



ILM NC India

THE IVY LEAGUE MODEL UNITED NATIONS INDIA 2016

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Dear Delegates and Faculty Advisors,

It is my distinct pleasure to welcome you to The Ivy League Model United Nations Conference India 2016 hosted by the International Affairs Association of the University of Pennsylvania, an Ivy League institution.

The Ivy League Model United Nations Conference is one of the most reputed high school conferences in the United States bringing together over 3000 delegates from across the globe in an unique academic, social and cultural experience. We are incredibly excited to bring this experience to India this year in what will be one of the largest and most academically, professionally and socially enriching Model United Nations symposiums.

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A large part of what makes ILMUNC India so incredible is the commitment of its amazing staff, as well as the immense preparation that goes into making this conference the phenomenal experience that it is. Our staffers are all leaders at the prestigious University of Pennsylvania, who come from a diverse range of majors, interests, classes, and schools – from Finance at the Wharton School of Business to Computer Science and Nanotechnology at the School of Engineering. At ILMUNC India, this academic excellence and personal passions that chairs bring truly bring a professional collegiate environment and distinct enriching experience to our high school delegates, both within and outside the committee room.

The Secretariat is working hard to ensure that the quality of the conference is unparalleled. This year will bring together close to 1000 delegates in 8 distinct committees. The topics we are discussing are pertinent issues in today's world and we are excited to witness the unique and diverse solutions that our delegates will bring to the table. The ILMUNC India team is continuously searching for ways to make the conference better and more engaging for our delegates. We are proud to announce technological advancement in the Model United Nations circuit including a groundbreaking mobile application that will soon be released.

Our delegates' experiences outside of committee are just as vital as their experiences within committee. At ILMUNC India we ensure that our delegates take away memories and experiences that will better them personally and professionally. Outside of the invaluable Model United Nations experience, we host numerous college and career fairs, personal mentoring sessions with current students and alumni, keynote speeches from prominent members of society and, of course, enthralling social events.

Our delegates are the most integral part of our story and I'd like to once again thank you for choosing to be a part of our next chapter of ILMUNC India 2016. We are certain that you will walk away from this conference with memories that you will cherish for a long time to come. Welcome to ILMUNC India 2016!

Sincerely,

Ana Rancic
Secretary-General
ILMUNC India 2016



SIXTH COMMITTEE: LEGAL

INTRODUCTION TO THE BODY

The Sixth Committee is the main forum for the discussion of legal issues in the General Assembly. All Member States of the United Nations are entitled to representation in the Sixth Committee, one of the core committees of the assembly. The purpose of the committee is to continue the established tradition of supporting and promoting international law and to seek active participation in the discussion of the topics covered in this instance, among them:

- Oceans and law of the sea,
- International terrorism,
- International criminal law and the principle of universal jurisdiction,
- The rule of law at national and international levels,
- Assistance program of the United Nations' teaching, study, dissemination and wider appreciation of international law,
- Criminal liability of officials and experts from United Nations missions, and
- Report of the International Law Commission on the work of its sessions.¹

The Sixth Committee of the United Nations General Assembly called its first session to order in 1948. The mandate of the Committee is sustained in the United Nations Charter, which empowers

the General Assembly to “initiate and make recommendations for the purpose of promoting international cooperation and encouraging the progressive development of international law and its codification.”²

TOPIC A: INTERNATIONAL LAW OF THE SEAS

Statement of the Issue

More than 70 percent of the Earth is covered by water, with over 110 countries' shorelines bordering these oceans. Regardless of whether one's borders are defined by coast or sea, the critical importance that the sea has played, and that it continues to play, cannot be understated.

There are three primary areas of importance regarding the sea. Resources, such as food and primary sources that fuel our people can be easily seen. Transport, and the role the oceans play in facilitating what is currently the most mobilised population to this date, is also an area of great importance. Finally, it can also be said that the oceans are an important arena for power, and through multilateral policy and bilateral territorial assertion, the role of the oceans becomes increasingly evident. Contemporary Law of the Sea has become a contentious global issue in recent years because of the critical importance the three issues above play in the lives we lead. The international law of the sea essentially encompasses all legal norms, rights and diplomatic relations concerning the world's oceans, and plays out in the



sphere of multinational diplomatic relations.

History

Causes/Origins of the Issue

Thousands of years ago, mankind largely lacked the capacity to not only explore, but to capitalize on the oceans bordering their states. This was, quite simply, a result of insufficient technology to do so, and so for thousands of years, the oceans were simply a source of food, rather than the nuanced geopolitical issue that they are today.

That all began to change in the 15th century, when large kingdoms, including Spain, Portugal, the Netherlands, and to a lesser extent, the British Empire and France, began to see the significance of the seas. New advantages such as access to mineral resources initiated competition among powers to control the oceans in order to achieve political dominance.³

As this complex system continued to play out, gradually introducing new players in the east, and eliminating less dominant players, it was very clear that no governance existed in regards to the seas. That being said, prior to any official multilateral action ratified to govern the world's waters, the underlying concept prevalent from the seventeenth century onwards was known as The Freedom-Of-The-Seas Doctrine. In essence, this principle assumed that countries could claim jurisdiction and rights to the narrow strip of land surrounding the

country, but that beyond this small belt, a distance of roughly three nautical miles, the rest of the world's oceans were essentially free.

