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Forum: General Commission 1

Issue: Criminal accountability of United Nations officials and experts on mission.

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Introduction

In order to sustain peace and collaboration, UN (United Nations) have acted on series of missions. These “peacekeeping” missions have been conducted in various parts on the World. To conduct these missions, UN officials, UN peacekeeping soldiers and experts are needed. Their only mission is to sustain peace around the world and sustaining reliability on UN. Therefore, these missions should not be overlooked. However, as a way to control this, UN officials and experts are needed to visit countries all over the world to perform their duties. UN missions are nowadays extended therefore there are more than 15 missions still ongoing in four continents. This assignment should not be ignored as it is of great importance not to cause problems among countries. It requires great work and preparation as it affects nations. But unfortunately, many officials in ongoing missions have and continue to commit crimes and embezzlements including, but not limited to: sexual abuse, child pornography distribution, corruption and fraud, smuggling, firearm distribution, and more.

The fact that UN employees participate in such criminal activities may jeopardize the inter-national problems and jeopardize the UN's responsibility for peace. This situation harms the reputation of the UN and threatens its reliability. Most importantly, it damages the public health. In the case of a crime committed by experts, all responsibilities are guaranteed. Unfortunately, too many experts have been imposed on the impunity for a very long time, so it is important to take the necessary measures to punish them for their wrongdoings.

Definition of Key Terms

Criminal accountability (liability): responsibility for any illegal behaviour that causes harm or damage to someone or something. In this case, the responsibility for any illegal behavior is linked to UN officials in Peacekeeping missions. Therefore, the harm caused by the UN experts in mission is directed to the local citizens.

¹

Peacekeeping: the activity of preventing war and violence, especially using armed forces not involved in a disagreement to prevent fighting. UN has more than 14 peacekeeping missions in the world right now.

²

¹ “CRIMINAL LIABILITY | Meaning in the Cambridge English Dictionary.” *Cambridge Dictionary*, [dictionary.cambridge.org/dictionary/english/criminal-liability?q=Criminal liability](https://dictionary.cambridge.org/dictionary/english/criminal-liability?q=Criminal%20liability).

² PEACEKEEPING | Meaning in the Cambridge English Dictionary.” *Cambridge Dictionary*, dictionary.cambridge.org/dictionary/english/peacekeeping?q=Peacekeeping.



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Impunity: freedom from punishment or from the unpleasant results of something that has been done. The issue on the criminal accountability of UN officials is due to their impunity or their “freedom from punishments”. Therefore, some criminal activities have been remained unjustly.

³

Embezzlements: to secretly take money that is in your care or that belongs to an organization or business you work for. In some cases it has been seen that some officials embezzled local goods.

⁴

Background Information

Peacekeeping mission have been the most effective tool of UN in order to sustain peace and collaboration among governments by navigating them in their difficult situations. Peacekeepers can provide armed forces, troops and police around the globe to help countries make the difficult, early transition from conflict to peace. UN is guided by three basic principles, which are, “Consent of the parties”, “Impartiality” and “Non-use of force except in self-defence and defence of the mandate.”⁵ These three basic steps sustains Peacekeepers Neutrality policy.

Peacekeepers training aims UN police, peacekeeping troops and civilian personnel to have enhanced mandate equipment. With the training process, all experts on missions have to “meet the evolving challenges of peacekeeping operations in accordance with principles, policies and guidelines, as well as lessons learnt from the field;”, “perform their specialist functions in an effective, professional and integrated manner,” and “demonstrate the core values and competencies of the UN.”^{6 7}

Therefore, the selection process to to be a part of UN peacekeeping troops is also a thought process. Many requirements must be fulfilled such a higher education and 15 years of professional carrier is needed. Furthermore, depending on the field, some assessment tests are

required. For the troops and soldiers, in order for them to work under the “Blue Beret” should be foremost members of their own national armies and are then they are seconded to work with the UN for periods normally of up to one year in the field, or two years in the UN headquarters.

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(Figure 1: U.N. Peacekeepers)⁹



³ “IMPUNITY | Meaning in the Cambridge English Dictionary.” *Cambridge Dictionary*, dictionary.cambridge.org/dictionary/english/impunity.

⁴ “EMBEZZLE | Meaning in the Cambridge English Dictionary.” *Cambridge Dictionary*, dictionary.cambridge.org/dictionary/english/embezzle?q=embezzlement.

