



2019

CHAIR REPORT

GA5: LEGAL COMMITTEE

**PROVIDING MEANS TO DETERMINE CRIMINAL
LIABILITY OF UN PEACEKEEPERS AND OFFICIALS**

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Committee: GA5: Legal Committee

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Student Officer & Role: Yavuz Erol Gönen - President Chair

Introduction

In the 71st year of its establishment, United Nations(UN) Peacekeeping is still a controversial topic in the 6th committee of the General Assembly, the Legal Committee. UN Peacekeeping forces were established in May, 1948 by the United Nations Security Council when the Armistice Agreement between Israel and its Arab neighbors were decided to be observed by a small number of UN military observers. In the past 71 years of its service, over one million volunteers took place in more than 70 UN peacekeeping operations. Currently, according to the UN Peacekeeping Website, more than 100,000 military, police and civilian personnel from 125 countries take role in the ongoing 14 UN peacekeeping operations. UN Peacekeepers - often referred to as Blue Berets or Blue Helmets due to the color of their appearance - monitor and observe peace processes in post-conflict areas and assist ex-combatants in implementing the peace agreements they may have signed. They aim to achieve this motive through varying ways, such as power-sharing arrangements, electoral support, confidence-building measures, strengthening the rule of law, and economic and social development. The financial needs of the UN Peacekeeping forces are met by the member states of the United Nations through a formula which takes into account member states' relative economic wealth. The UN Peacekeepers' current budget is approximately \$6.7 billion; the budget was reduced by \$600 when United States of America proposed a budget cut of \$900 in 2017. In the year 2018 alone, the UN Peacekeepers' operation-level budget was approximately \$6.2 billion; this budget includes extremely costly operations such as the ones in South Sudan, Congo, and Mali, which cost around 1 billion dollars each. The UN peacekeepers are one of the most efficient ways to solve conflicts by the help of UN; in fact, the UN website highlights their work's significance by stating that in the 21st century, multidimensional peacekeeping operations are called upon not only to maintain

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peace and security but also to protect civilians, facilitate the political processes, support elections, disarm combatants, protect and promote human rights, and restore the rule of law. However, despite their effectiveness in conflict solving or seizing, there has been many controversies regarding the legal aspect of this military service. There have been many incidents of UN Peacekeepers violating laws of the country they were defending at the time, and there is an ongoing debate on the issue of UN Peacekeepers being held accountable for their violation of these laws. This issue will be further evaluated in the *focused overview* section of this chair report.

Key Vocabulary

United Nations Peacekeepers: United Nations Peacekeepers is a group authorized by the United Nations Security Council to help conflicted areas. They were initially established with the purpose of maintaining ceasefires and stabilizing situations on the ground so that efforts could be made at the political level to resolve the conflict by peaceful means; however, their purposes have been extended, as explained in the chair report, with the changing political landscape.

Conflict Regions: According to the definition of NATO, conflicted regions are geographies with ongoing military dispute, lack of individual security, great humanitarian distress, collapsing civil infrastructure, the threat of ethnic cleansing, dysfunctional execution of jurisdiction, displaced peoples, and publicly unquestioned criminal activity.

Office of the High Commissioner for Human Rights: Office of the High Commissioner for Human Rights is one of the United Nations's Secretariat's departments which works to promote and protect the human rights. The head of the department functions to co-ordinate human rights activities throughout the UN System.

United Nations Multidimensional Integrated Stabilization Mission in the Central Africa Republic(MINUSCA): The Security Council authorized a group of UN Peacekeepers on 10 April 2014 concerned with the security, humanitarian, human rights and political crisis in the

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Central African Republic and its regional implications. The mission was infamous for the Peacekeepers as it was the mission which many sex crimes were committed by UN Peacekeepers in exchange for goods and food.