However, after the First World War, faith in the doctrine began to diminish. First, after the defeat of Imperial Germany in 1918, largely abetted by a naval blockade led by the Allied Powers, it became evident that the freedom-of-the-seas doctrine was no longer being upheld. Second, because of the sheer power of its army, Great Britain became unwilling to concede to any doctrine or treaty that would restrict the force of its army. Finally, a dichotomy in opinions in the American Senate saw prevailing predictions of either a hegemonic Great Britain which domineered the seas, or a system governed by the newly formed League of Nations: neither of which furthered American interests.⁴

World order, nonetheless, still functioned following the Freedom-Of-The-Seas Doctrine, despite the temporary resistance until around halfway through the twentieth century. At this point, there were a number of problematic factors that demanded the need for a new philosophy to regulate the world's oceans and to prevent them becoming another arena for conflict and volatility. These factors include:

- “Tragedy of the commons”- the notion that the sea is a resource available to all, where every member using it seeks to reap the greatest economic benefit without accountability to



sustainability of these resources.

- Prospects for rich resources - the race to capture the vast array of economic resources (such as minerals, oil and other products) held in the world's waters.
- Pressure for maritime presence and domination - particularly for large maritime powers, such as the United States and Great Britain, the temptation to rule over the seas was too large to ignore.

In 1945, the United States became the first nation to officially challenge the freedom-of-the-seas doctrine, when President Harry Truman declared jurisdiction over all the resources on the country's continental shelf, such as oil, gas and minerals, and other nations were quick to follow in the footsteps of the power that emerged after the Second World War.

In the years between following the Second World War, up until the 1970s, the status of international law of the sea was marked by a lack of coherent policy on the issue, and the assertion of territorial rights in the absence of a legal framework to govern the seas.

In October 1946, Argentina claimed its relevant maritime territory, as did Chile and Peru in 1947. In 1950 Ecuador asserted sovereign rights over a 200-mile zone, hoping thereby to limit the access of distant-water fishing fleets and to control the depletion of fish stocks in its adjacent seas. A number of countries including Saudi Arabia, Venezuela, and Egypt also claimed a 12-mile

territorial sea (in contrast to the three-mile limit that had traditionally existed). Similarly, Indonesia, an archipelagic state, claimed territorial rights over the waters connecting its 13,000 islands, as did the Philippines with its own territory. Likewise, Canada claimed an area of 100 miles from its coast, citing the protection of the Arctic waters from pollution as a rationale for doing so.

Relevant International Action

United Nations Convention on the Law of the Sea (UNCLOS)

As a success of the third United Nations Conference on the Law of the Sea (UNCLOS III), which took place between 1973 and 1982, the United Nations Convention on the Law of the Sea (UNCLOS) is the most comprehensive treaty attempting to mandate guidelines on the world's seas. With 167 states ratifying the treaty since its signing at the United Nations in 1982 and its adoption in 1994 (after negotiations and modifications from 1990 to 1994), it has remained to this day the most important legal guideline that exists in this sphere. However, despite the support of most nations as well as major world players, such as Russia, China, and the European Union, one notable absence from the UNCLOS is the United States, where previous attempts to join the treaty have been unsuccessful in garnering the necessary majority in the Senate.

The Convention is grounded on a fusion of the customary law, the Freedom-of-the-Seas Doctrine that had previously applied, as well as the four Geneva Conventions on the Law of the Sea adopted in 1958, those being:



- Convention on the Territorial Sea and the Contiguous Zone
- Convention on the High Seas
- Convention on Fishing and Conservation of the Living Resources of the High Seas
- Convention on the Continental Shelf.⁵

In the event of non-compliance with the provisions of UNCLOS, the mandate is for states to settle any disputes through peaceful means. One such option is through arbitration means, such as through independent settlement, but in the circumstance that such a settlement is not reached, and appropriate forum for the issue is the International Court of Justice, the tribunal of the United Nations (ITLOS) or a special tribunal. In extenuating circumstances, the issue could also potentially be brought to the Security Council or other relevant UN body, as precedent has shown. Potential repercussions include reparations, but in more serious circumstances diplomatic or economic action are also potential penalty mechanisms.

Other Resolutions

On 23 December 2015, the General Assembly adopted draft resolution A/70/L.22 entitled “Oceans and the Law of the Sea”, as resolution 70/235.⁶ Since the adoption of UNCLOS in 1984, the United Nations has engaged with international law of the sea by monitoring developments pertaining to the Convention, and by tackling maritime issues that have arisen. One such example is the ongoing conflict over the Senkaku/Diaoyu Islands in the East China Sea.

As such, the Division for Ocean Affairs and the Law of the Sea (DOALOS), operating within the United Nations Office of Legal Affairs assists with the implementation of the treaty:

“Its [DOALOS] mandate, as spelled out by the General Assembly of the United Nations and in the Secretary-General’s Bulletin, is to...monitor developments in all relevant areas in order to report annually to the General Assembly on matters relating to the law of the sea and ocean affairs. Further, it formulates recommendations to the Assembly and other intergovernmental forums aimed at promoting a better understanding of the Convention, and ensures that the Organization has the capacity to respond to requests for advice and assistance from States in the implementation of the Convention. The United Nations also gives assistance to the two newly created institutions - the International Seabed Authority and the International Tribunal for the Law of the Sea.”⁷

Current Situation

Although there has been underlying tensions over maritime territory since the beginning of sea exploration, the most pressing issues in this current day are occurring in the East China Sea and South China Seas.

Senkaku/Diaoyu Islands (East China Sea)

The Senkaku/Diaoyu Islands have had a tumultuous history and have been the subject of territorial claims for well over a century by China, Japan, and Taiwan. Japan claims that the islands are its property, and that the end of the Sino-Japanese War in 1895 led to the establishment of the islands



under Japan. In contrast, China argues that the islands have been the property of the Chinese government since ancient times, although up until the 1970s, there was a lack of instigation on the part of the Chinese government in actively pursuing claim to these islands. Recently, the discovery of natural oil reserves underneath these uninhabited islands, along with the prime location and abundance of resources located on these five islands and three reefs, has led to a resurgence of nationalism that has led to a conflict between China and Japan. It is thought that these oil reserves are the primary cause for a re-emergence of tensions between the nations.

