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**GA6 – Criminal accountability of  
United Nations officials and experts  
on mission**

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**Forum:** GA6

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

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## Introduction

The United Nations (UN) has since long been committed to implementing the rule of law on both a national and an international level as it was founded in 1945 for conserving peace and cooperation between countries. 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 and more than 15 are still ongoing, with most of them being peacekeeping missions, in fact, there are currently 16 UN Peacekeeping operations deployed on four continents. This assignment should not be overlooked as it is of major importance for it to not create problems between countries. It requires extensive training and discipline so as to not affect the UN and the countries involved in a negative way. Regrettably, many officials on missions have taken advantage of their position to commit crimes that can include but are not limited to sexual exploitation and abuse, distribution of child pornography, corruption and fraud, smuggling, firearms distribution, etc. When UN staff members commit these types of immoralities during attempts to fulfil the purpose of keeping peace between countries, it seriously threatens the reliability of the organization and affects the locals. If a crime is committed, accountability to the law shall be ensured. Unfortunately, many experts have long been treated with impunity, so it is a must to take the needed measures in order to punish them for their actions.

## Definition of key-terms

### Criminal accountability

Also referred as criminal liability, means how an individual who has been found guilty of committing a crime, should be legally responsible for one's action. Accountability is to be achieved when personnel fail to observe the UN standards of conduct.

### Impunity

The exemption from punishment or freedom from the harmful consequences of an action.

### Misconduct

As stated by the Legal Dictionary Farlex: "Unlawful behaviour by a person entrusted in any degree". Any UN personnel who fail to comply with their obligation may be considered as having engaged in misconduct.

### Offenders

An individual who commits an illegal action or a person who is guilty of a crime.

### Victim

A civilian who has been harmed, injured or killed as the consequence of a crime or accident.

### Host State

A host state is country or organization which provides facilities for officials and receives visitors to help with their problems.

### Sexual exploitations

It is the sexual abuse of children through the exchange of sex or sexual acts. Sexual exploitation includes involving young people in creating pornography and sexually explicit websites.

## **Embezzlement**

Also referred as employee theft is the act of unjustifiably appropriating funds that have been assigned to your responsibility but which are owned by someone else.

## **International Law**

Is the set of rule generally regarded and accepted as binding in relation between states and between nations. It serves as a framework for the practice of stable and organized international relations.

## **Peacekeeping missions**

Missions dedicated to comply the Peacekeeping Commission mandate on the reconstruction and institution building efforts for nations affected by conflict to rely on the foundations of a Sustainable Development.

## General Overview

The first case to the criminality of peacekeeping officials was reported in the 1990s when a United Nations Peacekeeping Operation was deployed to Kosovo. This investigation revealed that a huge amount of officials were involved in the trafficking of up to 2000 female sex slaves. Also, there were cases reported during the 2005 operation in the Democratic Republic of the Congo, as well as operations in Haiti, Sierra Leone, Bosnia and Cambodia, where peacekeepers were said to have committed sexual crimes on young women and children, offering them food, money or even jobs in return for sexual favors. In an effort to combat the problem, in a report of the Secretary General a list of all noted cases of allegations against UN officials since July 1st, 2007 has been made. There are 124 cases listed in this report. The problem is how the cases have been resolved. Of the 124 cases referred to member states, sadly, only 24 have been followed up and investigated on. This means that just a fifth of all allegations have been properly investigated and therefore the large majority of offenders is not prosecuted or tried and consequently continue to commit offenses unpunished. On the other hand, 27 cases were reported to the Secretary General, all of which have been closed or were at the time of the report still ongoing. Multiple resolutions have been passed on the topic, such as ensuring that UN officials and experts on mission are accountable for actions that amount to criminal conduct. What the UN has done is, through the Office of Legal Affairs (OLA), referring such cases to the country of nationality of the alleged perpetrator for investigation of possible criminal conduct and, subsequently, possible prosecution. Member States are requested to keep OLA informed of what actions they have taken in response to such referrals. However, the problem still persists as there is a lack of unified response on the topic as each state has different views as to how to effectively combat the problem.

Furthermore, officials are often not competent enough and sufficiently trained, so their actions are not in harmonize which leads to multiple law violations. All this leads to a decline of trust in the United Nations as an increasing number of victims and host states are victims of the unlawful manner of the officials. This disrupts the proper cooperation between states and corrodes the image of the UN and the rights it protects. Past incidents include sexually abuse of both minors and adults, many cases involving fraud and corruption. There are few cases of assault or violation of firearms laws and almost none of theft. Regrettably, the two most

frequent violations are also the ones hardest to investigate considering that in the case of sexual abuse, the victim is often too frightened to defend itself and even if the victim has enough courage to speak out, a myriad of tests should be done to testify to the victim's statement, and in the case of corruption neither party involved in it is likely to confess as it will affect both. Additionally, it should be noted that the vast majority of crimes happen by peacekeeping officials which is rational considering that they are sent to areas of great distress and thus can commit crimes with greater ease since they either remain unnoticed or can't be easily prosecuted.

