General Assembly 4

Research Report

The Question of:

The privileges and immunities of UN peacekeeping personnel

Introduction

The United Nations' peacekeeping personnel, being military personnel as well as some civilians and police troops sent by their governments to fill military roles, are supposed to maintain peace and security, protect human rights and the rule of law, and solve the economic, social, cultural, and humanitarian problems of the world's indigent citizens. These peacekeepers remain under the exclusive jurisdiction of their own countries.

This implies UN peacekeeping personnel can only be prosecuted by their own countries' governments as opposed to the governments of the countries they are serving. Controversy around this topic has arisen after there have been almost 2000 allegations of sexual abuse and exploitation by peacekeepers and other UN personnel between 2005-2017. Initial allegations about peacekeepers committing sexual exploitation and abuse emerged in the 1990s already. However, peacekeepers are shielded by their immunities and privileges. Whether UN peacekeepers do more harm than good has become an important question to answer.

The Committee

General Assembly 4 is quite a plain and ordinary committee, indicating there are not exactly exceptional Rules of Procedure. General Assembly 4's issues mainly revolve around special political situations as well as decolonisation. This implies, for instance, issues about territory.

In general, the General Assembly's member states have equal representation: every single nation has one vote. Matters are decided by a simple majority. Functions and powers of the General Assembly include:

- To discuss any question relating to international peace and security
- To make recommendations for the peaceful settlement of any situation which might harm the friendly relations among nations
- To request studies and make recommendations to promote international cooperation, the development of international law, the protection of human rights, and international collaboration on economic, social, cultural, educational and health issues

Important to note is the fact that during LEMUN, money is no issue. Therefore, a delegate's possible plan proposal should not be refused because of financial reasons, as these ought not to play a role, as long as a proposal is reasonable.

A peculiarity that is special for all General Assemblies is our participation in the Plenary Session. This is a session on the last day of the conference where all General Assemblies will assemble in the main hall to discuss one resolution from each General Assembly. We ourselves will also be agreeing upon one passed resolution in General Assembly 4 to have discussed at this Plenary Session.

Key Terms

- **UN Peacekeepers**: military personnel, or civilians and police troops sent by their governments to fill military roles, carrying arms and authorised to use force. They are characterised by their blue helmets.

- **Immunities vs. Privileges**:
    - **Immunity**: the condition of being protected from law.
        - **Functional immunity**: most personnel of the UN cannot be taken to court for anything they have said or done as part of their work duties.
    - **Privilege**: the special right that some people in authority have that allows them to do or say things that other people are not allowed to.

- **Sexual exploitation vs. Sexual abuse (according to the UN)**:
    - **Sexual exploitation**: may be a consensual act, but is based on a monetary or an in-kind exchange, which is especially the case with prostitution.
    - **Sexual abuse**: rape or non-consensual touching, which is especially the case with children.

General overview

To be able to look at the issue around UN peacekeepers, it is important to delve deeper into what it is that UN peacekeepers actually are and do. Originally, they were supposed to do what their name already gives away, namely keeping the peace in conflict zones, usually after a ceasefire has been established as countries do not want their soldiers to enter active war zones. Important to note is that the Security Council is the only UN body authorised to deploy UN peacekeeping troops through issuing a resolution. It is usually also the case that the host countries must first invite UN peacekeepers to enter; the UN cannot simply send peacekeepers anywhere. Although initially peacekeepers would refrain from using weapons, they eventually grew out to become armed forces.

They can only, however, use deadly force to protect civilians or to prevent spoilers interfering in peace processes. Their aim is not to act as an army that takes down terrorist organisations or do anything along those lines in general. Even though the UN peacekeepers work for the UN, they are not supposed to be a tool the UN can use to implement its wishes, but rather an impartial party that seeks to find a solution to the conflict that consents all parties involved. Consequently, the UN doesn't train and recruit these forces themselves. The UN member states across the globe contribute members. The majority of the peacekeepers come from the developing world. The UN peacekeepers are, albeit presumed to keep the peace, marred by sexual abuse scandals. They abuse the power of the immunities and privileges they have.

