

Forum: General Assembly Legal Committee

Issue: Criminal accountability of United Nations officials on duty

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Introduction

The mission of the UN peacekeepers program is to protect civilians, actively prevent conflict, reduce violence, strengthen security, and empower national authorities to assume these responsibilities. The UN peacekeepers program is implemented in crisis and conflict areas where the peacekeepers put out a range of stabilization and protection measures, to help avert the collapse of fragile states, prevent civil wars from metastasizing into large scale regional conflicts, and decrease the likelihood that dormant conflicts will resurface.

While ideally, these goals are to be achieved through these seemingly peaceful programs, there have been many instances of misconduct and allegations of assault. UN officials have also been accused of organizing human and sex trafficking rings in conflict zones such as Cambodia, Mozambique, Bosnia, and Kosovo. It's crucial to ensure the said officials are held accountable for their actions to avoid the deterioration of the organization's reputation, thus the reliability of their ability to help conflict zones, as well as ensure the safety of vulnerable individuals exposed to the said behaviors.

Definition of Key Terms

Accountability: is the state of being responsible for one's actions and facing their consequences. In the context of this agenda item, it is crucial that the peacekeepers are kept accountable for their misconduct in order to provide a safer environment.

Prosecution: related judicial institutions taking actions against someone following the criminal offenses which have been committed. Peacekeepers who are responsible for misconduct (criminal offenses) must be prosecuted.

Jurisdiction: the power to put legal and legislative decisions and rules into action. How well solutions to this issue are executed highly depend on the jurisdiction since the judicial institutions are responsible for prosecuting the peacekeepers at fault.

Deployment: the transfer of soldiers or military hardware to an area or location in preparation for combat. Peacekeepers are deployed to their missions.

Rule of Law: A political principle that holds legislators and other public officials responsible to the same laws as all other individuals and institutions within a nation, state, or community. The system in which the law applies to everyone. Under rule of law, peacekeepers are responsible for their actions and do not hold immunity. Countries functioning under rule by law - which is the opposite of rule of law- do not allow for these fair executions to happen.

General Overview

UN peacekeepers are selected from military officials of countries, and while the UN also employs engineers, drivers, and pilots they all require one to hold a military position. Those who do not hold a military position but still wish to be a part of the UN action force are able to apply for the UN police positions. UN peacekeeping forces exist to aid countries in transitioning from conflict to peace. (United Nations Peacekeeping) There are currently 11 Peacekeeping operations active as of February 2024, which are located in; Kosovo (UNMIK), Western Sahara (MINURSO), Cyprus (UNFICYP), Golan (UNIDOF), Lebanon (UNIFIL), Middle East (Headquarters in Jerusalem, UNTSO), Pakistan (UNMOGIP), Aybei (UNISFA), Central African Republic (MINUSCA), South Sudan (UNMISS) and the Democratic Republic of Congo (MONUSCO).

Once a peacekeeping operation begins, peacekeepers are stationed in the area and entrusted with upholding the rule of law, facilitating political processes, protecting civilians, aiding in the demobilization and reintegration of former combatants, supporting election organizations, and protecting and promoting human rights.

Principles of Peacekeeping

Peacekeeping is based upon three main principles which are consent of the parties, impartiality, and non-use of force excluding self-defense and defense of the mandate.

The principle of consent of the parties refers to the fact that UN peacekeeping operations are deployed with the consent of the main parties to the conflict. This necessitates the parties' dedication to a political process. Their consent to participate in a peacekeeping mission gives the UN the political and operational flexibility it needs to fulfill its mandate. Without this kind of agreement, a peacekeeping mission runs the risk of getting involved in the conflict and getting distracted from its primary duty of maintaining peace in favor of enforcement action.

While impartiality should not be mistaken for neutrality or passivity, it is essential to preserving the primary parties' cooperation and consent. While carrying out their duty, United Nations peacekeepers should not be neutral in their interactions with the warring parties. Instead, they should be impartial. A peacekeeping mission under the United Nations shall not support acts by the parties that go against the agreements made during the peace process or the international standards and values that the mission respects. Even while a peacekeeping operation needs to build and maintain positive relationships with the parties, it must carefully avoid any actions that might tarnish its reputation for

objectivity. Fear of misunderstandings or reprisals should not prevent a mission from applying the impartiality principle strictly. Failing to do so might damage the legitimacy and credibility of the peacekeeping operation and result in one or more parties withdrawing their approval for it to remain in place.

UN peacekeeping missions do not serve as a means of enforcement. However, if they are defending their mandate and acting in self-defense, they are permitted to employ force at the tactical level with the Security Council's approval.