⁵ <https://peacekeeping.un.org/en/what-is-peacekeeping>

⁶ <https://research.un.org/en/peacekeeping-community/training>

⁷ <https://peacekeeping.un.org/en/military>

⁸ <https://peacekeeping.un.org/en/working-with-us>

⁹ <https://peacekeeping.un.org/en/military>



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UN Peacekeepers have been sent to most war-ravaged places on earth in order to sustain peace and control. However, some officials have been accused of committing crimes instead of protecting civilians. Between 2004 and 2016, UN received approximately 2,000 allegations of sexual abuse and exploitation against the officials and experts in ongoing Peacekeeping missions. (Associated Press 2017) The UN says it has a zero-tolerance policy on sexual exploitation and abuse, but survivors, activists, lawyers and human rights organisations say such crimes have been allowed to continue with impunity.¹⁰

After the World War II, UN decided to give UN Peacekeepers an immune position from prosecution by the host state. Instead, the officials would be held responsible by their own governments, judicial system. However, this decision by the UN has been abused by some of the UN Peacekeepers. According to Fiona Tate, a PhD candidate studying law at Queen Mary University of London in the UK, when UN started Peacekeeping missions in 1948, they didn't consider the right of women and children in the war zone where Peacekeepers should work. "As a result of this exclusion, crimes committed against [women] would go largely unrecorded," explains Tate.¹¹ However, at the end of 20th century, these crimes were internationally revealed. The reports came up including rape, and trafficking in Mozambique, Eritrea, Democratic Republic of Congo, Somalia, Bosnia, Liberia and abuse of minors in Sierra Leone¹².

Apart from sexual assault, human trafficking, rape and physical crimes, there are some accusations about UN on the issue of corruption. According to TI-UK (Transparency International) agency, there has been officers in the Police Unit in MINUSTAH (Haiti) who extorted money from daily-paid workers and thereafter paid bribes to ensure the continuation of the illegitimate scheme. Also, unjust behaviors against local staff from employed officials in the UN mission was seen in the UN mission in Kosovo, with many staff having to pay 'kickbacks' to UN staff to secure employment. Moreover fuel mismanagement, theft and fraud have been found across a number of UN Peacekeeping Missions including UNOCI (Ivory Coast), UNTAET (East Timor), and MONUSCO (DRC).¹³

Expert in United States Institute of Peace and Institute for Justice and Democracy in Haiti (IJDH) state that "UN is lacking justice" and describe their investigation system as "incredibly opaque". Some reports of (IJDH) include many paternity suits in Haitian courts on behalf of ten children fathered by UN Peacekeepers.¹⁴ After obtaining judgments in Haiti, BAI will push the UN to secure child support payments, through litigation, direct discussions with UN staff and media engagement. IJDH and BAI help journalists conducting

¹⁰ <https://www.aljazeera.com/indepth/features/2017/07/peacekeepers-rape-170730075455216.html>

¹¹

<https://medium.com/how-did-some-peacekeepers-become-predators/why-do-some-un-peacekeepers-rape-18cb6d9c396d>

¹²

<https://medium.com/how-did-some-peacekeepers-become-predators/why-do-some-un-peacekeepers-rape-18cb6d9c396d>

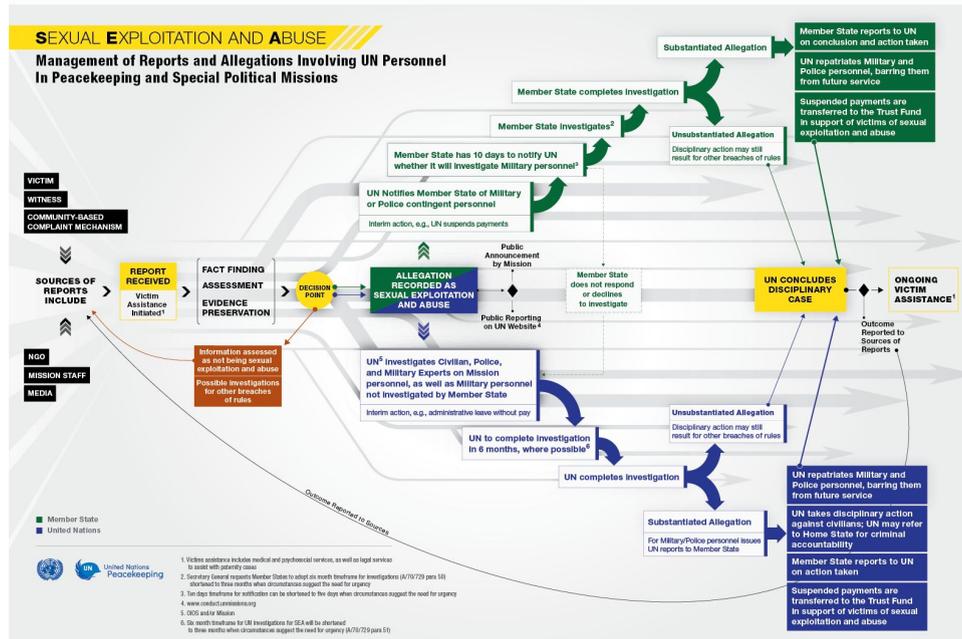
¹³ https://www.transparency.org/news/pressrelease/corruption_threatens_peacekeeping_success