The Paracels and The Spratlys (South China Sea)

Disputes in the South China Sea involve several parties within the region, and are regarded as some of the most highly contentious territorial disputes taking place currently. Involved parties include the People's Republic of China, the Republic of China (Taiwan), Malaysia, Vietnam, the Philippines and Brunei. The area is highly contentious as it contains many oil reserves, as well as an abundance of other natural resources.

In July 2016, an independent arbitration tribunal operating under UNLOS ruled against China's territorial claims in the Philippines vs China case. However, given the non-binding nature of disciplinary action, China has refused to acknowledge the verdict. China has also mentioned that they will not be bound to international arbitration, and has stated their preference to bilateral negotiations with singular nations.⁸



Figure 1: A visual representation of disputed land in the South China Sea.⁹

Analysis

Provisions of UNCLOS

UNCLOS is comprised of 321 articles and nine annexes, encompassing practically all human activities pertaining to the oceans – such as use of resources, conservation, sustainability, territorial issue, and legal responsibilities. Some of the most important provisions are as follows:

Territorial Sea

A coastal state may exercise sovereign rights over the belt of the sea 12 nautical miles from the baseline (coastline), allowing them to arrest any foreign ships that enter this area without permission.

Contiguous Zone

The maritime area from 12-24 nautical lines from the coast, over which the coastal state may exercise limited jurisdiction over the waters in order



to prevent lingering ships beyond the territorial sea.

Exclusive Economic Zone (EEZ)

The area within 200 nautical miles from a country's coastline, over which the coastal state has exclusive use of economic resources from the sea. Other nations are allowed to use this territory for navigation or overflight purposes, with regulation from the coastal state.

Archipelagic States

Archipelagic states are those that consist of "a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated" that they are recognized as a single entity. Such states are permitted to draw baselines (their coastlines) where the outermost points of the outermost islands are connected, including any waters within these confines.

Straits Used for International Navigation

With regulation of passage from neighboring states, ships and aircrafts from all countries are permitted transit passage through straits used for international navigation.

High Seas (can also be referred to as International Waters)

All states are allowed the freedom of navigation, overflight, scientific research and fishing in international waters. For resource exploitation, states must work together to agree on fair and sustainable resource use in the High Seas.

Landlocked States

Landlocked states have right of access to and from the sea, as well as free transit through transit states.

Marine Pollution

States are implored to control and avert marine pollution from any source, and may be legally bound and liable for any such marine pollution incurred as a result of their activities.¹⁰

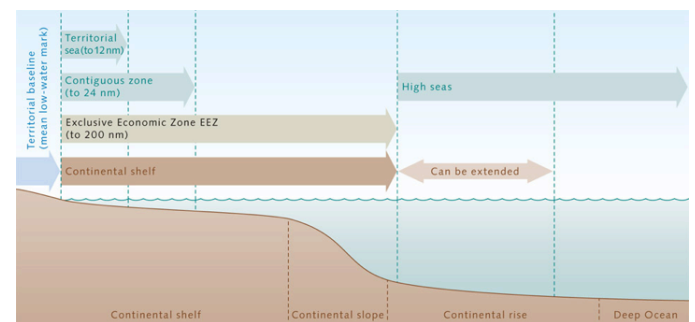


Figure 2: A visual illustration of some of the more pertinent provisions in UNCLOS.¹¹

Possible Solutions

Dispute settlement

One of the major problems existing with the current legal framework for the world's oceans, is that there exists only precedent and a non-binding international tribunal, the Permanent Court of Arbitration in The Hague, to resolve disputes that arise.

Understandably, each territorial dispute is nuanced which makes a common solution practically impossible. That being said, there is potential for a common framework to be applied, depending on the severity of the dispute, by potentially utilising one or more of the following options:



Sustainability of Oceans

Most nations are in agreement that preserving the resources in the oceans, and that creating a sustainable ecosystem is of mutual benefit and a worthy goal to be achieved. However, one of the main barriers to many of these initiatives is that they are simply pushed to the bottom of the agenda, with more pressing territorial disputes taking priority. As a result, it is imperative that nations wishing to truly tackle the issue of sustainability place this topic on the same platform as that of maritime security issues.

There are a number of possible avenues to explore. Delegates could explore the protection of vulnerable marine ecosystems from destructive fishing practices, look at ways to regulate illegal, unreported and unregulated fishing and also discuss frameworks for resource exploitation. Other areas for progress could include legal issues relating to the conservation of marine biodiversity in areas beyond national jurisdiction (ABNJ), as well as mitigating impacts of climate change on the international legal framework for the oceans (fisheries, CO2 sequestration and marine geo-engineering, sea-level rise etc.)

Bloc Positions

China

In recent years, China has been at the forefront of international attention and criticism for its handlings and territorial claims in both the East China Sea and South China Sea.

As recently as July 2016, China indicated that it was very seriously considering leaving the Convention on the Law of the Sea, should a ruling from the Permanent Court of Arbitration in The Hague, filed by the Philippines in 2013 (on the aforementioned applicability of Beijing's "nine-dash line") find Beijing on the wrong side of the verdict. Many experts are predicting an unfavorable ruling for China, who also has territorial disputes with other members of ASEAN. As reported:

*"China, which ratified UNCLOS in 1996, has said it will neither accept nor honor the upcoming ruling by the tribunal. It has criticized the Philippines for filing the case "unilaterally" and breaking their past agreement of trying to settle territorial disputes through bilateral negotiations."*¹²

United States

The United States has been one of the key players in the Convention, participating in both the United Nations Conference on the Law of the Sea, which took place from 1973 through 1982, as well as the four years of modifications that took place prior to its signing in 1994. However, despite its significant involvement in the construction of UNCLOS and its recognition of the Convention as upholding international law, the United States is the only major power that has not ratified the treaty.