The UN personnel possess certain special privileges in the countries where they work. These privileges consist of, amongst others, exemption from paying taxes and immunity from legal process in the concerning country. These privileges and immunities are given to the UN's personnel in order to maintain peace and ensure security. They would be hindered in case they would face their operating country's legal procedures or if the government were to interfere and impede the UN and its personnel in their quest to fulfil their aforementioned mandates of maintaining peace and ensuring security.

This immunity is not, however, supposed to shield the personnel from responsibility for their actions. Therefore, the UN can and must make its personnel's immunity inapplicable in case their immunity obstructs the course of justice. That also goes for cases of, for instance, sexual exploitation and abuse. The personnel's functional immunity does not apply for these kinds of crimes. However, the UN personnel cannot be immediately tried, as the UN first wants to assess and decide, case by case, whether the functional immunity applies to a particular person in a particular instance. The UN is so peculiar with this, since they fear the concerning country's government may want to hamper their missions. The sexual assault allegations could, in fact, disguise government retaliation for the UN's duties.

The main problem that comes to play with the UN assessing and deciding whether functional immunity is applicable to its own peacekeeping personnel is the adverse effect it has on holding the ones committing the crimes accountable. First of all, their assessment, although the UN claims it to be 'carried out expeditiously', will take up time, as it needs to go through a whole process of fact-finding of indeterminate length first. One of the most frequent criminal offenses committed by UN peacekeepers is that of sexual violence. An Associated Press investigation shows there have been 2,000 allegations of sexual exploitation and abuse between 2005-2017. Especially these types of cases of sexual violence are time-sensitive and the delays that come forth from fact-finding usually turn out to doom the whole investigation. Furthermore, the UN personnel that do the fact-finding are usually not trained and neutral law enforcement officers. They cannot obtain search warrants or demand non-UN individuals to answer their questions. Moreover, another contingency arises when realising the witnesses and victims may in fact be threatened or coerced. Evidence too can get lost or be altered with before the UN can make their assessment. It is important to note also that the allegedly criminal peacekeeping personnel keep their functional immunity until the UN has made their final assessment. On top of that, the peacekeeping troops remain under the exclusive jurisdiction of their own countries. That means that even though they may have committed a crime such as sexual exploitation in the country they are serving, that country's government still may not prosecute them. The UN refers the allegation, after its fact-finding, to the relevant military authorities, since only their home countries may prosecute the alleged troops. Taking into account all the conflicts that arise from the UN personnel's immunity, it is safe to say it possibly poses as a barrier of justice. Peacekeepers commit such violations because they believe they can get away with it. They believe they cannot be held accountable for their actions.

The peacekeepers are able to abuse the immunities given to them and abuse their power. They have been alleged of a great many things, of which prostitution is one. In the International Organization journal article Peacekeeping, Compliance with International Norms, and Transactional Sex in Monrovia, published in 2016, the results found that more than 50 percent of the women in the Liberian capital Monrovia had engaged in transactional sex. More shocking so was that it found 75 percent of these cases to be with UN peacekeepers that were there for the UN Mission in Liberia (UNMIL). These actions of the peacekeepers actually completely undermine the UN's broader goals of achieving peace. Now that the peacekeepers have left in 2018, more than half of Monrovia's young women have learned to make a living by prostituting. Furthermore, increases in prostitution after UN peacekeepers moving there were witnessed in Mozambique, the Democratic Republic of Congo, Bosnia, and Kosovo. In Cambodia too, in 1992 and 1993, peacekeepers that were sent there for the UN mission to Cambodia (UNTAC) would visit brothels with some underage women even. There was also widespread outrage as many of the girls women that were abused ended up contracting HIV/AIDS and other diseases that were not prevalent among the local population. When confronted, Yasushi Akashi, the head of UNTAC, responded by saying 'boys will be boys'. In response to this, Sandra Whitworth, a political science professor at York University in Toronto, Canada, wrote that the UN peacekeepers 'assumed that their prerogatives as militarised men included access to prostitutes, as well as freedom to pursue, harass, and assault local women'.

