

## Annex IV

### Legal aspects of accountability for crimes committed against United Nations personnel serving in peacekeeping operations

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#### A. Introduction

1. The concept of peacekeeping has developed through the practice of the United Nations and stands as one of its most positive and tangible contributions to the maintenance of international peace and security.<sup>1</sup> Peacekeepers often serve in complex and deteriorating security environments where they are targeted by hostile actors and face asymmetrical threats.<sup>2</sup> According to global peacekeeping data reports, there has been a notable escalation in fatalities resulting from malicious acts – the cumulative toll of UN personnel serving in peacekeeping killed due to malicious acts. Of the total 4,433 fatalities among UN peacekeeping personnel, 1,134 were due to malicious acts, while 1,410 resulted from accidents, 1,640 from illness, and 239 from other causes.<sup>3</sup> Most of those responsible for these crimes have yet to be brought to justice.

2. As the International Committee of the Red Cross (ICRC) observes, the offence of intentionally directing attacks against peacekeepers constitutes a crime under customary international law.<sup>4</sup> The international community—including UN Member States, the UN Security Council, and the UN Secretary-General—has repeatedly expressed serious concerns about the challenges in bringing to justice the perpetrators of crimes that have been committed against UN peacekeeping personnel. The low rate of prosecution of such crimes keeps contributing to an environment of impunity and undermines the safety and security of

<sup>1</sup> The proposed topic is limited to Legal Aspects of Accountability for crimes committed against United Nations personnel serving in the peacekeeping operations. Accountability for Crimes committed by Peacekeepers is not within the scope of the proposed study. Noelle Higgins, “The Protection of United Nations and Associated Personnel”, *Journal of Humanitarian Assistance*, Volume April 2003, p. 1. There is no jurisprudence defining the classification of “peacekeeping mission established in accordance with the Charter of the UN. Furthermore, although the topic focusses on UN personnel serving in peacekeeping operations, the study will inevitably draw law and practices (including best practices and lessons) that are being available from the deployment of peacekeeping operations conducted by or with authority of regional organisations. Indeed, the state practice and jurisprudence of the African Union and NATO are important to understand and appreciate the applicability of the legal elements at global level in the context of the UN.

<sup>2</sup> UN General Assembly, *Report of the Secretary-General on the implementation of the recommendations of the special committee on peacekeeping operations (A/77/573)*, (1 November 2022), para. 59.

<sup>3</sup> Every troop and police contributing country is concerned about the crime committed against UN personnel serving peacekeeping operations and have been advocating the safety and security of peacekeepers. While paying tribute to 43 Norwegian peacekeepers, Jean-Pierre Lacroix, Under Secretary-General appreciated Norway’s efforts in supporting national authorities in their fight against impunity. Statement of Jean-Pierre Lacroix 22 March 2023. To ‘measure the crimes committed’ various information technology related initiatives including the Database by Group of Friends can be leveraged to study such crimes in order to establish a comprehensive legal framework to combat crimes against UN peacekeeping personnel. See UN Peacekeeping, Global peacekeeping data: fatalities by year and incident type up to 23 May 2025, available at [https://peacekeeping.un.org/sites/default/files/stats\\_by\\_year\\_incident\\_type\\_5\\_111\\_may\\_2025.pdf](https://peacekeeping.un.org/sites/default/files/stats_by_year_incident_type_5_111_may_2025.pdf).

<sup>4</sup> ICRC, Rule 33, Customary International Humanitarian Law Data Base. It is mentioned that as per ICRC, the offence of intentionally directing attacks against peacekeepers constitutes a crime under international law, whereas whether this can be confirmed is a matter that can be determined through examination of state practice and jurisprudence. The study aims to prepare guidelines which will render customary norm distinct and readily accessible to users. Accordingly, courts and tribunals, UN system, field missions, practitioners will find the draft guidelines more immediately useful.

personnel.<sup>5</sup> The rising impunity affects 123 troop and police contributing countries and adversely impacts peacekeeping, “which is an expression of international solidarity and one of the most effective tools available to the United Nations in the promotion and maintenance of international peace and security”.<sup>6</sup> To prevent aggravation of this trend and ensure fulfilment of the mandate of the maintenance of international peace and security, the Security Council unanimously adopted Resolution 2589 (2021), co-sponsored by more than 80 member States, on strengthening accountability for crimes committed against peacekeepers. The Council called for a renewed focus on measures to bring to justice the perpetrators of such acts.<sup>7</sup> This study proposal derives its purpose and scope from the UNSC Resolution 2589 (2021) and the voice of the member States and the UN leadership expressed over the years at various forums.