This has mainly been the result of domestic political deadlock, with political conservatives in the United States government arguing against the treaty as detrimental to national interests. In the Senate, for example, Republican senators have



blocked acceptance of UNCLOS alongside many other international treaties and intergovernmental organizations.¹³

The United States has expressed its support for The Philippines in its territorial maritime dispute with China.¹⁴

Southeast Asia

The Southeast Asia region is undoubtedly the most contentious area pertaining to law of the sea, given the multitude of territorial disagreements that are taking place there.

Southeast Asia is a region with 80 percent covered by sea, and described as where “the land divides but the sea unites”. This is not simply because of geography, but because maritime is an important issue between states relation in Southeast Asia. There are some issues of maritime security in Southeast Asia that need to be resolved, such as maritime boundary disputes, marine resources security, transnational maritime crime, and maritime environmental security.¹⁵

European Union

The European Union has attempted to remain as neutral as possible over maritime disputes, particularly over those in the East and South China Seas, in order to preserve relations with both China and the United States. For example, the Union made a statement in which they identified China’s legal defeat over the South China Sea, but did not directly reference any specific country. There has been persistent emphasis from the European Union,

however, on the need to settle disputes in a peaceful nature, abiding by the international laws set out in UNCLOS.

That being said, the European Union has found it difficult to find agreement between its 28 members on some issues. Reuters identifies that Hungary and Greece rely on Chinese investment, meaning that they are reluctant to criticize Beijing. Similarly, an ongoing maritime dispute between Croatia and Slovenia leaves the EU worried about setting precedent for future arbitration cases pertaining to the sea.¹⁶

The Diplomat also highlights the importance of these maritime issues on trade for the European Union, identifying that:

“...heightened tensions in the SCS may result in the need to alter the routes of cargo ships to avoid an increase in insurance rates, causing longer transit times...this would adversely affect the profit margins associated with European industries’ almost one trillion euro annual trade with East Asia and Southeast Asia.”

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Questions A Resolution Must Answer

- Is there need for a new convention/treaty/document to reform the rights and legislations currently governing the seas?
- What are the most pressing issues that have arisen since UNCLOS was signed in 1984, that the treaty doesn’t cover?
- What should be appropriate penalties for dealing with countries breaking the UNCLOS?



- What is the best way to tackle piracy and other maritime issues? Are they relevant to law of the sea?
- What significance should be placed on sustainability in the legal analysis of law of the sea?
- What sort of solution exists for the current security issues, particularly in the South and East China Seas?

Conclusion

It is clear that the world's oceans, and the law that governs them, is much more nuanced than appears at first glance. Interweaving issues including politics and global cooperation, the environment, piracy, trade, business and resource extraction all create the potential for multifaceted, interdisciplinary analysis and debate.

TOPIC B: REFORMING PEACEKEEPING (INCLUDING DIPLOMATIC IMMUNITY)

Statement of the Issue

As described by the United Nations Charter, the organization's chief objective is "to save succeeding generations from the scourge of war," and no group or branch of the UN has a more tangible role in that process than do United Nations peacekeepers.¹⁸ As such, the group has been paramount to the United Nations since its creation in 1948; however, due to a combination of factors, including faltering infrastructure and lack of volunteered funds by member-states, Peacekeeping has since lost a great

deal of its value. Forces' lack of guidance and wavering and undefined responsibility, have also led to severe humanitarian complications in certain instances. These cases, coupled with peacekeepers' impunity regarding sexual assault allegations have evoked worldwide support for and recommendation of intense UN peacekeeping reformation.

History

Peacekeeping is defined by the United Nations as "action undertaken to preserve peace, however fragile, where fighting has been halted and to assist in implementing agreements achieved by the peacemakers";¹⁹ the UN established it as an official effort of the organization on the basis of the following three principles:

- Consent of the parties
- Impartiality
- Non-use of force except in self-defense and defense of the mandate.²⁰

It is under these guidelines that the United Nations has sought to maintain peacekeeping as a stable and reliable entity of the organization as a whole. Since its inception in 1948, there have been 71 peacekeeping missions in total, and it is some of these missions that have caused governments and humanitarian organizations worldwide to insist that peacekeeping need significant rudimentary reformation. It is essential to consider examples of both relatively successful and relatively problematic peacekeeping missions to understand fully the importance of reformation.



Relative Success: The United Nations Truce Supervision Organization

Shortly after the formation of Israel in 1948, the UN deployed a small group of objective observers to the Middle East for the purposes of ensuring armistice agreements between Israel and the neighboring countries of Egypt, Jordan, Lebanon and Syria be maintained. It was considered paramount by the UN that incidents of conflict be contained as per United Nations Security Council Resolution 50; to establish this goal, the UN supplemented the group with additional observers and supplies and titled it the United Nations Truce Supervision Organization (UNTSO).^{21, 22} The initiative was considered a success in its early stages, primarily as a result of its ability to adhere to the primary goals set out by the Security Council for peacekeeping forces:

- Observation, monitoring and reporting – using static posts, patrols, overflights or other technical means, with the agreement of the parties;
- Supervision of cease-fire and support to verification mechanisms;
- Interposition as a buffer and confidence-building measure.²³

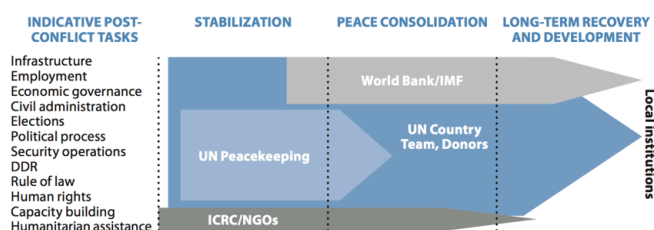


Figure 1: Standard post-conflict distribution of responsibility²⁴

The primary goal of Peacekeepers was, and is, to quell conflicts between hostile parties, or contain them enough that the escalation of such conflicts be prevented. Because Israel was under heavy surveillance from multiple global powers following its creation in 1948, it followed that peacekeepers were able to carry out principal duties well: they were able to easily monitor and report on altercations between hostile forces as they occurred. Thus, the United Nations maintained an accurate map and timeline of conflicts as they arose. This allowed the organization to request assistance from world powers when necessary, seeing that preservation of peace in the region was of global concern.