¹⁴ <http://www.ijdh.org/sexual-exploitation-and-abuse-sea/>



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investigations into UN Sexual Exploitation and Abuse (SEA), including Reuters, The Guardian, and Al Jazeera.”¹⁵



(Figure 2: The Pattern of Management of Allegations Involving UN Officials)

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As it can be seen from the pattern indicating the process of the

management of the reports and allegations concerning UN personnel, the process can be highly detailed and protracted. This mechanism of solving issues regarding SEA can fail to satisfy the victims and may lead to injustice due to long term juristical system of either UN or governments.

There are a number of factors that prevent efforts to combat this problem and create various solutions. The most important factor is that the differences in the law countries constitutions. In this context, due to the different laws in each country, each individual situation must be resolved in different ways by the different laws of each country. Normally, the country of origin have to deal with the trials but due to law differences among other countries, it may be unable to do so. Apart from country of origin, the criminal events can be covered by the International Criminal Court. However, ICC covers only obvious crimes such as murder and sexual exploitation, so the ICC can rarely intervene in these cases. Also, various entities under UN have a different way of handling cases which is also a hindering factor in the establishment of justice. Due to these hinders, there is a tendency to not follow up on investigations of officials, letting them escape and leaving them without any judgement

¹⁵ <http://www.ijdh.org/sexual-exploitation-and-abuse-sea/>

¹⁶ https://peacekeeping.un.org/sites/default/files/infographic_v10-revisedoct2017.png



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Peacekeeper Babies and Victims

There have been over 700 complaints of sexual abuse and exploitation against UN peacekeepers in the Democratic Republic of Congo¹⁷. The children of the Peacekeeping soldiers' victims are suffering many challenges. They face Lack of childcare support, social stigma and discrimination for being of a different skin colour is common. Over 20.000 UN Peacekeepers are a part of MONUSCO (United Nations Organization Stabilization Mission in the Democratic Republic of the Congo) which is the biggest and the most expensive UN Peacekeeping mission. Over the years since they have been deployed in 1999, it has become infamous for being at the centre of sexual abuse scandal sand the UN hasn't done much to protect the victims. An AP investigation reveals that paternity payments were made only in two of the claims that were confirmed by the UN between 2010 and 2017. The problem of sexual misconduct is not limited to the DRC. Such allegations are common in Haiti, Sudan, Kosovo, Bosnia and Central African Republic. Apart from DRC, there have been many allegations in CAR and Haiti. According to The Guardian, "Haitian mums seek support from UN troops for 'peacekeeper babies' Women who claim they were sexually exploited by UN soldiers file lawsuit claiming paternity and maintenance payments".¹⁸ Alternatively the report on Aljazeera mentions, "UN Secretary-General Ban Ki-moon's spokesperson, Stephane Dujarric, said the latest incident was the third case of alleged child sexual abuse involving peacekeepers in the CAR to have surfaced in recent months."¹⁹

Timeline of Major Events

Date	Description of Major Event
13.02.1946	Convention on the privileges and immunities of the United Nations Peacekeepers. It was opened for signature in February 1946, and entered into force in September 1946: even before the establishment of the first peacekeeping operation UNTSO. It includes basic law and immunities of experts on peacekeeping missions before the operation of UNTSO.
22.10.2014	GA6 69th session 17th meeting on the issue of criminal accountability of UN officials. In this session, a resolution about "Criminal accountability of United Nations officials and experts on mission" has been discussed and therefore established. (A/RES/69/114)