3. Special Committee on Peacekeeping Operations (C-34),<sup>8</sup> General Assembly,<sup>9</sup> Security Council,<sup>10</sup> and the Secretary-General<sup>11</sup> have strongly condemned targeted attacks against United Nations peacekeeping personnel (i.e., UN personnel serving in peacekeeping operations) and all acts of violence against such personnel. In line with these concerns, the Secretary-General has launched the Action for Peacekeeping (A4P) and Action for Peacekeeping+ (A4P+) initiatives,<sup>12</sup> which emphasize seven key priorities, including placing accountability at the core of collaborative efforts to combat impunity.<sup>13</sup> The High-Level Meetings of the Group of Friends to Promote Accountability for Crimes Against Peacekeepers also featured a substantive discussion on providing legal frameworks to support the concept of accountability for crimes against UN peacekeeping personnel.<sup>14</sup>

4. Since 1948, peacekeeping has evolved from a primarily military model of observing cease-fires and the separation of forces after inter-state wars, to a complex model of many elements – military, police and civilian – working together to help lay the foundations for sustainable peace and security. This transition from ‘traditional UN peacekeeping operations’ (conducted with the consent of the parties to a conflict, usually States, in which “Blue Helmets” monitor a truce between warring sides while mediators seek a political solution to the underlying conflict) such as the two observation and monitoring-based peacekeeping operations established in the late 1940s to the contemporary robust peacekeeping such as Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), United Nations Organization Mission in Democratic Republic of the Congo (MONUSCO), United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic

<sup>5</sup> UN Security Council, *S/RES/2589 on safety and security of peacekeepers*, (18 August 2021), page 02. In 1996, the Commission emphasized the special responsibility of the international community to effectively investigate and prosecute such crimes, as highlighted in the proposal. Therefore, peacekeeping operations and crimes against peacekeepers stand out as a separate and important issue that needs to be specifically addressed.

<sup>6</sup> UN Security Council, *S/RES/2518(2020)*, (30 March 2020), page 01.

<sup>7</sup> Report of the UN Secretary General, see *Supra* note 3, para. 70.

<sup>8</sup> UN General Assembly, *Report of the Special Committee on Peacekeeping Operations*. See Paras: 187 of *A/77/19* (2023), 151 of *A/75/19* (2021); 35 of *A/72/19* (2018); 36 of *A/69/19* (2015); 33 of *A/64/19* (2010); 113 of *A/54/839* (2000); 55 of *A/51/130* (1996).

<sup>9</sup> UN General Assembly, *A/RES/47/120B An Agenda for Peace*, (20 April 1993), page 5, available at <https://digitallibrary.un.org/record/174286?ln=en>, last accessed on 11 July 2023.

<sup>10</sup> UN Security Council, *S/RES/2436 on developing a comprehensive and integrated performance policy framework for UN peacekeeping operations*, (21 September 2018), page 01.

<sup>11</sup> UN General Assembly & Security Council, *S/2015/682 The future of United Nations peace operations: implementation of the High-level Independent Panel on Peace Operations*, (2 September 2015), para 103. Also see para. 66 of the *An Agenda for Peace: Preventive diplomacy, peace-making, and peacekeeping*.

<sup>12</sup> Canada, Australia and New Zealand, while welcoming A4P+ focus on accountability to peacekeepers, emphasized that “these peacekeepers deserve and demand a process that fairly and promptly investigates and prosecutes perpetrators crimes and attacks against peacekeepers, in order to prevent future loss... ech[oes] the call for more action to address impunity for crimes against peacekeepers”. Statement by H.E Craig Hawke, Permanent Representative of New Zealand, dated 20 October 2021.

<sup>13</sup> UN, *Action for peacekeeping+: priorities for 2021-23*, page 05.

<sup>14</sup> The Group of Friends includes 49 member States and regional organisations including Bangladesh, Nepal, Brazil, China, Indonesia, Russia, Rwanda, USA, UK, France, Germany, Japan, Morocco, South Africa, Pakistan, India, Egypt, Ethiopia, League of Arab States, among others.

(MINUSCA), requires an examination of international law protection entitled to UN peacekeeping personnel. The evolution of peacekeeping has given rise to an array of complexities in the application of governing international law and these legal gaps can be filled through examination of state practice, precedents, jurisprudence and emerging doctrine. This legal study, the first of its kind dedicated to the cause and mission of UN peacekeeping personnel, will address the needs, interests and concerns of Troop Contributing Countries in general as well as the UN membership.

## B. Gaps in the Existing Legal Framework

5. December 9, 1994, marked a historic day with the adoption of the Convention on the Safety of UN and Associated Personnel (“the Safety Convention”).<sup>15</sup> This milestone addressed a crucial gap in international law—the absence of legal remedies or instruments for forces engaged in traditional non-combatant peacekeeping functions. The scope of the Convention was expanded by the 2005 Optional Protocol to extend protection to personnel involved in “humanitarian, political or development assistance in peacebuilding” or “emergency humanitarian assistance”.<sup>16</sup> It is crucial to highlight the ‘reason for review’ aimed to encompass the ‘evolving responsibilities’ undertaken by peace operations, specifically in the context of humanitarian efforts.