Focused Overview

Peacekeepers are perceived as one of the most efficient ways to solve conflicts in problematic areas with issues requiring the help of United Nations; however, in the last decade, the UN Peacekeepers are observed to cause unexpected and unethical conflicts in geographies which they were initially appointed to in order to seize conflicts. One of the most recent and most shocking examples of UN Peacekeepers violating laws was observed in Central African Republic, in 2014. In 2014, peacekeepers from France and Georgia were reported to take role in incidents of sexual violence young children in the Central African Republic, and in the researches that followed these reporting, The United Nations reported 41 cases of abuse involving peacekeepers from different regions of the world, accepting its troops' flaws. This wasn't the first time UN Peacekeepers were accused of crimes such as sexual or domestic violence. 20 years ago, the United Nations were under harsh accusations claiming that the UN Peacekeepers in Cambodia had sexually abused women and girls and spread HIV/AIDS and other diseases among local populations. Coming back to the mission in Central African Republic (MINUSCA) in 2014, a human rights officer and a UNICEF staff member conducted interviews with local children regarding the UN Peacekeeping forces in order to acquire first hand knowledge on the issue. The team was able to conduct a shocking interview with an 11 year old boy who gave a detailed description of a French soldier who had promised him food in exchange for oral sex. Office of the High Commissioner for Human Rights (OHCHR), took active role in the interviews and informing the Secretary General of the time Ban Ki-moon (Korea). The Secretary General submitted a report of the International Commission of Inquiry on the Central African Republic, but the report was inadequate in referring to specific MINUSCA/OHCHR/UNICEF reports of abuse by the international

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peace keepers. Similar conflicts due to UN Peacekeepers were also observed in countries such as Democratic Republic of the Congo, Haiti, Liberia, and beyond. Bearing in mind these issues, United Nations's sixth committee, Legal Committee, has been working to eliminate this problematic side of UN Peacekeepers, and many debates have taken place regarding the criminal accountability of UN Peacekeepers.

In the sixty-ninth session, 17th meeting (AM) on October 22nd, 2014 a significant debate took place under the name of "Criminal Accountability of United Nations Officials, Experts on Mission Critical to Organization's Credibility, Legal Committee Stresses." In the debate session, speakers agreed that personnel must not be able to commit crimes with impunity, but held accountable if the United Nations and the Peacekeepers were to maintain their credibilities. Israel's representative added that crimes undermined the United Nations' mandate; this was followed by the representative of the Republic of Korea who stated that if serious violations were not prosecuted for crimes committed by Peacekeepers, then the United Nations might create a false signal implying that officials and experts could improperly abuse immunities for private benefit. Many delegations also highlighted the significance of filing of crimes in this issue. For example, the representative of Norway found the low rate of feedback regarding the conflicts created by UN Peacekeepers troubling. Similarly, the delegate of United States of America suggested the United Nations to provide a more systematic way for them to report on the outcome of such violations. Although many valid points were made in the debate, a conclusion could not be arrived at.

Another significant debate took place on this issue, on October 6th, 2017. The significance of this debate was that it was centered on the elaboration of an international convention addressing the issue of Peacekeepers. In the year 2017, 35 allegations had been referred to Member States for investigation which was the highest number per year until that year, and although the issue was one which had been discussed for 11 years, no definite conclusion was formed. In order to finally solve the issue, many member states argued for a convention to establish jurisdiction over serious crimes committed by UN Peacekeepers. South Africa was one of the first nations to support the idea, and many agreed with them. Building upon the convention proposal, Norway's delegate, on behalf of all the Nordic Countries, stated that *member states should be required to have relevant jurisdiction in*

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place in order to be able to investigate and prosecute potential crimes committed by their nationals

when serving abroad(extracted from UN's website). The proposal was disputed by Switzerland's delegate who highlighted that criminal allegations within the United Nations system were handled differently from one entity to the next, so there would be miscorrelation in the application of laws in such a convention. Still, there is no answer to this question of convention despite various proposals.

The issues surrounding UN Peacekeepers are still present, and these issues cause the United Nations's reputation to be harmed in solving global conflicts. Currently, UN Peacekeepers are active in 14 different locations, and there is an urgent need to eliminate any source of unethical problems. UN Peacekeepers have been observed to commit sexual or violent crimes through the trades of commodities, and this is causing the trust towards the organization to be harmed. In order to solve this issue and to make the UN Peacekeepers to be trusted again by society, the help of Legal Committee delegates is needed.

Major Parties Involved and Their View

Central African Republic: Central African Republic is one of the most crucial countries in the issue of UN Peacekeepers because they have faced atrocious consequences due to the unethical actions of the peacekeepers in the past. United Nations Multidimensional Integrated Stabilization Mission in the Central Africa Republic(MINUSCA) has been one of the biggest failures of the UN Peacekeepers as many troops committed violence and sex crimes towards the local children which dishonored both the UN Peacekeepers and the United Nations. Central African Republic is aiming to eliminate any possible negative consequence of the UN Peacekeepers so that no other African country faces similar problems to theirs.