The Security Council has granted UN peacekeeping operations "robust" mandates in certain volatile situations, allowing them to "use all necessary means" to protect civilians under imminent physical threat, prevent forceful attempts to disrupt the political process, and/or support national authorities in upholding law and order. Effective peacekeeping necessitates the tactical use of force, approved by the Security Council and endorsed by the host country and/or the principal combatants. (United Nations Peacekeeping, 2022)

Previous issues Faced with Peacekeeping Operations

While the peacekeeping principles were expected to prevent any sort of wrongdoings made by peacekeepers, they did not create the baseline expected to execute them coordinating. Other than obvious systematic issues faced with the peacekeeping programme - which would include the lack of progress made when it comes to resolving the conflict and taking neutral stances in making decisions- peacekeeping operations have had numbers of peacekeepers who were accused of sexual assault crimes while on duty.

The report published by Association Press in 2017 revealed that nearly 2,000 complaints of sexual assault and exploitation by troops and other UN personnel have been made worldwide in the past 12 years. The abuse was far more widespread than first believed, according to AP. Following the AP story, Nikki Haley, the US ambassador to the UN, asked other nations to hold UN forces responsible for any sexual exploitation or abuse. Amnesty International first revealed in 2004 that young girls were being abducted, abused, and coerced into prostitution in Kosovo, with UN and NATO staff serving as the clients who created the demand for sex slaves. It was then stated by the UN department in charge of peacekeeping in New York that peacekeepers began to be seen as part of the issue in trafficking rather than the solution. (Time, 2017)

After UN peacekeeping forces were stationed in Bosnia, Kosovo, Cambodia, and Mozambique, reporters saw a sharp rise in prostitution. Abuse cases in Cambodia generated a lot of concern because many of the abused women and girls ended up getting HIV/AIDS and other diseases that weren't common in the area. (Foreign Affairs, 2017) According to a Kosovo victims support group, 80% of the local prostitutes were under the age of 18, and one-third were under the age of 14. According to Amnesty International, the victims' "owners" repeatedly subjected them to rape "as a means of control and coercion" and held them in appalling circumstances, sometimes imprisoning

them in chambers with no light. (The Guardian 2012)

The Sri Lankan troops in Haiti wanted to have sex with children and girls as young as twelve. According to the AP, 134 Sri Lankan troops ran a child sex ring, enticing kids with sweets and money. The majority of the peacekeepers were returned to Sri Lanka following an incriminating U.N. report, although none of them were imprisoned. (Foreign Policy, 2017)

Holding the Peacekeepers Criminally Accountable

The UN has historically depended on the accused home countries to carry out justice when charges are made since peacekeeping troops and UN employees have immunity in the nations where they are stationed. The Secretary-General may waive immunity for UN personnel who commit major crimes and have them punished in the host nation; however, peacekeeping missions are frequently conducted in nations with weak legal systems. Very few nations with jurisdiction over the accused bring charges against UN soldiers, police, or employees. (Global Bar Association, 2015)

Major Parties Involved and Their Views

Kosovo

Since the deployment of the UN peacekeeping force in Kosovo in 1999, Kosovo has become a destination for women's trafficking. Women of different nationalities have been trafficked into Kosovo while internal trafficking has also gone on. After UNMIK's deployment many organized prostitution rings were identified in areas close to the troops and the military personnel were identified as the main clients of these rings. (Amnesty International, 2014)

Democratic Republic of Congo

Starting from 2005, there have been reports submitted by the International Oversight Services on claims regarding sexual assault cases by UN peacekeepers. After the 2005 reports, the UN mission in Congo had ordered several soldiers home and conducted its own investigations into claims of abuse by both civilian employees and peacekeepers. (BBC, 2005) Most recently, DR Congo faced sexual assault allegations against 9 peacekeepers after which the peacekeepers were detained. It should also be kept in mind that after 20 years in the area, the UN will be withdrawing its peacekeepers in the area by the end of 2024. (AP, 2024)

Haiti

The UN stabilization mission in Haiti faced a sexual abuse crisis in 2007 when allegations of immoral sexual assault and other sexual assault by United Nations soldiers, mostly from the Sri Lankan peacekeeping detachment, were brought up. (BBC, 2007) The Sri Lankan government decided in

2016 to provide a one-time ex-gratia payment to a victim and child born as a consequence of sexual exploitation and abuse. Of the 950 Sri Lankan Army peacekeepers in Haiti, 114 were charged in November 2007 with sexual assault and misbehavior. Three officers and 108 other members of the 950-person Sri Lankan peacekeeping mission were returned after being connected to allegations of misconduct and sexual assault.

Central African Republic

In the Central African Republic, the UN is looking into more than ninety incidents of sexual assault of peacekeepers. (The Vice, 2021) 60 Tanzanian military men were returned by the peacekeeping mission in the Central African Republic in 2023 as a result of grave accusations of sexual assault and exploitation against the peacekeepers. After receiving formal notification, national investigating officers from Tanzania were sent to the Central African Republic. (United Nations Peacekeeping, 2023)

Amnesty International

Amnesty International has published numerous reports investigating criminal offenses committed by UN officials in different countries and regions, during different missions.