Once the area had been mostly stabilized through a combination of UNTSO forces, UN military observers and additional third parties, the absence of conflict allowed for the creation of the Mixed Armistice Commissions (MAC), which ensured prolonged peaceful relations between Israel and each of its neighboring states. As illustrated through the graphic above, peacekeeping is most effectively utilized when conflict has stopped completely and the financial and human capital exist to make peacekeeping efforts possible. As in the case of responsibility being imparted onto MAC from the UNTSO, it has historically been essential that the appropriate infrastructure be in place before peacekeepers leave the area, if the UN chooses to take this action. If this is the case, a local, stable and more permanent government must be in place before peacekeeping forces withdrawal. As is the case in Israel and the surrounding area, the UN may in some instances consider an area too precarious



to remove its forces from; as a result, the Security Council may elect to maintain peacekeeping forces in an area indefinitely.²⁵ Regardless of what occurs after peacekeepers are deployed to an area, it is imperative to the success of a mission that they do not enter an area during a period of significant conflict. Because peacekeepers have little direct military experience and lack munitions training, they are often unhelpful in cases where conflict is ongoing. Rather, it is crucial that peacekeepers respond to a situation during the period of initial, post-conflict stabilization (as demonstrated in Figure 1).

Humanitarian Tribulations & the United Nations Assistance Mission for Rwanda (UNAMIR)

The importance of delaying peacekeeping action until after conflict has dissolved is perhaps most evident through the United Nations Assistance Mission for Rwanda, or UNAMIR. The mission was created on October 5 1993, and sought to terminate the Rwandan Civil War while establishing an interim governing body by seizing power from the Hutu-dominated government. However given the scale of the conflict between Hutu and Tutsi groups, the peacekeeping force was significantly underpowered. To make matters more difficult, the force was declared unable to intervene in the conflict militarily as per Chapter VI of UNAMIR's initial mandate; peacekeepers idly stood by as the conflict began to show deliberate signs of genocide.²⁶

International organizations and governments also failed to act appropriately during the period of

mounting destabilization in the country. This was in part due to lackadaisical UNAMIR forces; the group continually underreported the significance to which humanitarian atrocities were taking place in the region. As former Secretary-General Kofi Annan stated in a letter addressed to the President of the UN Security Council peacekeeping forces: "although UNAMIR suffered from a chronic lack of resources and political priority it must also be said that serious mistakes were made with those resources which were at the disposal of the United Nations."²⁷ Peacekeeping forces were given directions to abandon the posts at which they were stationed to protect Tutsi populations, leaving them completely open to the will of Hutu military forces. It was this inability to read the devolving political map between Hutus and Tutsis that resulted in the deaths of thousands of people, and it is precisely these deaths that could have been prevented by the appropriate UN intervention.

Sexual Misconduct & the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA)

The UN Multidimensional Integrated Stabilization Mission in the Central African Republic, or MINUSCA (acronym derived from French), was authorized by the UN Security Council on April 10, 2014 in an attempt to protect civilians during a period of the nation's political unrest. The CAR was in a state of turmoil up to and after President Michael Djotodia's resignation on January 10 2014, and peacekeeping forces were set in place shortly thereafter to oversee local areas in



the absence of stable governing bodies on multiple levels. They entered the country under the oversight of interim CAR president Catherine Samba-Panza, whose administration continued to struggle with the military factions that persisted in fighting the remaining groups under Djotodia's control.²⁸ Because of the lack of sustained, permanent infrastructure in the country, the peacekeepers stationed there were given significant freedoms in their pursuit of protecting civilians with limited monitoring of their efforts by local or federal governments. As such, the peacekeepers were free, in many cases, to do as they pleased without specific or long term tasks or regimented schedules, and in some cases this had abominable consequences: sexual misconduct, initiated and carried out by UN peacekeepers, became a reoccurrence.

By early April 2016, there had been over 150 allegations of rape and sexual assault of civilians reported since mid-2014. Many of these instances occurred as a result of the peacekeepers leverage over the civilians in areas to which they were deployed; some agreed to participate in sexual acts in exchange for food or living supplies from peacekeepers.²⁹ The issue is exacerbated by the fact that few people are willing to testify against peacekeepers out of fear or concern of diminished living conditions. While not all of the cases noted have been substantiated to date, many have and as a result have raised serious questions about the moral and ethical treatment of civilians by peacekeepers who are not under greater supervision. Some solutions to this issue have been suggested, such as "expelling troops accused of misconduct and

limiting the amount of contact off-duty peacekeepers have with the civilian population."³⁰ There have been several proposed resolutions to this problem, though few have yet made significant differences in the lives of those affected.

Unfortunately, MINUSCA is not the first case of sexual exploitation of civilians reported over the course of peacekeeping missions. Kofi Annan signed a bulletin entitled "Special measures for protection from sexual exploitation and sexual abuse" on October 9, 2003, though the problem has persisted significantly since.

Relevant International Interaction

Given the prevalence and severity of peacekeeping errors since the body's inception, there have been multiple instances of United Nations action in an effort to prevent such problems from occurring in the future. The most essential of these efforts are highlighted below.