6. Two decades have elapsed since the last review on the scope of legal protection under the Safety Convention and the Protocol. During this period, peace operations have undergone a rapid evolution, shifting from ‘traditional peacekeeping’ to ‘multidimensional operations’ with increasingly robust mandates.<sup>17</sup> The period has also witnessed a notable escalation in overall fatalities, including those resulting from malicious acts, 488 fatalities between 2005 and 2025.<sup>18</sup> Taking note of the evolution of peace operations, it is imperative to recognize the emerging trends in peace operations, underscoring the necessity for a review of the legal aspects of accountability for crimes against the UN peacekeeping personnel.

7. **The grey areas: The blurred distinction between various forms of peace operations** The ‘UN Peacekeeping Operations: Principles and Guidelines’ acknowledges that the boundaries between conflict prevention, peace-making, peacekeeping, peacebuilding and peace enforcement have become increasingly blurred and UN peacekeeping personnel are at the greatest risk in such operations.<sup>19</sup> The grey area is further broadened by the novel concept ‘robust peacekeeping’ which involves the use of force at the tactical level with the consent of the host authorities and / or the main parties to the conflict. Peace enforcement may involve the use of force at the strategic or international level, which is normally prohibited for member States under Article 2 (4) of the Charter unless authorized by the Security Council.<sup>20</sup> The Security Council gives “robust” mandates to UN peacekeeping operations, authorizing them to “use all necessary means” to deter forceful attempts to disrupt the political process, protect civilians under imminent threat of physical attack, and / or, assist

<sup>15</sup> The 1994 Safety Convention was negotiated and adopted in the backdrop of attacks on UN personnel in Somalia, the former Yugoslavia and Rwanda. The relative speed with which the Convention was negotiated and concluded also led to a number of questions which remained ill-defined then. Even the 2005 Protocol continues to have lack of clarity and certainty flowing from the 1994 Convention.

<sup>16</sup> The debate highlights the need to bring legal clarity to various aspects of peace operations. ILC study is hence crucial to overcome legal challenges, and address the lack of legal certainty directly affects implementation of the Convention both in the international and domestic sphere.

<sup>17</sup> The study emphasizes that the legal regime applicable to UN peacekeeping missions no longer responds to the needs of contemporary peacekeeping missions operating in hostile environments and non-international armed conflict and fails to sufficiently protect peacekeepers.

<sup>18</sup> As of 2005, the total fatalities were 2228 and between 2005 and April 2025, the number of fatalities has increased from 2228 to 4423, i.e. 2195 fatalities in the last 20 years, almost double from between 1948 to 2005. [https://peacekeeping.un.org/sites/default/files/stats\\_by\\_year\\_1\\_108\\_february\\_2025.pdf](https://peacekeeping.un.org/sites/default/files/stats_by_year_1_108_february_2025.pdf).

<sup>19</sup> United Nations Peacekeeping Operations, *Principles and Guidelines*, (March 2008) at page 18. The study intends to examine the evolution in detail, the current understanding and relevance of the Capstone doctrine and its impact on the protection of Peacekeepers.

<sup>20</sup> The topic examines the existence of legal gaps (both substantive and procedural issues) but does not aim to address the technical and operational aspects causing impunity.

the national authorities in maintaining law and order.<sup>21</sup> However, the issue that needs to be studied is whether the ‘blurred distinction’ or the ‘grey area’ results in the application of the appropriate law governing the protection of personnel involved. The issue of blurred distinction is evident in the Report of the International Commission of Inquiry for Mali which acknowledges asymmetric threats faced by MINUSMA and highlights the profound complexity of the status of MINUSMA under international humanitarian law, the difficulty of determining its exact status in the Malian armed conflict,<sup>22</sup> and the difficulty of accurately classifying the legal nature of the attacks against it. The Inquiry Commission noted that risk of MINUSMA being perceived by armed groups as participating in the armed conflict.<sup>23</sup>

**8. Need to clarify the International Humanitarian Law (IHL) protection entitled to the Peacekeepers engaged in contemporary Peacekeeping Operations and its extent:**

UN peacekeeping operations do not fall within the category of international armed conflict, which as per definitions involve one or more States taking recourse to armed force against another State.<sup>24</sup> For example, situations may arise in which UN peacekeeping personnel are caught up in an armed conflict between states and subjected to attacks by members of one or more belligerent forces but the UN force does not itself become a party to an armed conflict. This case is different because the law of armed conflict makes almost no express provision for it, except for an indirect protection under Article 37(1)(d) of Protocol I to the Geneva Convention 1949, which prohibits the feigning of protected status by the use of signs, emblems or uniforms of the United Nations or of neutral or other states not parties to the conflict. This provision clearly envisages that the United Nations and, by extension, UN peacekeeping personnel, enjoy “protected status”; however, the nature of that status and the rights and obligations which flow from it are not set out in the Protocol.<sup>25</sup>