The prime group of the population that falls prey to the UN peacekeepers alleged sexual lust consists of underage children. Next to the scandals with underage women in Cambodia's brothels, it was reported in Kosovo that of the local prostitutes, a third were under 14 and 80% were under 18. Moreover, the Associated Press found in 2017 that 134 Sri Lankan UN peacekeepers ran a child sex ring in Haiti over a 10-year period with girls and boys as young as 12 years old. After they were found guilty, the peacekeepers were sent back to Sri Lanka but never in fact jailed. Similarly, in the Central African Republic at least 98 girls said they had been abused by international peacekeepers.

Important to note is the difference between sexual exploitation and sexual abuse. Sexual exploitation, as the UN defines, includes peacekeepers paying for sex with the local community. The UN has a zero tolerance policy against sexual exploitation or abuse. Therefore, they discourage the peacekeepers' paying for sex and can take measures such as to fire or repatriate peacekeepers involved in this. However, the peacekeepers can escape prosecution if the UN deems it to not be necessary, which can be the case when the UN believes it to not be as extreme as abuse (for instance rape) or if prostitution is not illegal in the country. Again, the UN holds the last word on what is to become of the fate of its peacekeepers.

There are a lot of discussions whether consensual sex between adults, which would be a peacekeeper and local community member, ought to be prohibited. On the one hand there is most definitely the case of an unequal power dynamics and these sexual relations could undermine the credibility and integrity of the work of the United Nations, but on the other hand it may be unreasonable to demand peacekeepers to remain celibate for as long as they are supposed to.

In conclusion, UN peacekeepers get immunities and privileges for working in the name of the United Nations. These immunities and privileges allow them to be in a position of power to the extent where they may believe to not need to face the consequences of their actions. Consequently, they have been alleged of many cases of sexual exploitation and sexual abuse. The UN wants to assess these cases, however, for itself case-by-case and then decide whether the peacekeepers' functional immunity is applicable or not. This fact-finding phase is unfortunately not quite desirable for all parties involved, nor is the exclusive jurisdiction the peacekeepers remain under. So, both the peacekeepers' way of thinking about utilising their position of power as well as the UN's actions against criminal peacekeepers must be improved.

Major Parties Involved

This section is divided into three different types of major parties involved. Firstly, there are the countries mainly affected by UN peacekeepers as whole operations were executed there. Next up, major contributors of UN peacekeepers are discussed. Lastly, the role of major funders of UN peacekeeping forces is elaborated upon.

UN Peacekeeping Missions

Liberia

The UN Mission in Liberia (UNMIL) included a peacekeeping force established in September 2003 by the UN Security Council in order to monitor a ceasefire agreement in Liberia after the Second Liberian Civil War. At a certain point, there were 15,000 UN military personnel and 1,115 police officers. As mentioned in the General Overview, the peacekeepers in Liberia engaged in prostitution and, therefore, after their time there, they have left the

economy with its young women attempting to earn their living through selling sex. The mission was finalised only recently in 2018. Allegations have also surfaced about peacekeepers having sex with girls as young as 12, sometimes in the mission's administrative buildings even.

Cambodia

The UN Transitional Authority (UNTAC) was a UN peacekeeping operation in Cambodia in 1992-93. It was established under a UN Security Council resolution. It was supposed to run an election and promote and safeguard human rights at the national level. The mission involved around 22,000 military and civilian personnel. The elections went decently, even though some people were prevented from participating by local forces the UN failed to successfully disarm. The constitution of the newly elected government provided for a wide range of internationally recognised human rights. However, there were complaints about UN peacekeepers boosting Cambodia's prostitution as well as boosting the prevalence of AIDS in the community, leading Cambodia to become one of the worst affected countries by AIDS in Asia.

Democratic Republic of Congo

The UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) is a UN peacekeeping force in the Democratic Republic of Congo which was established by the UN's Security Council's passed resolutions. Their aim was to monitor the peace process of the Second Congo War, but turned out to be mainly concerned with several local conflicts. The mission started in 1999 as MONUC, but since 2010 goes as MONUSCO and is active still since with around 20,444 personnel as of 2013. There are complaints about fatherhood issues. Congolese women demand paternal recognition from the peacekeepers they had sex with and there has also been a case in 2017 where a UN peacekeeper has fathered a child with an underage girl. The peacekeepers would also offer abandoned orphans little gifts (as little as two eggs even) in return for sexual encounters.

