

<b>Forum:</b>	Legal Committee
<b>Issue:</b>	Establishing regulatory systems for UN officials and peacekeepers on mission
<b>Student Officer:</b>	Theofanis Fousekis
<b>Position:</b>	Co-Chair

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## PERSONAL INTRODUCTION

Dear Delegates,

My name is Theofanis Fousekis and I will be serving as the Deputy-Chair of the Legal Committee during the 7<sup>th</sup> Platon School Model United Nations Conference. Having participated in both the 5<sup>th</sup> and 6<sup>th</sup> PS-MUN conferences, it is my honor to participate in this year's conference. This will be my second time as a Student Officer and my first time in the Legal Committee.

Our duty as Student Officers is to ensure that the right procedures are followed and that the lobbying and debating process does not come to a standstill. We will try to maintain order and address any problems should they arise. My responsibility is to know the issues in depth, to be able to provide you with a thorough Study Guide prior to the Conference and to be able to assist you at all times during the conference.

The issue of UN peacekeepers on mission is a vast and complex one. It entails a variety of serious issues such as violence, discrimination and sexual abuse. I hope that this Study Guide will be a valuable first introduction to the topic. Yet, in any case, you should not solely rely on it. I strongly recommend that you carry out your own research as there is much to explore and virtually every state will have their own opinion on the topic. Should you need any further assistance, please do not hesitate to contact me.

I hope that this experience will be as much enlightening and rewarding as it is for me and I am looking forward to meeting you in the conference.

Kind regards,

Theofanis Fousekis

Co-Chair of the Legal Committee

## INTRODUCING THE TOPIC

There have been over 60 years of peacekeeping operations in play and now it is undeniable that the world has significantly benefited from the work of the United Nations. From relief missions in times of natural disasters, to supporting innocent civilians in war-ravaged states, the contribution of the UN is significant. However, such operations have unfortunately, also given risen to a steady pool of criminal acts, committed by the very bastions of hope themselves.

The word “crime” is primarily used to describe sexual violence and abuse in developing countries, which are often in need of aid and unfortunately, on peacekeeping missions, have been short of predatory in nature. Peacekeepers are often not only involved in monitoring and facilitating cease-fires, they are also significant in assisting belligerents in implementing peace settlements signed and who are seen as protectors of refugees and their camps. So, with the proximity of peacekeepers to locals, abuse has been made opportune.

Notoriously, in 2005, the UN had to deal with the case in the Democratic Republic of the Congo, where several peacekeeping troops sent to bring relief to the plight devastated community were implicated in allegations of sexual harassment of women and children. It was reported that troops had in some instances offered food and in some cases money for sexual favors. Other cases include the trafficking of people from the affected state and abuse of people.

Over the years, numbers of reported cases of sexual abuse have fallen. In 2014, there were 51 reported cases of sexual exploitation and abuse by UN agents involved in peacekeeping operations. However, this has not been sufficient enough progress from the 127 cases reported in 2007.



UN Helmets

The crimes outlined have a drastic societal impact on already bruised communities. Sexually exploited women very often end up fathering the children of the visiting troops or officials who then experience stigmatization by their families or community. In cases of other forms of abuse, severe physiological harm entails.

Given that the UN represents certain ideals of principle and justice, it has in one way or another failed to stay true to its fundamental values. These abhorrent actions of peacekeepers no doubt tarnish the image of the body. Therefore this issue is one that needs a unanimous and resolute solution. A failure to do this holds dire consequences to the state of world affairs.

## KEY TERMS

### **Criminal Accountability**

Also referred to as criminal liability, this can be briefly described as ‘the condition of being actually or potentially subject to a legal and/or criminal obligation’. It usually consists of two elements, those being: a) a guilty act or omission, known as ‘actus reus’ and b) a prohibited state of mind, known as ‘mens rea’. Therefore, for someone to be held criminally accountable for an action, it must be demonstrated that he or she has performed an act or failed to perform an act (omission), which causes a foreseeable result of criminal standing, and he or she also had the intention (guilty mind), to do so.