The Report of the Panel on United Nations Peacekeeping

Perhaps the most important and direct result that has come from efforts to reform peacekeeping is the "Report of the Panel on United Nations Peacekeeping," a document whose creation was commissioned by Secretary-General Kofi Annan on March 7, 2000. The document, more commonly referred to as the Brahimi Report (from Lakhdar Brahimi, former Chairman of the Panel of UN Peace Operations), sought to address the numerous concerns and problems faced by UN peacekeeping operations and "make frank, specific



and realistic recommendations for change.”³¹ These recommendations spanned 20 different categories ranging from “Preventative action” to “Logistics support and information management,” and the document stresses the importance of United Nations member states’ vigilance in the matters of humanitarian affairs and peace maintenance. Seeing that the UN itself often lacks the necessary funding appropriate for these efforts, the Brahimi report stresses the importance of member-state intervention when addressing these problems. Furthermore, the panel states that the changes it recommends will “have no lasting impact unless Member States summon the political will to support the United Nations politically, financially and operationally to enable the United Nations to be truly credible as a force for peace.”³²

In addition, the report recommends strongly that peacekeeping efforts be postponed until conflicts are fully terminated in an area. The panel urges member states and peacekeeping forces to heed warning signs of failed missions in the past: serious problems arose when peacekeeping forces “did not deploy into post-conflict situations but tried to create them” instead.³³ Given the nature of peacekeeping forces, this mandate is an imperative one and should be taken into consideration whenever the potential to send peacekeeping forces into an area of conflict occurs.

Many of the recommendations outlined in the report were unanimously adopted on November 13 2000 as a part of UN Security Council Resolution 1327. As a result, the report’s provisions and

recommendations remain relevant in UN action, but the question of their efficacy does as well.³⁴

The United Nations Peacekeeping Doctrine Framework

Written in 2008, the UN Peacekeeping Doctrine was written as a comprehensive guide to the responsibilities, permissions and goals of peacekeeping forces. Because the Doctrine was created to act as the primary internal training literature for UN ground forces, it is considered essential in a peacekeeper’s understanding of his/her role. The document was also created to introduce clarity and stricter definitions to the work of peacekeepers.

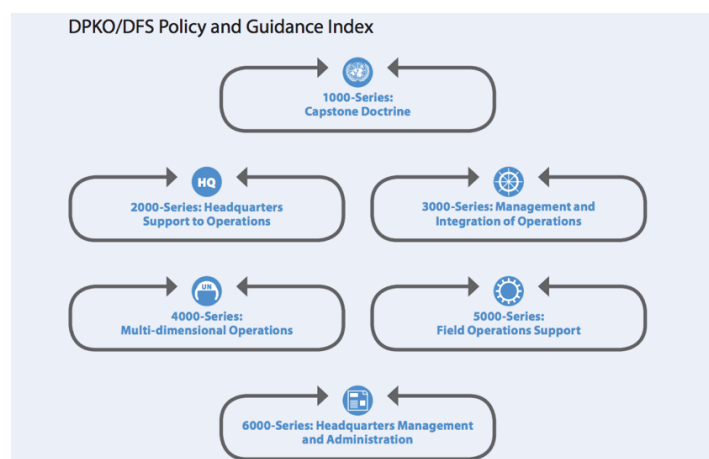


Figure 2: Layout of Peacekeeping Doctrine and Operations³⁵

As demonstrated above, the Department of Peacekeeping Operations (DPKO) and the Department of Field Support (DFS) placed all information relevant to peacekeeping training into six different categories, organized into six groups (series 1000-6000). The most essential document of this doctrine is the initial 1000-series document entitled “United Nations Peacekeeping Operations:



Principles and Guidelines,” which seeks to define all peacekeeping related definitions as well as outline more effectively the true goals of peacekeeping endeavors in the 21st century. Not only is it useful in elucidating the responsibilities and purviews peacekeepers, but it also helps provide clarity to the public on the current status of what was previously an ambiguous field.

Current Situation

Today, there are over 100,000 UN personnel operating on 16 missions on the basis of the following goals; they strive to:

- Protect civilians;
- Facilitate political processes;
- Support the organization of elections;
- Assist in disarmament, demobilization and reintegration;
- Restore the rule of law, and
- Promote human rights.³⁶

It is through these goals that peacekeepers seek to reinstate peaceful conditions in many of the world’s most politically volatile environments. However, they do not succeed equally in each of the outlined objectives above. For example, peacekeepers have been generally effective in the facilitation of political processes, in the support of election organization, and in the restoration of law, regardless of geographic location or other potentially confounding factors that may affect success rates. This fact is a logical one, as the capabilities necessary to ensure success in these objectives are often maintained by peacekeeping forces in the nature of their roles in various regions.

In terms of the protection of civilians and the promotion of human rights, the first and last goals from the list above, recent missions have been of mixed success. For example, the UN Stabilization Mission in Haiti, or MINUSTAH (again, from French), has resulted in significant, positive humanitarian milestones following the earthquake that struck Haiti on January 12 2010. Peacekeepers have been able to safely provide humanitarian aid to 4.3 million Haitians, including the provision of temporary shelter to 1.5 million displaced as a result of the earthquake.³⁷ With that said, there have also been serious human rights violations that have occurred as a result of the force’s presence in Haiti. As with MINUSCA, there were serious allegations of sexual misconduct that were later substantiated; 110 peacekeepers were terminated after such allegations came to light.³⁸

Diplomatic Immunity of Peacekeepers

Perhaps the most egregious issue of the current situation of UN peacekeeping is that laws are in place that grant peacekeepers immunity from being held criminally liable for their actions while on a mission in a foreign country. As defined in the 1946 “Convention on the Privileges and Immunities of the United Nations,” any official of the United Nations “shall be immune from legal process in respect of words spoke or written and all acts performed by them in their official capacity.”³⁹ This document effectively mandates a set of blanket legal permissions for all United Nations members in any instance, and the document carries a significant amount of weight being ratified by 163 of the 192 member states present in 1946. However, this



document fails to take into account the pressing nature of humanitarian atrocities that persist today: the Convention was initially drafted to prevent foreign governments from taking advantage of UN officials while on peacekeeping missions. However, the mandate has since been expanded from its original purpose, given that over 100,000 UN troops are on the ground today (as opposed to the approximately 300 staff serving solely in a diplomatic role in 1946).^{40,41}