Mozambique

The UN Operations in Mozambique (ONUMOZ) was a UN peace mission lasting from 1992 to 1994 and was established by a Security Council resolution. It was responsible for implementing the Rome General Peace Accords, which the Mozambican president had agreed upon back then. ONUMOZ had more than 9,000 personnel. They allowed for there to be general, free elections in 1994. In their time there, ONUMOZ had disarmed about 76,000 fighters, collected 155,000 firearms, helped train 10,000 soldiers of the new Mozambican Armed Forces and helped repatriating most of the five million refugees and internally displaced people due to the civil war. Generally, the mission was a success, but there were some downsides to the mission, such as the allegations posted in a 1992 report about peacekeepers recruiting girls aged 12-18 years into prostitution. A study of former first lady of Mozambique Graça Machel in 1996 states the arrival of peacekeepers also caused for a rise in child prostitution.

Bosnia

The UN Protection Force (UNPROFOR) was a UN peacekeeping force in Croatia and in Bosnia and Herzegovina during the Yugoslav Wars. The force lasted from 1992 to 1995. The nearly 39,000 personnel were supposed to keep Bosnia and Herzegovina's populations alive while the war ended. Sexual exploitation and abuse was first documented in Bosnia and Kosovo in the 1990s. The UN missions' soldiers, for instance, were customers in brothels in both Bosnia and Kosovo. There have also been allegations about the peacekeepers using sex-slaves during their time in Bosnia.

Central African Republic

The UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) is the still active UN peacekeeping mission that started in 2014 and aims to protect the Central African Republic's civilians. As of 2016, it has more than 10,000 troops on the ground. In 2015, a huge controversy erupted when senior UN official Anders Kompass blew the whistle and exposed the UN's failure to tackle the sexual abuse of children by UN peacekeepers in the Central African Republic. This resulted in his resignation. In between 2014 and 2016, there have been 80 cases of abuse allegedly committed by the peacekeepers in the Central African Republic. Half of them involve children and nine left girls pregnant with so-called peacekeeper babies.

UN Peacekeeping Major Contributors

The following numbers of peacekeepers contributed by countries are derived from the UN report of 30 June 2018:

- *Ethiopia* – With 8,508 peacekeepers contributed, Ethiopia is the undisputed number 1 in this list of contributors.
- *Rwanda* – With 7,086 peacekeepers contributed, Rwanda is number 3 on the list.
- *India* – With 6,719 peacekeepers contributed, India is number 4 on the list.
- *Pakistan* – With 6,003 peacekeepers contributed, Pakistan is number 5 on the list.
- *Nepal* – With 5,508 peacekeepers contributed, Nepal is number 6 on the list.
- *Indonesia* – With 2,679 peacekeepers contributed, Indonesia is number 8 on the list.
- *China* – With 2,519 peacekeepers contributed, China is number 11 on the list.
- *Morocco* – With 1,614 peacekeepers contributed, Morocco is number 14 on the list.
- *South Africa* – With 1,260 peacekeepers contributed, South Africa is number 17 on the list.

As each of the above listed countries contribute at least 1,000 peacekeepers each, they have a particular interest in any decisions that are made related to the fate of the UN peacekeepers. One of the decisions a resolution can for instance take, more elaborated under the section Important Decisions a Resolution Must Take, is to set up a UN Special Court dealing with UN peacekeepers-related sexual assault cases. As this court would be an impartial party, it takes away a part of the sovereignty of the above listed countries, as they lose their say in what is to become of their sent soldiers. Consequently, they may decide to send fewer peacekeepers, which could have a devastating impact on the future of the UN peacekeeping force altogether.

UN Peacekeeping Major Funders

The following percentages per country making up the UN peacekeeping budget are for UN peacekeeping operations in 2018:

- *United States of America* – Covering 28.47% of the UN peacekeeping budget, the United States of America is the undisputed number one in this list of funders.
- *China* – Covering 10.25% of the UN peacekeeping budget, China is number 2 on the list.
- *Japan* – Covering 9.68% of the UN peacekeeping budget, Japan is number 3 on the list.
- *France* – Covering 6.28% of the UN peacekeeping budget, France is number 5 on the list.
- *United Kingdom* – Covering 5.77% of the UN peacekeeping budget, the United Kingdom is number 6 on the list.
- *Russian Federation* – Covering 3.99% of the UN peacekeeping budget, the Russian Federation is number 7 on the list.
- *Spain* – Covering 2.44% of the UN peacekeeping budget, Spain is number 10 on the list.