([http://www.clic.org.hk/en/topics/policeAndCrime/criminal\\_liability\\_and\\_penalties/](http://www.clic.org.hk/en/topics/policeAndCrime/criminal_liability_and_penalties/))

### **UN Officials**

Generally includes all people who hold or have held an office position or a position of significant status within the United Nations System.

### **Peacekeepers**

These are people who aim to preserve and protect peace, especially international enforcement and supervision of peace within hostile states and communities.

### **Peacekeeping Operations**

These are led by the Department of Peacekeeping Operations (DPKO), and work to create the conditions for lasting peace in a country torn by conflict. Such operations are supported by Member States which contribute to the creation of the UN military by providing troops and police personnel. The latter are first and foremost members of their own national services and are then seconded to work with UN.

### **Sexual Exploitation**

The usage of a person’s weakness or need for sexual purposes.

## HISTORICAL INFORMATION

The first case relating to the criminality of peacekeeping personnel was reported in the 1990s when a UN PKO was deployed to Kosovo. The UN's investigation revealed that numerous officials were involved in the trafficking of up to 2000 female sex slaves. In December 1994, the convention on the Safety of United Nations and Associated Personnel was signed. This document obligates all UN troops and personnel to compromise with local regulations and laws as well as refrain from any action incompatible with the nature of their duties.

Further cases were reported during the 2005 operation in the Democratic Republic of the Congo, as well as operations in Haiti, Sierra Leone, Bosnia and Cambodia, where



**UN official near a UN sign**

peacekeepers were said to have committed sexual crimes against young women and children, offering them food, money or even jobs in return for sexual favors. These incidents led to the United Nations developing different policies aimed at establishing new investigative frameworks and training facilities for soldiers on mission, as well as substantive sanctions for those

found guilty. Most of these policies have been laid down in Resolutions of the General Assembly, but their enforcement still presents problems, with peacekeepers continuing to commit sexual crimes to this day.

The credibility of the UN was extremely damaged by worldwide accusations claiming that its personnel and military troops were prone to sexual exploitation and abuse in territories of instability where the UN was taking peace building measures. Human rights violations were reported in countries such as Bosnia and Herzegovina, Cambodia, the Democratic Republic of Congo, East Timor, Haiti, Liberia, Sierra Leone, and South Sudan (as well as in other host states).

Undoubtedly, the UN's reputation for assisting host states to walk the difficult path from conflict to peace is at stake. When the UN forces arrived in Kosovo, people believed that they were close to salvation thanks to the UN. Still, that did not prevent UN personnel from committing crimes. Rapes and murders created an immense stain of the UN body. Such actions turned the appreciation of the local population into public resentment, thus threatening the image of the UN on a global scale.

## COUNTRIES INVOLVED IN THE ISSUE

On this quite controversial topic in hand, Member States have different views on the criminal accountability of UN Officials and peacekeepers on mission. However, this difference in country policies does not derive from the fact that, some Member States actually want officials to be held accountable while other Member States completely reject this argument, believing that under no circumstances can someone be held criminally liable when on a peacekeeping mission.

In fact, nearly all Member states support, at a theoretical level, the notion that criminal accountability ought to exist when a criminal offence has been committed on a nation's territory during a peacekeeping operation. However, the main debate and conflict arises when discussing what to be considered an act capable of being held criminally accountable. The area of disagreement is therefore what the definition of an act capable of being held criminally accountable is, as well as determining where the line between acts that are tolerable and acts that are considered criminal must be drawn and should be consequently prosecuted.

### EUROPEAN UNION (EU)

The European Union agrees that while the immunities of UN personnel “must be upheld”, officials must respect international law and the national legislation of host States. The Union maintains the opinion that cooperation between Member States is crucial, and that the International Criminal Court should step in if national authorities fail to exercise jurisdiction, for any reason whatsoever.

### AFRICAN UNION (AU)

The African Union agrees with the European Union that crimes committed by peacekeepers should not be left unpunished, but the Group stresses that some countries do not “have the legislation and capacity to exercise jurisdiction” and that jurisdictional gaps and major differences in national legislation too often lead to the impunity of criminal UN officials. Therefore, African countries call above all for assistance in dealing with these issues, in order to fulfill the supreme goal of peacekeeping operations, which is the protection of the civilian population.