9. Peacekeeping operations do not neatly fit into the traditional definition of non-international armed conflict either, which typically involves protracted armed violence between a state’s armed forces and dissident or rebel groups, or between multiple non-state actors within a state that may not involve government troops. Indeed, UN peacekeeping operations may belong to a *sui generis* category, unless they are mandated to engage directly in hostilities. The proposed study aims to identify elements of distinction between UN peacekeeping acting under the mandate of the Security Council and in the interest of the international community, and state or non-state actors who pursue their own positions. Furthermore, scholarly findings suggest that the legal regime applicable to UN peacekeeping missions no longer responds to the needs of contemporary peacekeeping missions operating in hostile environments and non-international armed conflict and fails to sufficiently protect peacekeeping personnel.<sup>26</sup> UN officials and scholars have been suggesting the need for

<sup>21</sup> For instance, in connection with the situation in Abyei, the Council extended the tasks of the UN Interim Security Force for Abyei (UNISFA) as per paragraph 3 of resolution 1990 (2011), which included the authorization to take “necessary actions”. Same goes for MINUSCA (Resolution 2659 (2022), para. 34), and MONUSCO (Resolution 2666 (2022), para. 22). Such authorizations, directly / indirectly touch upon the cornerstone of international law applicable to peacekeeping, especially international humanitarian law and the Safety Convention.

<sup>22</sup> The term “armed conflict,” which is not defined in the 1949 Geneva Conventions, has generally been given a very broad interpretation. The prosecution and investigations by national authorities of the Central African Republic, Democratic Republic of Congo and Mali enable us to identify challenges, namely, political focus by the UN and states, limitation of law enforcement agencies, difficulty in evidence collection, capacity of state institutions, among others. Stéphane Jean, “Supporting National Justice and Security Institutions: The Role of UN Peace Operations,” *UN Chronicle*, February 23, 2023.

<sup>23</sup> Report of the International Commission of Inquiry for Mali, *S/2020/1332/* (19 June 2020) Para 829. Perpetrators use various means to target peacekeepers, in such cases, identifying the individual is very difficult. State rule of law institutions are absent in such places, so apprehending criminals is a challenge. It is also necessary that the domestic trials meet relevant international legal standards.

<sup>24</sup> ICRC case-study identifies several questions in this regard. <https://casebook.icrc.org/case-study/convention-safety-un-personnel>. This study supplements the existing legal analysis and aims to fill the gap by answering those questions on the basis of state practice and case-law.

<sup>25</sup> Christopher Greenwood, “Protection of Peacekeepers: The Legal Regime”, *Duke Journal of Comparative and International Law*, vol. 7 (1996), pp. 185–190.

<sup>26</sup> Huw Llewellyn, “The Optional Protocol to the 1994 Convention on the Safety of United Nations and Associated Personnel”, *International and Comparative Law Quarterly*, vol. 55, 2006, pp. 718–728;

protection to peacekeepers. For example, Stephen Mathias highlights jurisprudence from the Special Court for Sierra Leone to the International Criminal Court, wherein it has been held that ‘personnel of peacekeeping missions are entitled to protection but will lose that protection if they take a direct part in military operations’.<sup>27</sup> Although focusing on international tribunals, MS Bangura highlights multiple challenges in prosecuting perpetrators of crimes against peacekeepers – loss of evidence over time, difficulty in securing witnesses, restricted access to UN-held evidence, high evidentiary burden, political and diplomatic sensitivities among other challenges.<sup>28</sup> Role, limitation and importance of the 1994 Safety Convention and its effectiveness in protecting peacekeepers from attacks is appreciable. Under Articles 7 and 11, State Parties have specific obligations to protect peacekeepers and criminalize any attacks against them in their domestic laws.<sup>29</sup> Nevertheless, the international community is well aware of several drawbacks of the Convention – difficulty in determining the applicability of the Convention, limited scope of protection (does not apply to enforcement missions), reluctance of States to recognize ‘armed conflict,’ and difficulty in enforcing State obligations.<sup>30</sup> To elucidate the legal framework governing robust mandates that authorize peacekeepers’ involvement in active military operations beyond the traditional ‘self-defence’ and ‘defence of mandate’ exception, it is imperative to examine the interplay among *jus ad bellum*, *jus in bello*, *jus post bellum*, and peacetime international law.<sup>31</sup> A crucial question arises as to whether engaging in the *defence of mandate* amounts to participating in hostilities, which could potentially result in the loss of the protected status of peacekeepers. “The responsibility for working out whether a situation is governed by the Safety Convention regime or international humanitarian law will lie with the commanders and soldiers in the field, and the criteria on which they must rely are ill defined and probably unworkable in practice. It is difficult to know what regime is applicable to a situation, such as Somalia, in which the Geneva Conventions were stated not to apply, yet the UN forces viewed “everyone on the ground in that vicinity [as] a combatant.”<sup>32</sup> In this context, it is imperative to pay attention to proposal made by Costa Rica in the Sixth Committee, supported by Sierra Leone and Switzerland which recognised the need to clarify the respective areas of application of international humanitarian law and of the Safety Convention and the Protocol, so as to avoid any imbalances in protection and to fill any gaps.<sup>33</sup>

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Thierry Kaiser & Carlijn Ruers, The application of international humanitarian law to peacekeepers, available at <https://doi.org/10.1163/1875fa4112-20210004>.