¹⁷ <https://apnews.com/69e56ab46cab400f9f4b3753bd79c930>

¹⁸

<https://www.theguardian.com/global-development/2017/dec/15/peacekeeper-babies-mums-haiti-support-un-troops>

¹⁹ <https://www.aljazeera.com/news/2015/06/peacekeepers-face-sex-abuse-claims-car-150624123505253.html>



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28.12.2016	Follow up on accusations against UNOCI (United Nations Operation in Côte d'Ivoire) official for reception of bribes. Similarly, discrimination against local staff employed in the UN mission was seen in the UN mission in Kosovo. Fuel mismanagement, theft and fraud have been found across a number of UN Peacekeeping missions including UNOCI. <small>20</small>
06.10.2017	Follow up on accusations against MONUSCO (United Nations Organization Stabilization Mission in the Democratic Republic of the Congo) official for sexual abuse of a minor
10.11.2017	Report of the 6th Committee : General Assembly, 72nd session about “Criminal accountability of United Nations officials and experts on mission” General Assembly decided that the agenda item entitled “Comprehensive review of the whole question of peacekeeping operations in all their aspects” (A/60/980)
08.12.2017	A resolution adopted for the “Criminal accountability of United Nations officials and experts on mission.” by the General Assembly. Under this resolution General Assembly expressed its concern with respect to all alleged crimes on the part of United Nations officials and experts on mission, including fraud, corruption, and other financial crimes, and would urge the Secretary-General to continue to ensure that the zero-tolerance policy is made known to all United Nations officials and experts on mission at all levels. (resolution 71/134)

Major Countries and Organizations Involved

MONUSCO:

One of the biggest and expensive UN peacekeeping mission which is at the centre of sexual abuse scandals by the UN officials.

Being established by the Security Council, United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) by its resolution 1279 of 30 November 1999, initially to plan for the observation of the ceasefire and disengagement of forces and maintain liaison with all parties to the Ceasefire Agreement.²¹

MINUSCA:

²⁰ https://www.transparency.org/news/pressrelease/corruption_threatens_peacekeeping_success

²¹ <https://monusco.unmissions.org/en/background>



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“United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic.” The Security Council, which aims to find a solution to the security, humanitarian aid, human rights and political crisis in the Central African Republic, has authorized the distribution of the multi-dimensional United Nations peacekeeping operation (MINUSCA) on 10 April 2014 with the highest priority for civilians. This operations other initial tasks included support for the transition process, facilitating humanitarian assistance; safety and security of human rights; support for justice and the rule of law; disarmament, demobilization and aimed to sustain reintegration.

Republic of Kosovo:

Sexual abuse and exploitation was first documented “in Bosnia, Herzegovina and Kosovo in the early 1990s. ²²UN Peacekeepers stand accused by the sexual assault and rape in Republic of Kosovo peacekeeping forces.

Bosnia and Herzegovina:

In 1995, it turned out that peacekeepers have committed crime such as sex trafficking and sexual abuse to some women. They used some women and children as sex slaves. This emerged in Bosnia and Herzegovina, and later proving that the respondents were guilty of sex trafficking. However, there was indications for that crimes in news and in media until 1999. The increasing attention of the media and the rising public after 1999 pushed the UN Mission in Bosnia and Herzegovina and the Office of the High Commissioner for Human Rights to reconsider its policies. ²³

Previous Attempts to Solve the Issue

The issue of criminal activities regarding experts on peacekeeping has been broadly discussed in the committee of GA6. The debates and efforts given on that topic unfortunately couldn't reach to a particular conclusion therefore it has not so far proven successful. In the draft resolution, at 6 November 2017 (A/C.6/72/L.18), there was no mention of a convention however, it was decided that the issue should be added to the next session of GA6. Also, various resolutions have been discussed. Yet, the statements and solutions on proposed resolutions haven't been implemented enough to solve the general aspects of the problem. The general overview and the guidelines are present in the resolutions regarding cooperation and improvement and implementation of laws. However, the prosecution of the crimes and the process is not clearly mentioned thus some statements became repetitive including the past discussions and proposed solutions. The awareness of the problem have been taken

²² Defeis, Elizabeth F. "UN peacekeepers and sexual abuse and exploitation: An end to impunity." *Wash. U. Global Stud. L. Rev.* 7 (2008): 185.