The convention has been very slightly adjusted to represent this dramatic change, where now UN personnel may be persecuted by their home country but not by the country in which they are stationed. As a result however, there are still much fewer cases brought to court than occur annually; this is often because the government of one nation can be unconcerned with the welfare of citizens of another. For example, substantiated instances of Pakistani peacekeepers having committed sexual assault have been brought in front of the Pakistani government without action; the government has simply allowed the alleged perpetrators to return home after being discharged from their peacekeeping mission.⁴² One of the principal reasons why this immunity is problematic is because it eliminates almost all legal disincentives a UN peacekeeper faces when committing an atrocity such as sexual violence or misconduct. This only perpetuates the problem, keeping the issue alive regardless of how far removed the world is from the initial Convention that drafted the rule in 1946.

Analysis

Although the United Nations has put forth a consistent and concerted effort to elucidate and mitigate issues that have arisen with peacekeeping, it has, in many ways, failed to do so. While many of the problems of peacekeeping are relatively straightforward, including lack of funds, lack of guidance, and sexual assault committed on the ground, many of the issues lying at the group's core are difficult to detect. For example, the United Nations has failed to address one issue that sits at the heart of the group: its paradoxical nature. Peacekeeping as an organization seeks to do precisely as its name suggests, but that isn't possible when there is no peace with which to begin. As demonstrated in Figure 1 and addressed on multiple occasions by the United Nations, the group thrives only once a period of stabilization has occurred: groups causing conflict in an area must opt for peace, otherwise the goals of peacekeepers are rendered unachievable.

Along with this issue, peacekeepers have a remarkably transient window during which it is effective to act. If the United Nations waits too long before deploying peacekeeping forces into an area, it creates the potential for alienation of international forces by civilians in that country. By failing to intervene shortly after it becomes possible to do so, peacekeepers often lose the trust of civilians of a country. The chief responsibility of peacekeepers is to protect the civilians of the area in which they are stationed, and not being respected or valued by the people of that place can cause a significant detriment to the aims of a mission; this relationship between peacekeeper and civilian is imperative to



success, but it can be proactively damaged by the United Nations' failure to act efficiently in the midst of a humanitarian crisis.

Many of the issues that continually prove problematic for peacekeeping forces arise as a result of a lack of funding. Although the group receives a significant amount, it is often not enough to maintain the thousands and troops and ensure that no wrongdoing occurs. If a peacekeeper is to cause an issue or break laws within the country in which he/she is stationed, that mission's reputation as a whole is significantly damaged. As such, global desire to continue to fund that mission declines. Thus, it is imperative for the sake of peacekeeping as a whole that atrocities committed by peacekeepers are prevented, as each damages the reputation of peacekeeping missions and jeopardizes their existence altogether.

Possible Solutions

There are several potential ways in which humanitarian problems surrounding UN peacekeeping may be ameliorated in the short run, though it should be noted that it is difficult if not impossible to fix these issues without some form of long term legislature. While these solutions may be viable, they should be taken as suggestions as there are other potential solutions as well.

Reconsideration of each mission

As stated, there are significant discrepancies in the successes of each of the current 16 UN peacekeeping missions. Given the potential that each presents to create problems, it may be useful

to this body to suggest that a group be created for the purpose of considering the utility of each, as some missions may have begun to outgrow their usefulness. Altogether this is an unlikely possibility, it should be looked into in order to ensure that each mission continues to afford those served with otherwise inaccessible opportunities and relief.

Removal of peacekeepers' diplomatic immunity

One important talking point pertaining to the current situation of UN peacekeeping is that of diplomatic immunity. As stated, the country in which a mission is stationed cannot persecute peacekeepers for egregious actions, only the home country of peacekeepers in question can initiate a trial and investigation into potential mistreatment of civilians. While this immunity has failed to bring perpetrators of sexual assault and other crimes to justice, it also allows peacekeeping forces at large confidence that they will not be wrongfully persecuted by a nation into which they have been deployed. As such, the removal of said immunity may significantly decrease individuals' interest in becoming peacekeepers out of fear of imprisonment or other unexpected legal action against them. Thus if immunity is removed, a stable system of checks and balances between governments and the United Nations may be essential to prevent governments from taking advantage of peacekeepers, though this will prove difficult. Note that this would also likely require new legislation to overturn the appropriate sections of the "Convention on the Privileges and Immunities of the United Nations". Conversely, maintenance of this immunity may perpetuate



assaults and mistreatment of civilians, though there may be ways to combat this issue, such as the following.

Deployment of UN surveyors

One way to help prevent peacekeepers from performing humanitarian atrocities is to generate a UN body, potentially separate from peacekeeping itself. This force of surveyors would be created by the UN and would have the sole responsibility of ensuring that moral and humanitarian conduct is maintained over the course of peacekeeping missions. While peacekeeping forces themselves already conduct a series of checks in an attempt to ensure that no civilian is taken advantage of by peacekeeping forces, past missions have evidenced the ineptitude with which this surveillance is conducted.⁴³

One potential way to conduct this surveillance is to model it after a panopticon; this method would call for the individual designated to survey and report on the behavior of peacekeepers to effectively go undercover. In so doing, no peacekeeper would be sure who would report malicious activity to authorities and collaboration in such acts could potentially be stymied.