There are a myriad of factors which hinder the efforts to combat this problem and are not easily resolved. First of all, arises the problem of difference of laws between countries. Due to the different laws in each country, each individual case has to be solved in different ways with different laws that each country has. Generally speaking, the country of origin should be responsible for the trial but due to law differences it may be unable to do so. This can be covered by the International Criminal Court but only for very specific crimes which are not generally those that are violated, for example, murder and sexual exploitation, so the ICC can rarely intervene in these cases. Furthermore, different entities within the UN also have a different way of handling cases which is another hindering factor in the establishment of a general procedure.

In addition to that, it is often that neither host nor country of origin is able to adequately prosecute and judge the official in question. Due to this and multiple other reasons which aren't always clear, there is a tendency to not follow up on investigations of officials, letting many escape unpunished. Moreover, many officials are not adequately trained to carry out their duties with proper diligence and discipline resulting in the violations of law. Finally, there is an argument between countries as to whether or not a convention to establish a clear procedural guideline is necessary. Some countries believe that it is necessary to combat the problem immediately and as such a convention is necessary. However, others believe it is premature to discuss a convention as there are multiple other problems that need to be addressed first which will more effectively solve the issue.

## Major parties involved and their views

### United States Secretary-General

The UNSG is the chief administrative officer of the United Nations and is headed by one singular person (since 1st January 2017 it has been occupied by António Guterres). The UNSG is referred to in most resolutions on the topic and it is worth noting that all cases referred to it have been followed up on.

### United Nations Department of Peacekeeping Operations

Most of the cases that are of importance to this issue are caused by peacekeeping forces operating in LEDC's or war torn countries. The department in charge of peacekeeping operations in the UN is therefore of great importance if something is to be done on with regards to the issue.

### Pakistan

Pakistan is not one of the largest contributors of peacekeeping forces in the world (4th worldwide) as well as being a very outspoken critic on the issue of lack of criminal accountability, having proposed a draft resolution that passed without a vote (A/C.6/72/L.18).

### Democratic Republic of the Congo

The DRC was the country where the issue of criminal accountability came to a height in 2004, when 12 UN officers were accused of serious sexual exploitation of Congolese citizens. The DRC is a country with a long history of maintaining peacekeeping forces within its borders and so should be taken into account when discussing the issue.



## Timeline of important events/Documents

February 13th, 1946 - Convention on the privileges and immunities of the United Nations

October 22nd, 2014 - GA6 69th session 17th meeting on the issue of criminal accountability of UN officials

December 28th, 2016 - Follow up on accusations against UNOCI (United Nations Operation in Côte d'Ivoire) official for reception of bribes

January 2017 - Creation of task force consisting of UN special coordinator and other officials to devise a strategy to combat the issue

May 31st, 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

July 28th, 2017 - Report of Secretary General on the topic of criminal accountability of United Nations officials and experts on missions

October 6th, 2017 - GA6 72nd session 8th & 9th meeting on the issue of criminal accountability of UN officials

November 6th, 2017 - Draft resolution adopted on criminal accountability of United Nations officials and experts on mission

2016-2017 - Ongoing case against official(s) from MINUSTAH (United Nations Stabilization Mission in Haiti) for involvement with a gang involved in theft of vehicles and firearm possession.

## UN involvement

### Relevant UN Treaties and Events

- 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-Hussein, on a comprehensive strategy to eliminate future sexual exploitation and abuse in the United Nations Peacekeeping Operations (A/59/710)

## Possible Solutions

Possible solutions to this problem have been proposed time and time again, however the implementation of these solutions is the main problem that should be tackled.

Firstly, a set of clear guideline in case of abuse is completely necessary in order to provide a framework in which UN officials accused of crimes can be dealt with. The lack of this guideline is a main flaw in the way the UN handles these cases. The guidelines could be focused on a case by case basis or be written as general guidelines following a case of abuse. In the case of each possible solutions, the manner in which they are to approach the problem must be discussed, approaches such as the handling of cooperation between states, as well as by deciding who will be responsible for the trial and incarceration of the criminals. The creation of a 3rd party under the jurisdiction of the UN could also be included as a possible solution.

Moreover, the elevation of training standards for UN officers and officials is a key talking point in the issue of tackling criminal accountability. The officers could be trained in, but not being limited by, the host countries laws, signals of abuse by fellow officers, training in the host countries cultural traditions and customs in order to raise cultural awareness, and many others. In the case that states are not able to adequately train their officials to the standards set out by the UN, then the implementation of further assistance may be explored..

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