Timeline of Events

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| 1999 | The United Nations Mission in Kosovo (UNMIK) begins. |
| 2004 | Amnesty International reports that girls are being kidnapped and tortured, forced into prostitution while having their primary customers being UN Peacekeeping personnel. |
| February 2004 | The United Nations Mission in Haiti (UNMIH) begins. |
| 2004-2007 | More than 100 troops are sent to their home countries due to involvement in a sex ring located in Haiti and Sudan but never end up being charged. |
| 2014 | The United Nations Mission in the Central African Republic (MINURCA) began. |

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|-------------------------|---|
| <p>2014-2015</p> | <p>41 troops in the Central African Republic are accused of sexual abuse and leave the mission.</p> |
| <p>2017</p> | <p>An Associated Press investigation reveals that more than 100 UN peacekeepers have run a child sex ring in Haiti for over 10 years but have never been charged.</p> |

UN Involvement

In August 2015, the United Nations published the Policy on Accountability for Conduct and Discipline in Field Missions. The Policy describes the roles and responsibilities in field missions and at Headquarters for addressing misconduct and explains how accountability is to be achieved when personnel fail to observe the UN standards of conduct. It is implemented by the Department of Management Strategy, Policy and Compliance, the Department of Peace Operations, and the Department for Peacebuilding and Political Affairs. The Policy also outlines the obligations of top managers, commanders, and heads of missions in this respect.

To address the expansion of national jurisdiction by Member States to encompass criminal wrongdoing by UN officials or experts on missions, the General Assembly approved the resolution on criminal responsibility of UN officials and experts on missions (A/RES/62/63) in December 2007. The General Assembly urged Member States to work together with the UN to facilitate information sharing, facilitate investigations, and, when necessary, prosecute those who are relevant. Through the Office of Legal Affairs (OLA), the UN refers cases involving actions that amount to criminal conduct to the alleged perpetrator's country of nationality for possible criminal conduct investigation and, subsequently, prosecution. This ensures that UN officials and experts on mission are held accountable for their actions.

Relevant UN Documents

Criminal accountability of United Nations officials and experts on mission- Resolution adopted by the General Assembly, 6th of December 2007, A/RES/62/63

Statement by the President of the Security Council- 31 May 2005- S/PRST/2005/21

Resolution 2272 Adopted by the Security Council- 11 March 2016- S/RES/2272

The reports "Criminal accountability of United Nations officials and experts on mission" (A/78/248 and

A/78/275) from the Secretary-General

Resolutions 62/63, 63/119, 64/110, 65/20, 66/93, 67/88, 68/105, 69/114 and 70/114 adopted by the General Assembly

Treaties and Events

No treaties and events have been in place to resolve this issue; however, creation and implementation of them would be a huge step towards clarifying legislative procedures to be taken in order to ensure criminal accountability by UN peacekeepers on duty.

Evaluation of Previous Attempts to Resolve the Issue

Implementation of internal UN Organs such as the Office of Internal Oversight Services (OIOS), which is responsible for conducting investigations have been tried. According to the findings made by the said internal organs disciplinary and administrative measures have been implemented to resolve the issue. This internal organ is a great way of ensuring that accusations of misconduct are investigated. However, factors of diplomatic immunity and the UN usually leaving prosecutions of the responsible peacekeepers to the countries in which the missions take place (the judicial systems of which are more often than not corrupted) prevent these internal organs from achieving what they were created to achieve.

The UN has also made efforts to protect victims coming forward to encourage more people to voice their stories. With this effort, the UN has made it possible for people to share their experiences, thus informing related bodies of the misconduct happening without relying on internal organs, or UN peacekeepers themselves.

Possible Solutions

While the Secretary-General does already hold the power to waive diplomatic immunity for UN officials in cases where the alleged crimes are considered serious and there is a need for accountability, the waiving of diplomatic immunity becoming more common would not only drastically decrease the number of instances such as those which have taken place in Haiti and Kosovo where responsible peacekeepers were let free without any charges (partially due to their diplomatic immunity) but would also discourage UN peacekeepers from participating in such misconducts.

Relying on countries in which UN peacekeeping missions are stationed for the prosecution of peacekeepers responsible for misconduct is one of the biggest causes of the lack of accountability the guilty peacekeepers are facing. Instead, taking the cases to international courts would ensure that the peacekeepers are prosecuted following clear international guidelines, rather than usually corrupted

national courts.

Notes from the Chair

While this issue is very complex, looking at specific examples from peacekeeping missions and analyzing what the fault in their prosecution was would be the easiest way to be able to come up with a solution to the issue. Promoting transparency and encouraging international cooperation in doing so will also be very helpful as delegates analyze cases that include international involvement such as in Haiti as Sri Lankan officials were also involved.

Useful links:

<https://www.foreignaffairs.com/articles/world/2017-06-09/un-peacekeepers-sexual-assault-problem>

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