- <sup>27</sup> Stephen Mathias, ‘UN Peacekeeping Today: Legal Challenges and Uncertainties’ (2017) 18 *Melbourne Journal of International Law* 13.
- <sup>28</sup> BANGURA, M.A. (2010) ‘Prosecuting the Crime of Attack on Peacekeepers: A Prosecutor’s Challenge’, *Leiden Journal of International Law*, 23(1), pp. 165–181. doi:10.1017/S0922156509990379.
- <sup>29</sup> Article 7 concerning ‘Duty to ensure the safety and security of United Nations and associated personnel’ and article 11 concerning ‘Prevention of crimes against United Nations and associated personnel’.
- <sup>30</sup> Siobhan Wills, ‘The Need for Effective Protection of United Nations Peacekeepers: The Convention on the Safety of United Nations and Associated Personnel’ (2003) *Human Rights Brief*, Volume 10, Issue 2.
- <sup>31</sup> Marco Longobardo, *Robust peacekeeping mandates: an assessment in light of jus post bellum*, Oxford Academic, available at <https://academic.oup.com/book/39643/chapter/339611114>.  
Alice Gadler, *The Protection of Peacekeepers and International Criminal Law: Legal Challenges and Broader Protection* (CUP 2010 – German Law Journal).
- <sup>32</sup> Sara Lindberg Bromley, ‘Hazards of Peacekeeping: Peacekeepers as Targets of Violence’, in *Handbook on Peacekeeping and International Relations* (Edward Elgar Publishing, December 2022), pp. 300-313 quoted in Siobhán Wills, “The Need for Effective Protection of United Nations Peacekeepers: The Convention on the Safety of United Nations and Associated Personnel”, 10 *Human Rights brief* 2, 2003, <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1407&context=hrbrief>.
- <sup>33</sup> General Assembly official records, 60th session: 61st plenary meeting, (A/60/PV.61) 8 December 2005. Also see Summary record of the 9th meeting: 6th Committee, held at Headquarters, New York, on Thursday, 20 October 2005, General Assembly, 60th session (A/C.6/60/SR.9) Summary record of the 8th meeting: 6th Committee, held at Headquarters, New York, on Wednesday, 19 October 2005 (A/C.6/60/SR.8).

10. **Absence of Substantive Law on Crimes Committed Against Peacekeepers:** The 2023 report of the International Peace Institute,<sup>34</sup> centred on three specific priority missions outlined by the UN Secretariat: MINUSCA, MINUSMA and MONUSCO.<sup>35</sup> These missions were selected as priority missions due to their significant exposure to a high number of attacks. The report put forth a recommendation to foster the development of a common definition of crimes against peacekeepers and encouraged legal clarity on the nature of crimes against peacekeepers. Similarly, various discourses held in connection with the Peacekeeping Ministerial Meeting in Accra, Ghana in December 2023, led to important conclusions that,

a. while the Safety Convention does define certain crimes, it does not encompass contemporary threats like disinformation or misinformation campaigns, which indeed jeopardize the safety and security of peacekeeping personnel,

b. establishment of a consistent and clear definition of the elements constituting a crime against peacekeeping is essential, and

c. progressive development of norms based on evolving state and UN practices concerning national and international legal frameworks addressing evolving challenges is required.<sup>36</sup>

11. **Illustration of legal challenges faced by conflict-affected States:** An instance of a gap in substantive criminal law in domestic sphere is an issue evident in the letter dated 12 June 2000, written to the President of the Security Council by the President of Sierra Leone requesting the former to consider establishing a Special Court to try and bring to justice the perpetrators responsible for committing crimes against the people of Sierra Leone and for the taking of United Nations peacekeepers as hostages. The letter stated that “Sierra Leone does not have the resources or expertise to conduct trials for such crimes. Also, there are gaps in Sierra Leonean criminal law as it does not encompass such heinous crimes as such as the crimes against humanity and some of the gross human rights abuses committed.”<sup>37</sup> This letter holds historic significance as it led to the establishment of the Special Court of Sierra Leone. Subsequently, its judgments became the first to specifically address the nature and scope of crimes against peacekeepers. The letter is also significant as it evidences the challenges faced by conflict-affected states in investigating and prosecuting heinous crimes including the lack of an effective criminal law and criminal justice administration. The functioning of the Special Court for Sierra Leone (SCSL) had a direct impact on the functioning of the peacekeeping operations. It holds specific significance for this topic as it contributed to the broader field of international criminal law including attacks on peacekeepers, transnational justice mechanisms and challenges of implementing international criminal justice with the full support of the stakeholders.