France: France is a really controversial country in the issue of United Nations Multidimensional Integrated Stabilization Mission in the Central Africa Republic(MINUSCA) because many of the troops which committed violence and sex crimes were French. This issue has led to a debate on the criteria of being a UN Peacekeeper. In addition, this situation has led to a debate about whether international or national laws should be applied in situations as similar to that of France's.

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Democratic Republic of Congo: Democratic Republic of Congo is another country which has suffered from the unethical actions of the UN Peacekeepers significantly. United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) was the UN Peacekeeping mission which has led to 150 recorded sexual abuse cases. Democratic Republic of the Congo supports the establishment of a convention, one similar to the mentioned in the focused overview section of the chair report, because the government aims to eliminate the drawbacks of UN Peacekeepers as soon as possible to be able to get help from them in the future.

Nordic Countries(Norway, Denmark, Finland, Iceland and Sweden): The Nordic countries do not have individual problems regarding the issue of UN Peacekeepers; however, they take active roles in the debates on that topic. They are mostly concerned with the application and the validity of international laws and penalties regarding the unethical actions of UN Peacekeepers.

Ethiopia: Ethiopia is a country which currently has the most number of UN Peacekeeping troops; there are currently 8,326 of them. Due to this reason the criminal liability of UN Peacekeepers is extremely important since they consist a large amount of their national security.

Timeline of Events

Date of Event (Day/Month/Year)	Description of Event
30/November/1999	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo(MONUSCO): <ul style="list-style-type: none">• one of the most infamous missions of the UN Peacekeepers• 150 sexual abuses, 3 murders, and 44 extortions or thefts by UN Peacekeepers were recorded
Date of Event (Day/Month/Year)	Description of Event

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9/October/2013	<p>The Publishing of Transparency International's article named "UN Peacekeeping Missions Must Tackle Corruption:"</p> <p>The article was significant due to a UN organ acknowledging UN Peacekeeper's corrupted nature and elaborating on the issue.</p>
Date of Event (Day/Month/Year)	Description of Event
10/April/2014	<p>An international Non-Governmental Organization requested the help of the UN peacekeeping mission in the Central African Republic (MINUSCA) when reports about sexual assaults of local children by UN Peacekeepers were reported.</p>
Date of Event (Day/Month/Year)	Description of Event
May-December/2014	<p>OHCHR and UNICEF professionals conducted interviews with the locals to prove the sexual assaults committed by the UN Peacekeepers. The reports led to the Secretary General of that time to submit a final report of the International Commission of Inquiry on the Central African Republic.</p>
Date of Event (Day/Month/Year)	Description of Event

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22/October/2014	“Criminal Accountability of United Nations Officials, Experts on Mission Critical to Organization’s Credibility, Legal Committee Stresses” Debate took place in the GA6: <i>The debate’s details are explained in the focused overview section of the chair report.</i>
Date of Event (Day/Month/Year)	Description of Event
6/October/2017	GA6 Seventy-Second Session, 8th & 9th Meetings: The meetings’ details are explained in the focused overview section of the chair report.

Evaluation of Previous Attempts to Resolve the Issue

- General Assembly Resolution – [A/RES/69/210](#)
- General Assembly Resolution – [A/RES/72/205](#)
- General Assembly Resolution – [A/RES/72/126](#)
- General Assembly Resolution – [A/RES/72/121](#)
- Security Council Report – [S/2014/928](#)
- Transparency International Article Regarding the United Nations Peacekeepers:
https://www.transparency.org/news/feature/un_peacekeeping_missions_must_tackle_corruption

Possible Solutions

In order to solve the issue of UN Peacekeepers, the main methods can be divided into three: application of a new international law system, a new peacekeeping organization, and the establishment of an international convention.

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Firstly, the formation and the application of an international law system is crucial because many countries debate upon the validity of the current international laws in tackling this issue, so a new law system which has penalties and definitions of crimes which can be accepted by the member states should be formed.

Secondly, new peacekeeping organization is crucial because the current UN Peacekeepers has been associated with and involved in many crimes in different countries. A new organization with a clean background and stricter employment policies can be established in order to have a safer and more trusted international and United Nations authorized peacekeepers.

Finally, the establishment of an international convention would be really beneficial in concluding the ongoing debate regarding the UN Peacekeepers. One of the biggest debates going on in this issue is about the establishment of an international convention, as stated earlier in the chair report. The establishment of a new convention would increase the effectiveness of the evaluation of the UN Peacekeepers because it would present unbiased and different points of views on the issue.

Further Reading

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