Attracting greater attention to peacekeeping

An additional tool through which the UN may strengthen the ethics and efficacy of its peacekeeping forces is the use of the public eye. In showcasing the benefits of peacekeeping, which are numerous, the United Nations may be able to instill in people

across the globe a greater appreciation for the work that is done. As a result, people may care more about peacekeeping efforts in general, and this increased attention would also attract additional funds that would serve useful in addressing the problems that arise with peacekeeping. However, this advertising of peacekeeping to society at large is inherently expensive, and may prove futile depending on how effective it is at generating public interest.

Bloc Positions

Countries in which peacekeepers are stationed

The 19 nations receiving peacekeeping aid as of current are a crucial group in this conversation; they take an almost utilitarian view in regards to the effects of peacekeeping on their citizens. In short, they must focus on the well being of their own civilians as primary.

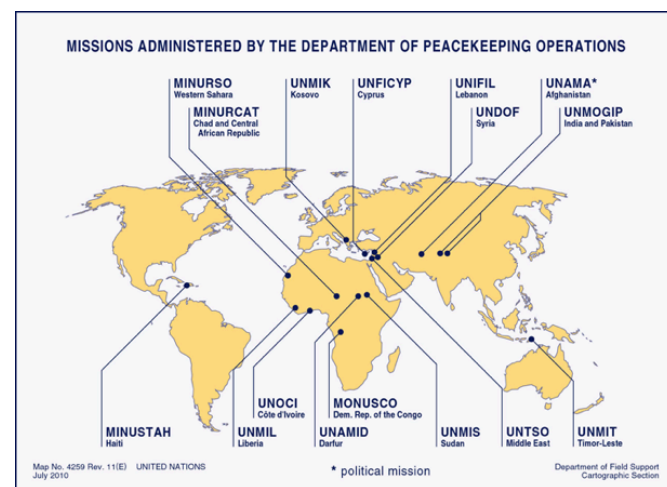


Figure 3: A map depicting the areas in which peacekeepers are stationed ⁴⁴

Although they have little to no tolerance for peacekeepers who violate their laws and fail to protect the people of their countries, there is often



not a significant amount of power that they have considering the diplomatic immunity granted to peacekeepers inherent in their position. As such, these nations want to maximize benefit and aid from peacekeepers, while ensuring that their people are safe by eliminating what they see as unfair protections given to peacekeepers. Excluding humanitarianism, their end goal is to create an economy that is self-sustainable to the point that it will not collapse upon the eventual removal of both uni- and multilateral aid.

Developing countries not receiving aid

These countries primarily hope for the stabilization of nations in which peacekeeping efforts exist, as turmoil can spread through political or geographical borders without the right infrastructure. As such, these countries want to increase peacekeeping efforts, though they note the difficulty in obtaining funding. In addition, they are generally of the notion that peacekeepers receiving extremely unfair immunity ties, and as a result believe that stricter sanctions on the purview of individual peacekeepers should be enforced. In addition, one of the most important goals they want to see accomplished during this session is an intensive decrease in ambiguity pertaining to the way in which peacekeeping affairs are handled and communicated up the United Nations. As with developing nations who receive aid, they believe that an important clause of any resolution passed should pertain to a tangible solution through which member states can assure greater clarity of peacekeeping events in order to prevent further humanitarian crises.

1. **United States (28.38%)**
2. **Japan (10.83%)**
3. **France (7.22%)**
4. Germany (7.14%)
5. United Kingdom (6.68%)
6. China (6.64%)
7. Italy (4.45%)
8. Russian Federation (3.15%)
9. Canada (2.98%)
10. Spain (2.97%)

Figure 4: The 10 most contributing countries to the peacekeeping budget ⁴⁵

Nations making significant financial contributions to peacekeeping

Because every member state of the United Nations is required to contribute a proportional amount dependent on a series of factors such as GDP and economic stability, it is sensible that significantly developed countries contribute the greatest amount of money. As a result, the efficiency and efficacy of peacekeeping is of greatest priority to these nations, and they will likely see to it over the course of this session that clauses pertaining to the financial efficiency of peacekeeping are addressed. They take various stances on the effects that diplomatic immunity for peacekeepers has on the situation at large.

Nations making significant contributions to peacekeeping

This geographically diverse set of nations places a premium on the protection of peacekeepers on an international scale. They believe that in many cases their personnel have been mistreated, and as a result hope to focus on ensuring peacekeepers' rights while providing the greatest protection and security for the people to whom they provide aid. A



list of countries that contribute the greatest number of peacekeeping personnel can be found here.⁴⁶

Questions a Resolution Must Answer

- How will this body address the question of diplomatic immunity for UN peacekeepers?
- What, if any, additional regulations should be imposed on peacekeepers' autonomy on the ground to prevent the abuse of civilians?
- How can this body enable individual nations to effectively maintain and patrol peacekeeping forces?
- What disincentives should this group provide to dissuade or prevent peacekeepers from committing illegal actions of any kind while involved in a mission?
- How can the United Nations update the way it prevents humanitarian crises, such as those in Rwanda in the 1990s, via peacekeeping forces?
- What positive aspects of peacekeeping have existed over its history, and how can their maintenance be ensured for the future?
- How can this body work towards increasing global, public awareness of the efforts of peacekeepers?

Conclusion

As shown, peacekeeping is a remarkably complicated and multifaceted issue, and detaching the significant benefits from the organization's history of humanitarian issues is perhaps even more complex. These problems, coupled with the fact that the group at times lacks the funding necessary to prevent them from occurring, only perpetuate the difficult set of circumstances faced

by UN peacekeepers and administrators. Thus, it is imperative that this body strive to develop an exhaustive understanding of the dimensions of peacekeeping and the issues associated with it; only with that knowledge will the sixth committee of the United Nations be able to address this problem efficaciously enough to effect real change.



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