12. **Challenges in Procedural Law Affecting Investigation and Prosecution:** An overview of the existing international legal framework applicable to the safety and security of the peacekeepers may be summarized as follows. First, Article 9 of the Safety Convention which provides for the definition of crimes against United Nations and associated personnel,

<sup>34</sup> International Peace Institute, *Accountability for crimes against peacekeepers*, (March 2023), available at [https://www.ipinst.org/wp-content/uploads/2023/03/2303\\_Accountability-for-Crimes-Against-Peacekeepers.pdf](https://www.ipinst.org/wp-content/uploads/2023/03/2303_Accountability-for-Crimes-Against-Peacekeepers.pdf), last accessed on 11 July 2023.

<sup>35</sup> In various cases, the mandate of the UN peacekeeping may expire, however, the life span of accountability cases goes beyond Mission mandates, and, therefore, there has to be continuity of UN support to prosecuting crimes against peacekeepers. Group of Friends, consisting of 49 states and international and regional organisations have been playing an important role in sensitizing the international community and advocating for the means, methods and mechanisms to address the accountability for crimes committed against UN peacekeeping personnel.

<sup>36</sup> UN Peacekeeping, *Preparatory Meeting of the 2023 UN Peacekeeping Ministerial Safety & Security of Peacekeepers Co-Hosted by Pakistan and Japan August 30 and 31, 2023, Islamabad*, page 3, available at [https://peacekeeping.un.org/sites/default/files/peacekeeping\\_ministerial\\_safety\\_and\\_security\\_preparatory\\_meeting\\_summary\\_2023.pdf](https://peacekeeping.un.org/sites/default/files/peacekeeping_ministerial_safety_and_security_preparatory_meeting_summary_2023.pdf).

<sup>37</sup> UN Documents for Sierra Leone: Security Council Letters <https://www.rscsl.org/Documents/Establishment/S-2000-786.pdf>.

*inter alia*, obliges the State Parties to penalize the offence under domestic legislation.<sup>38</sup> Second, the United Nations does not have the authority or capacity to conduct criminal investigations in respect of alleged crimes committed against peacekeepers occurring in the host State's territory. Third, the United Nations may only conduct internal investigations for administrative purposes and does not have the legal authority to compel witnesses to cooperate in its investigations and there may be obstacles regarding the admissibility of United Nations investigation reports under the substantive and procedural criminal laws of member States.<sup>39</sup> Thus, under international law, States hosting United Nations peacekeepers have the right and the obligation to investigate and prosecute crimes committed within their territories against peacekeepers.<sup>40</sup> At the same time, this review shows several limitations. First, to the extent that the investigation of crimes against peacekeepers is conducted by different States in accordance with their relevant national laws, it is all the more difficult for the UN to propose the procedures set forth in the model memorandum of understanding, for general application in the investigation of such crimes.<sup>41</sup> Second, Article 9 and 10 of the Safety Convention are routinely incorporated into status-of-forces or status-of-mission agreements concluded by the UN with host countries.<sup>42</sup> Despite this, the lack of clarity regarding the point at which UN forces become combatants—due to an ill-defined threshold mechanism—effectively places control over their protection status in the hands of the very belligerent forces targeted by the UN mission. If attacks against UN forces remain at a low level with only a few people killed, then response by the peacekeepers is unlikely to be strong enough to cross the threshold above which the Safety Convention no longer applies. If, however, the peacekeepers are subjected to merciless and relentless attacks, they may be forced into self-defensive action that crosses that threshold. This separation between the Convention regime and humanitarian law regime seems unworkable.<sup>43</sup>

**13. Ratification Status of Safety Convention and Optional Protocol:** Safety Convention is not widely ratified for various reasons, as stated in the Sixth Committee.<sup>44</sup> First,

<sup>38</sup> Article 9 of *Convention on the safety of United Nations and associated personnel*: Article 9 Crimes against United Nations and associated personnel - (1) The intentional commission of: (a) A murder, kidnapping or other attack upon the person or liberty of any United Nations or associated personnel; (b) A violent attack upon the official premises, the private accommodation or the means of transportation of any United Nations or associated personnel likely to endanger his or her person or liberty; (c) A threat to commit any such attack with the objective of compelling a physical or juridical person to do or to refrain from doing any act; (d) An attempt to commit any such attack; and (e) An act constituting participation as an accomplice in any such attack, or in an attempt to commit such attack, or in organizing or ordering others to commit such attack, shall be made by each State Party a crime under its national law. (2). Each State Party shall make the crimes set out in paragraph 1 punishable by appropriate penalties which shall take into account their grave nature.

<sup>39</sup> International cooperation is inevitable to ensure effective investigation and prosecution of crimes against UN peacekeeping personnel. It is essential to ensure that legal impediments do not prevent such cooperation. The topic covers the principle of cooperation between peacekeepers agencies, host States, States sending peacekeepers and the UN agencies and clarification of the responsibility of each author.