UN Peacekeeping Missions	Sexual Exploitation	Theft	Murder
DR Congo	150	44	3
Sierra Leone	50	15	7
Liberia	30	1	4
Sudan	400	0	5
Cote d' Ivoire	500	0	2

**NORTH AMERICA**

As a common policy, North America is principally concerned with the credibility of United Nations peacekeeping operations, which are seriously compromised by officials and experts on mission who abuse their immunity and commit serious crimes. The bloc deems it important that the reporting procedure be elaborated and reviewed so it can deal with such cases efficiently.

**LATIN AMERICA**

As common approach for all the states in Latin America, Brazil has recently submitted a proposal entitled “Responsibility while protecting”, which promotes a three-pillar concept:

« The first pillar identifies the State as the primary bearer of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The second pillar stresses the role of the international community in providing cooperation and assistance to allow States to develop local capacities that will enable them to discharge that responsibility. The third pillar, which applies to exceptional circumstances and when measures provided for in the first and second pillars have manifestly failed, allows for the international community to resort to collective action, in accordance with the norms and procedures established in the Charter. ”

**TIMELINE OF EVENTS**

The following timetable includes various events that took place concerning the topic:

<b>1948</b>	The United Nations launches its first peacekeeping mission (UNTSO)
<b>1990</b>	The first officially documented cases of sexual exploitation and trafficking in Kosovo and Bosnia and Herzegovina where hundreds of sexual exploitation and trafficking incidents occurred on regular basis.

<b>2000</b>	<ul style="list-style-type: none"> <li>• In efforts to minimize the scale of the issue, the United Nations Security Council urged all member states to “include a gender perspective in their peacekeeping and peacebuilding measures”</li> <li>• The United Nations Panel on Peace Operations is appointed by the Secretary General in order to examine the existing system and propose solutions on how to enhance its implementation</li> </ul>
<b>2001</b>	The Brahimi Report is published by the UN Panel on Peace Operations, the report proposed political, financial, and institutional changes.
<b>2003</b>	The Secretary General officially defined sexual exploitation as “any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes”
<b>2005</b>	The Zeid Report is published; it provides methods to eliminate sexual exploitation and abuse in peacekeeping missions.
<b>2008</b>	The United Nations Department for Peacekeeping Operations publishes the Capstone Doctrine which outlines the “principles and guidelines for UN peacekeepers in the field”



**UN Officials with the UN flag**

## POSSIBLE SOLUTIONS

Considering previous attempts to solve the issue, there are many possible approaches to the issue that could improve the complications surrounding peacekeeping operations.

Initially, delegates need to take into consideration the legal prosecution by the host state of peacekeeping operations. These governments have the right to prosecute perpetrators in accordance with their territorial principles and rules. It is useful to understand that holding trials in the host state allows witnesses and victims easy access to the court as well as immediacy of evidence. Nevertheless, it is prudent not to forget the host state's legal confusion after periods of tension and conflict.

Secondly, it's considerably the imposition of jurisdiction by the contributing states. It is necessary for the contributing states to respect the standard code of conduct when sending their troops. Then, the trial of a potential violation could be held in the state of nationality, thus holding the perpetrator accountable for his acts according to the laws established by the contributing states.

In addition, another way could give the opportunity of a fair trial by the International Criminal Court. The judicial organ of the UN will be able to punish the perpetrators and bring about significant results concerning the administration of justice.



Another Possible solution is that the United Nations Department of Peacekeeping Operations (UNDPKO) refrains from accepting troops from countries that are recorded to be ones that are playing a significant role in crimes while on missions.

Another attempt to overcome the issue is to create an international convention concerning the ways that such issues can be avoided, where all member states follow up with the issue and sign a treaty and act accordingly. Yet the problem with this attempt is that it relies completely on the ratification and implementation of the member states.

Another way to help tackle the issue is through the training of the peacekeepers, enhancing it and making it more gender sensitive in efforts to minimize the criminal cases. Furthermore, increasing transparency can also be a possible solution. This includes conducting all investigations and reporting immediately to the troop contributing country. All evidence found must also be shared with the troop contributing country.

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