The above listed countries are in the top ten greatest funders of the UN peacekeeping operations and naturally concerned with what is to happen with the peacekeepers. With their major financial contributions, they have a great fundament as to why their say is explicitly important in this debate.

Timeline of Events

In the following timeline, solely the most crucial UN peacekeeping missions are given that are also significant in order to understand the peacekeepers' immunities and privileges better, or rather the abuse of them. Therefore, the events will mainly comply with the missions described in the section about the Major Parties Involved.

May 29, 1948	Establishment of the United Nations Truce Supervision Organization (UNTSO)
February 21, 1992	Establishment of the United Nations Protection Force (UNPROFOR)
February 28, 1992	Establishment of the United Nations Transitional Authority in Cambodia (UNTAC)
October 13, 1992	Establishment of the United Nations Operations in Mozambique (ONUMOZ)
September 24, 1993	Closing of the United Nations Transitional Authority in Cambodia (UNTAC)
December 9, 1994	Closing of the United Nations Operations in Mozambique (ONUMOZ)
March 31, 1995	Closing of the United Nations Protection Force (UNPROFOR)
November 30, 1999	Establishment of the United Nations Organization mission in the Democratic Republic of Congo (MONUC)
September 19, 2003	Establishment of the United Nations Mission in Liberia (UNMIL)
July 1, 2010	Closing of the United Nations Organization mission in the Democratic Republic of Congo (MONUC) and Establishment of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO)
April 10, 2014	Establishment of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA)
March 30, 2018	Closing of the United Nations Mission in Liberia (UNMIL)

To see what exactly the allegations are that correspond to these dates and events you can consult the section about Major Parties Involved.

Previous attempts to solve the issue

The United Nations has made several attempts to solve the issue. On March 4, 2016, for instance, former UN Secretary-General Ban Ki-moon pledged reforms to improve accountability for abuse by peacekeepers and increased support to survivors. The measures included stricter vetting of new UN personnel and quicker investigations.

Furthermore, the former Secretary-General has, for the first time, formally published the alleged peacekeeper's nationalities rather than keeping it private. The UN has committed to ensuring more transparency on allegations and suspects and has, moreover, established a UN senior panel on peacekeeper abuse. The former Secretary-General has also said to send commanders and troops home and suspend their payments if the allegations are substantiated.

The Future

Quite a recent initiative launched by the current Secretary-General António Guterres on March 28, 2018 is the Action for Peacekeeping (A4P) initiative. It mainly focuses its efforts in three areas: refocusing peacekeeping with realistic expectations; making peacekeeping missions stronger and safer; and mobilising greater support for political solutions and for well-structured, well-equipped, well-trained forces. The initiative potentially reconfigures the UN's peace and security pillar. Of course this is only one of the many things that are undertaken for the future. The rest will be left to be found by you through researching or, more preferably, by using your imagination.

Important Decisions a Resolution Must Take

It is quite paramount to think about both sides of the problem, namely the giving of immunities and privileges to UN peacekeepers which they at instances tend to abuse as well as the manner the UN deals with peacekeepers that allegedly have committed crimes. Factors a resolution could take into account are aspects such as, but not limited to:

- **Education**: in the countries the peacekeepers will be serving, education may play a key role in awareness about sexual exploitation and abuse by UN peacekeepers and how to act in such situations.
- **Special courts**: the UN's member states may create special courts for each peacekeeping mission to ensure impartial justice for everyone involved in or affected by cases of sexual offenses by UN peacekeepers. Important factors that may come into play and that need to be considered when drafting a resolution are, for instance, the jurisdiction of the court, its location and its duties and responsibilities.
- **Prioritise survivors**: priority may be given to the security and well-being of the survivors in response to their sexual exploitation or abuse by maintaining confidentiality, minimizing repeated trauma from multiple interviews, and ensuring rapid access to medical and psychological care.
- **Screening**: peacekeepers are vetted according to a human rights screening policy that requires the troop-contributing governments as well as individual recruits to attest to clean records. However, many major contributors of peacekeepers are renowned for poor human rights records. The selection process is flawed and requires improvement.

