harm that it (as well as Fatah) causes to the Palestinian quest for freedom and regardless of its strategies, visions, or ideological principles. Hamas has simply done what any other political party would do — instrumentalize these protests for political gain. Hamas has simply done what any other political party would do instrumentalize these protests for political gain.

The marches in Gaza are fundamentally about the undeniable, internationally recognized rights of the Palestinian people as a whole. Many political actors other than Hamas have participated in these marches, which shows that there is a nonfactional new generation of leaders a lesson that Fatah and Hamas would do well to learn.

Although the marches may soon end, the international community has learned one lesson: that the grievances of ordinary Palestinians should be taken seriously. This is not only because of the tragic death toll but also because international actors understand that a genuinely bottom-up Palestinian social movement could destabilize and threaten the status quo a status quo that the majority of actors are happy with.

If a future generation of Palestinian leaders is ever going to win influence, they can't simply criticize and curse that status quo. They must be proactive and envision a specific future and operationalize that vision through concrete and attainable actions. Changing politics requires playing politics, and changing the existing rules of the game requires playing the game.

This will be a complex and messy process, but future Palestinian leaders will only become visible if they form new political factions, enter youth-led lists in elections, establish a culture of accountability, and create a youth-led shadow government that engages in a nationwide debate on the priorities of the Palestinian people.

"You have something in this world, so stand for it," the Palestinian writer and political activist Ghassan Kana-fani, who was assassinated by Israel's Mossad intelligence service, once said. The Palestinians in Gaza, Haifa, Jerusalem, and elsewhere are doing precisely this: standing up for justice, freedom, dignity, and self-determination as fundamental values. The forces that fight these values most often under the pretext of security must be held accountable until they support peace and justice. Only then can we talk about a prosperous and peaceful Palestinian future.

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