<sup>40</sup> UN General Assembly, *A/66/598 Comprehensive report on all processes involved in the investigation and prosecution of crimes committed against deployed United Nations peacekeepers*, (09 December 2011), para. 3. Also see: UN General Assembly, *Article 10 of the Convention on Safety of United Nations and Associated Personnel*.

<sup>41</sup> UN General Assembly, *A/66/598 Comprehensive report on all processes involved in the investigation and prosecution of crimes committed against deployed United Nations peacekeepers*, (09 December 2011), paras. 32–34.

<sup>42</sup> *Ibid.* at para. 7.

<sup>43</sup> Mahnoush H. Arsanjani, *Convention on the Safety of United Nations and Associated Personnel*, UN Visual Library of International Law, available at [https://legal.un.org/avl/pdf/ha/csunap/csunap\\_e.pdf](https://legal.un.org/avl/pdf/ha/csunap/csunap_e.pdf).

<sup>44</sup> General Assembly 60th Session 61st Plenary Meeting 08 December 2005 *A/60/PV.61* also see, Summary record of the 9th meeting: 6th Committee, held at Headquarters, New York, on Thursday, 20 October 2005, General Assembly, 60th session (*A/C.6/60/SR.9*) Summary record of the 8th meeting: 6th Committee, held at Headquarters, New York, on Wednesday, 19 October 2005 (*A/C.6/60/SR.8*). A brief summary of statements made by member States is given hereunder:  
1. **Burkina Faso:** The growing number of attacks made it imperative to strengthen and **expand the scope of legal protection** under the Convention. 2. **Senegal:** Particular attention should be paid to the harmonization of that protocol with various international legal instruments, in particular the Geneva

as Brazil stated, the protection regime under the Convention involved sensitive legal and political issues and legal clarification was crucial for the implementation of the Convention in the domestic courts. Nigeria pointed out that the Convention, valuable though it was, had from the outset lacked universality, largely owing to serious concerns regarding its scope.<sup>45</sup> Some international engagements undertaken by the UN were not covered by the Convention, despite having serious security undertones. The Sixth Committee deliberations also highlight lack of clarity in defining key terms, which is crucial in applying applicable law. For instance, regarding the term ‘peacebuilding’, Iran (the Islamic Republic of) pointed out that different understandings and interpretations of member States of the term “peacebuilding” in the Protocol must seriously be taken into account.<sup>46</sup>

Conventions of 1949 and their additional protocols and the Rome Statute of the International Criminal Court. The future of peacekeeping, humanitarian assistance, technical and other missions carried out under the auspices of the UN would depend on the human, material and financial resources made available to the Organization, but it would also depend on the international community’s ability to protect the personnel involved. Every effort should be made to guarantee the safety of those emissaries of peace and to ensure that the perpetrators of crimes against them did not go unpunished.

3. **Liechtenstein:** The risks to which UN and associated personnel were exposed appeared to have become greater, partly owing to the larger number of staff deployed but also **owing to the atmosphere of impunity** in some of the areas where they were deployed. 4. **Nigeria:** The Convention, valuable though it was, had from the outset lacked universality, largely owing to serious concerns regarding its scope. Some international engagements undertaken by the UN were not covered by the Convention, despite having serious security undertones. Action should therefore be expedited to draft an optional protocol that would address the inadequacies of the Convention.

5. **Guatemala:** The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, of 1973 established a broad protection regime for the persons in question. The principle of *aut dedere aut judicare* (obligation to extradite or prosecute) was fundamental to that regime, which was applicable to persons of the relevant status irrespective of whether or not they were in a high-risk location. UN and associated personnel at particular risk should be afforded a similar level of protection to that provided under the 1973 Convention. The scope of the Convention on the Safety of UN and Associated Personnel should therefore be broadened so as to ensure, as far as possible, that those who attacked the personnel in question did not escape justice.

6. **Namibia on behalf of the African Group:** The Group unequivocally condemned all acts that sought to, or actually did, undermine the safety and security of UN and associated personnel, which were crucial for the success of UN operations aimed at maintaining international peace and security. The Group believed that the Convention was an important tool for strengthening the legal protection regime, but that it continued to suffer from a lack of universality. Moreover, **UN and associated personnel participated in undertakings that had grave security consequences which the Convention did not address.** 7. **UK on behalf of the EU and 12 other countries:** The term ‘peacebuilding’ enshrined in paragraph 1(a) of article II of the Protocol is restricted to conflict or post-conflict situations. It was expressed that UN operations at any stage of the conflict cycle may be peacebuilding operations under the Protocol. Secondly, the Protocol extends the application of the 1994 Convention to all such UN operations, without reference to any trigger mechanism of risk or exceptional risk. 8. **Cuba:** We do not have a broadly accepted definition of the term peacebuilding, either in political doctrine or under international law. It is therefore now up to States to enact the national legislation necessary to implement the Convention and the Optional Protocol. The term however is not applicable in pre-conflict situations.