These are, however, only examples. Most important will be coming up with your own ideas for the resolution as a delegate after having done your research.

Further Reading

For a better idea about peacekeepers:
https://peacekeeping.un.org/en

For a better idea about allegations against peacekeepers:
https://www.aljazeera.com/news/2017/07/peacekeepers-hit-allegations-sex-abuse-170701133655238.html

For a more detailed timeline of events:
https://peacekeeping.un.org/en/historical-timeline-of-un-peacekeeping

For more information on A4P:
https://www.un.int/news/secretary-general-launches-%E2%80%98action-peacekeeping%E2%80%99-initiative

For more inspiration as to what decisions to include in a resolution:
http://www.codebluecampaign.com/press-releases/2016/10/13

Bibliography

For all the info about UN peacekeeping in general
https://www.youtube.com/watch?v=Ns37jHVUilE

http://www.codebluecampaign.com/primer-privileges-and-immunities-of-the-united-nations/

https://www.aljazeera.com/indepth/features/2017/07/peacekeepers-harm-good-170730091925152.html

https://peacekeeping.un.org/en/role-of-security-council

https://www.washingtonpost.com/news/worldviews/wp/2018/01/23/u-n-troops-told-to-fight-back-use-force-as-peacekeeper-deaths-surge/?utm_term=.022b8612269e

For all different missions

- **Liberia**
  - General info: https://en.wikipedia.org/wiki/United_Nations_Mission_in_Liberia
  - Info about sexual exploitation & abuse: https://www.aljazeera.com/indepth/features/2017/07/peacekeepers-harm-good-170730091925152.html

    https://research.reading.ac.uk/peacekeeper-or-perpetrator/safeguarding-children-in-liberia/

- **Cambodia**
  - General info: https://en.wikipedia.org/wiki/United_Nations_Transitional_Authority_in_Cambodia
  - Info about sexual exploitation & abuse:

https://en.wikipedia.org/wiki/Child_sexual_abuse_by_UN_peacekeepers

https://www.foreignaffairs.com/articles/world/2017-06-09/un-peacekeepers-sexual-assault-problem

- **Democratic Republic of Congo**
  - General info: https://en.wikipedia.org/wiki/MONUSCO
  - Info about sexual exploitation & abuse: https://www.news24.com/Africa/News/18-new-sexual-abuse-claims-against-un-peacekeepers-in-drc-20180214

    https://www.bbc.com/news/world-africa-39745357

- **Mozambique**
  - General info: https://en.wikipedia.org/wiki/United_Nations_Operation_in_Mozambique
  - Info about sexual exploitation & abuse: https://thenorwichradical.com/2016/05/14/un-peacekeepings-sexual-abuse-problem-part-i/

    https://theconversation.com/why-the-un-isnt-winning-its-battle-against-sexual-abuse-by-peacekeepers-52866

- **Bosnia**
  - General info: https://en.wikipedia.org/wiki/United_Nations_Protection_Force
  - Info about sexual exploitation & abuse: http://www.dw.com/en/bolkovac-un-tries-to-cover-up-peacekeeper-sex-abuse-scandal/a-19082815

    https://en.wikipedia.org/wiki/Child_sexual_abuse_by_UN_peacekeepers

- **Central African Republic**
  - General info: https://en.wikipedia.org/wiki/MINUSCA
  - Info about sexual exploitation & abuse: https://www.theguardian.com/global-development/2017/mar/28/broken-promises-children-bangui-reports-peacekeepers-abuse-central-african-republic

    https://www.reuters.com/article/us-centralafrica-un-peacekeepers/un-investigating-leaked-sex-abuse-complaints-in-central-african-republic-idUSKCN1BP2QC

For the major contributors

- https://en.wikipedia.org/wiki/List_of_countries_by_number_of_UN_peacekeepers

For the major funders

- https://peacekeeping.un.org/en/how-we-are-funded