

Committee: Legal

Topic: Criminal accountability of United Nations officials and experts on mission

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Topic Introduction

The matter of criminal accountability of a country's national officials having committed high crimes in foreign territory while serving as officers or experts in UN missions has been troubling the international community for years. The two major challenges when addressing the topic at hand include the impunity dilemma as well as the question regarding within whose jurisdiction it is to decide upon their prosecution.

Definition of key terms

Criminal accountability

Criminal accountability or criminal liability is defined as the responsibility for any illegal behavior that causes harm or damage to someone or something.¹

Immunity

Immunity or impunity is official protection from legal action, for example, not being judged in a court or punished for a crime.²

Jurisdiction

Jurisdiction is the authority that a particular court of law or official organization has in order to make laws, rules, or legal decisions.³

Background Information

The question of immunity in peacekeeping

Although the reasons for the impunity of officials may today seem incomprehensible, history indicates that UN personnel has needed legal protection in the past. On 9 December 1994, the Convention on the Safety of United Nations and Associated Personnel was adopted after continued attacks directed to UN officials as a means of opposition to the Organization of the United Nations and its involvement in several disputes.

¹ <https://dictionary.cambridge.org/dictionary/english/criminal-liability>

² <https://dictionary.cambridge.org/dictionary/english/immunity>

³ <https://dictionary.cambridge.org/dictionary/english/jurisdiction>

However, in recent years, the same personnel that is protected by the aforementioned Convention has repeatedly been accused of sexual exploitation and abuse. Unfortunately, only a small proportion of the indicted officers are prosecuted due to ineffective control systems or lack of transparency.

Explore the immunity dilemma:

- ✚ <http://asiapacific.anu.edu.au/regarding-rights/2015/06/05/the-impunity-dilemma-sexual-offences-by-un-peacekeepers/>
- ✚ <https://www.e-ir.info/2017/09/18/the-immunity-dilemma-peacekeepers-crimes-and-the-uns-response/>
- ✚ <https://www.aljazeera.com/indepth/opinion/2017/04/peacekeepers-keeping-peace-preventing-170430102118379.html>
- ✚ <https://www.aljazeera.com/indepth/features/2017/07/peacekeepers-harm-good-170730091925152.html>

The question of jurisdiction

One of the main reasons for the failure of the international community to prosecute the said officials is the vagueness of the current global legal framework, which creates ambiguity around the establishment of the jurisdiction of their cases. When a country's national officer serving in foreign territory as a UN official or expert commits a high crime, the question that arises investigates whether the individual should be prosecuted according to:

- a) the legal framework of the country of his or her origin,
- b) the legal framework of the state or territory in which the crime took place,
- c) international laws and conventions established by the UN, even if the country of origin or host country are not signatories of the applicable treaties.

International Law

In order to debate upon the topic at hand, it is essential to examine International Law and its application. Although the UN has achieved great progress in developing a body of international law, it is so far preserved in conventions, treaties and standards, which ultimately means that it is not universal since not all Member States are required to be signatories of such international agreements. Many cases have reached the International Court of Justice as part of the international community's efforts to pressure or force them to comply with certain international standards. However, in reality, international law is not universally binding as the current framework allows States to question the force it has over them, arguing that it does not affect them because they have not agreed with it.

Make sure to investigate further how international legislation works:

- ✚ <https://www.dfa.ie/our-role-policies/international-priorities/international-law/how-international-law-works/>
- ✚ <http://www.businessdictionary.com/definition/legally-binding.html>
- ✚ <https://www.amun.org/basics-international-law/>
- ✚ <https://www.un.org/en/sections/issues-depth/international-law-and-justice/index.html>
- ✚ <https://www.un.org/en/sections/what-we-do/uphold-international-law/>

Major Countries and Organizations Involved

Columbia

https://www.un.org/en/ga/sixth/gov_comments/pdfs/criminal_accountability/2014/english/colombia.pdf

El Salvador

https://www.un.org/en/ga/sixth/gov_comments/pdfs/criminal_accountability/2017/english/el_salvador.pdf

Iran

<https://papersmart.unmeetings.org/media2/16152901/iran-republic-of-islamic-.pdf>

Syria

<https://www.un.org/press/en/2012/gal3437.doc.htm>

Timeline of Events

| Date | Description of Event |
|------------------|--|
| 21 November 1947 | The International Law Commission was established by the GA. |
| 14 December 1973 | The GA adopted the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. |
| 21 March 1986 | The Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations was adopted. |
| 19 November 2013 | Report of the Sixth Committee A/68/461 was published. |
| 16 December 2013 | General Assembly Resolution A/RES/68/105 was adopted. |
| 31 July 2014 | Report of the Secretary-General A/69/210 was issued. |
| 22 October 2014 | The most recent press release from the Legal Committee's debate on the matter of Criminal Accountability of United Nations Officials. |

Relevant UN treaties and Events

Report of the Sixth Committee A/68/461

On November 19th, 2013, the Sixth Committee of the GA (Legal) published a report on the matter of Criminal accountability of United Nations officials and experts on mission. In its report, the Committee included a resolution for the aforementioned matter.

<https://undocs.org/A/68/461>

General Assembly Resolution A/RES/68/105

Following the report A/68/461 of the Legal Committee, the General Assembly accepted the committee's recommendations by adopting the proposed resolution on December 16th, 2013.

<https://undocs.org/A/RES/68/105>

Report of the Secretary-General A/69/210

On July 31st, 2014, the former Secretary-General of the UN, Ban-Ki Moon, issued a report on the matter of Criminal accountability of United Nations officials and experts on mission. The report addressed the request of paragraphs 16 and 17 of the General Assembly resolution 68/105.

<https://undocs.org/A/69/210>

Sixty-Ninth Session, 17th Meeting, of the Sixth Committee

On October 22nd, 2014, the press release GA/L/3485 showcased all arguments raised during the debate of the Legal Committee, emphasizing the fact that the committee stressed the importance of holding United Nations officials and experts on mission accountable, forbidding them to commit crimes with impunity, in order to maintain the credibility of the United Nations.

<https://www.un.org/press/en/2014/gal3485.doc.htm>

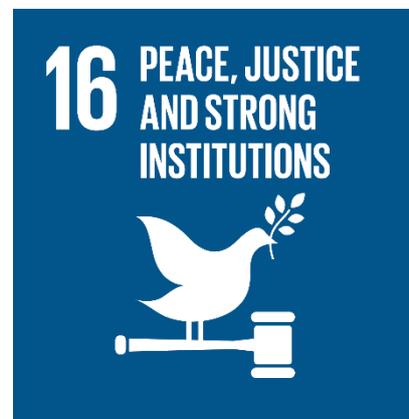
Possible solutions

Zero tolerance policy for sexual exploitation and abuse

- <https://research.un.org/en/peacekeeping-community/sea>
- <https://news.un.org/en/story/2018/05/1008712>
- <https://www.un.org/preventing-sexual-exploitation-and-abuse/>

Uphold International Law

Agreements like the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations indicate that the UN has already made some progress in order to ameliorate the current vague global legal framework. Thus, it would be beneficial to examine how to strengthen existing international Treaties, aiming to preserve international law. If international law were universally respected, complex legal cases with an international character would be easier to resolve. Hence, in order to solve the matter at hand, it is essential to investigate the application of international law holistically.



Sustainable Development Goal 16:

Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

<https://sustainabledevelopment.un.org/sdg16>