²³ Westendorf, Jasmine-Kim. "WPS and SEA in Peacekeeping Operations." *The Oxford Handbook of Women, Peace, and Security* (2018): 222.



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cognizance of UN when the “Zeid Report” have been published by the Permanent Representative of Jordan, His Royal Highness Prince Ra’ad former civilian peacekeeper and the UN ambassador of one of the major contributors due to the request of the former Secretary General of UN, Kofi Annan. The report addressed many of the issues and four problematic areas of concerns.

- United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel, 7 March 2008 (A/RES/ 62/214)
- Criminal accountability of United Nations officials and experts on mission, 18 December 2013 (A/ RES/68/105)
- Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission, 18 June 2002 (Secretary General's bulletin) (ST/SGB/2002/9)
- Criminal accountability of United Nations officials and experts on mission, 13 December 2016 (A/ RES/71/134)
- Convention on the privileges and immunities of the United Nations, 13 February 1946
- Criminal accountability of United Nations officials and experts on mission, 31 July 2014 (Report of the Secretary General) (A/69/210)
- Criminal accountability of United Nations officials and experts on mission, 28 July 2017 (report of the Secretary General) (A/72/205)
- Draft Resolution on criminal accountability of United Nations officials and experts on mission, 6 November 2017 (A/C.6/72/L.18)
- Report of the Secretary-General’s Special Advisor, Prince Zeid Ra’ad Zeid Al-Husseini, on a comprehensive strategy to eliminate future sexual exploitation and abuse in the United Nations Peacekeeping Operations (A/59/710):

Possible Solutions

One of the most important enhancements should be enhancing education level of the UN Peacekeeping soldiers, giving awareness of the culture, tradition and the social structure in the location where mission takes place. It is known that UN is working rigorously on that matter however, improvements should be made. There should be ways to improve the socio-economic and physiologic conditions of peacekeeping fields, both for the officials and especially for the local citizens. There should be actions covering the victims especially the babies fathered by peacekeepers in order to overcome the continuing miserable situation of families after SEA. On the other hand, the length of duty of the soldiers can cause psychological problems for them. Such improvements can be replicated according to working conditions of UN peacekeepers. One of the most important problems of this situation is that the necessary punishment system is not used against criminals. Therefore, a transparent guideline



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or jurisdiction should provide a framework to UN to be accusing criminal actions of UN experts on mission. Therefore, the UN documents which address this particular issue should be carefully taken into account and the possible solutions should be considered namely; 2003 Bulletin of Secretary-General, Reports of Group of Legal Experts and Zeid Report, Thus the criminal accountability should be standardised and sustained. Establishment of 3rd party organisation as a lawmaker can be also included as a possible solution. Lastly, the needed support for all the victims and children should be fulfilled by the UN itself, or its sub organisations. Therefore, transparency among all the crimes and cases must be provided and the necessary judgement should be ensured.

Useful Links For Further Research

- <https://www.un.org/press/en/2013/gal3460.doc.html>
- http://www.un.org/en/ga/sixth/72/criminal_accountability.shtml
- <https://illinoiscaselaw.com/what-is-criminal-accountability/>
- <http://unbisnet.un.org:8080/ipac20/ipac.jsp?ipp=20&spp=20&profile=bib&ri=&index=.TW&term=Criminal+accountability&matchoptbox=2%7C0&oper=AND&aspect=subtab124&index=.UD&term=A%2F72&matchoptbox=2%7C0&oper=AND&index=.TN&term=&matchoptbox=0%7C0&oper=AND&index=.AW&term=&matchoptbox=0%7C0&ultype=&uloper=%3D&ullimit=&ultype=&uloper=%3D&ullimit=&sort=&x=11&y=11#focus>
- <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/431/91/PDF/N1743191.pdf?OpenElement>
- <https://www.un.org/press/en/2015/gal3500.doc.htm>
- <https://www.theguardian.com/global-development/2017/dec/15/peacekeeper-babies-mums-haiti-support-un-troops>
- <http://www.ijdh.org/sexual-exploitation-and-abuse-sea/>
- <https://www.aljazeera.com/news/2015/06/peacekeepers-face-sex-abuse-claims-car-150624123505253.html>
- <http://america.aljazeera.com/articles/2015/7/23/un-official-slow-to-investigate-car-sex-abuse-case-resigns.html>
- <https://medium.com/how-did-some-peacekeepers-become-predators/why-do-some-un-peacekeepers-rape-18cb6d9c396d>



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