<sup>45</sup> The study identifies gaps in international law as well as blurring lines between various forms of peace operations and thus, the draft guidelines, based on the research, will have filled the gaps and be helpful to states at national level while dealing with cases at national level. The guidelines prepared at international level will tend to make space for the Commission to address norms that are at different stages of stability and consensus, as the current jurisprudence suggests. For example, the ILC Guide to Practice on **Reservations to Treaties** was characterized by the ILC as a “toolbox,” which suggests opportunities for states to elect among the guidelines; the Guide also contains recommendations concerning best practices that are framed as suggestions rather than requirements. **ILC Draft Conclusions on Subsequent Agreements and Subsequent Practice in Relation to the Interpretation of Treaties** elaborated on its previous hard law project developing draft articles that became the Vienna Convention on Treaties. Similarly, the ILC guidelines on this topic will elaborate on the Safety Convention and Optional Protocol although these were not prepared by the ILC.

<sup>46</sup> The topic covers the study of the issue of legal clarity of terminology, the scope and absence of substantive criminal law.

14. The legal challenges to peacekeeping are real and these need to be addressed. These include the facts that threats to security of peacekeepers are constantly evolving, and there is growing need for the capabilities to counter them as well as need for strong commitment from member States and the UN to generate and sustain the capabilities that will help deliver the ambitious mandates, as highlighted by Jean-Pierre Lacroix, UN Under-Secretary-General for Peace Operations, during the 2023 UN Peacekeeping Ministerial in Ghana.<sup>47</sup>

### C. The proposed topic fulfils the International Law Commission criteria for new topics

15. The topic fully satisfies fourfold criteria for selection of new topics as prescribed by the International Law Commission and one of the most important contributions of this topic is its **genuine practical value**.<sup>48</sup> First, the topic reflects the needs of States in respect of the progressive development of international law and its codification. Crimes against peacekeepers affects 123 troop and police contributing states and are of concern to the international community because “they are committed against persons who represent the international community and risk their lives to protect its fundamental interest in maintaining the international peace and security of humankind”.<sup>49</sup> The expressed concern over the escalating incidents of malicious acts against United Nations peacekeeping personnel, as indicated in UNSC Resolution 2589,<sup>50</sup> demonstrates the political will and legal necessity to address the issue of impunity and actively promote accountability for crimes committed against these personnel. Strengthening the international legal framework on the safety and security of UN peacekeeping personnel would supplement the effort of Member States to promote accountability.<sup>51</sup>

16. Second, the topic is sufficiently advanced in terms of State practice to permit progressive development and codification. Prohibition of attacks on peacekeepers and crimes against peacekeepers is found in military manuals and domestic criminal codes of various

<sup>47</sup> <https://ghana.un.org/en/254944-2023-un-peacekeeping-ministerial-usg-jean-pierre-lacroixs-opening-statement-behalf-secretary>.

<sup>48</sup> International Law Commission, *Yearbook of the ILC 1997*. Vol II. Part II, at page 72.

<sup>49</sup> *Yearbook of the ILC 1996*, vol. II (2) at page 51.

<sup>50</sup> The Security Council since the adoption of the resolution 2589 (2021) on preventing crimes against UN Peacekeepers, has called upon the implementation of various aspects of this resolution consistently through resolutions 2594 (2021), 2612 (2022), 2618, 2625 (2022), 2628 (2022), 2640 (2022), 2659 (2022), 2666 (2022), 2674 (2023), 2709 (2023), 2717 (2023), 2723 (2024). This emphasis highlights the need as well as the gravity of situation and concern of the Security Council.

<sup>51</sup> The draft guidelines will help experts and practitioners whether and how to implement the decision instead of addressing political aims of the decision which are primarily in the purview of the legislative authorities. This can gradually lead to the evolution of norms based on that bottom-up practice. State actors have varied views on the Safety Convention and Optional Protocol, whereas the draft guidelines will be helpful to those who actually implement the peacekeeping, peacebuilding and peace enforcement mandate. Since hard-law instruments already exist, member States will be more favourable to draft guidelines and also the draft guidelines will not contribute in any manner to the fragmentation of international law in this area. The draft guidelines will find its utility, credibility and persuasive value among the important stakeholders. At the same time, the draft guidelines will have benefitted from state’s consideration, analysis and input during the debates in the 6th Committee, Group of Friends, C34 and the Biannual Ministerial, among others.

States.<sup>52</sup> Attackers against peacekeeping personnel and objects have generally been condemned by States and no official contrary practice is found.<sup>53</sup>

17. Third, the topic is “concrete and feasible”. The International Law Commission has acknowledged that, subject to fulfilment of requisite elements, “crimes against United Nations and associated personnel constitute crimes against peace and security of mankind.”<sup>54</sup> Analysis of replies of questionnaires to member States, UN Department of Peace Operations, and relevant stakeholders will help to study and analyse state and international organisations’ practice. Available open-source records of meetings among stakeholders—including the Group of Friends—raise several questions, such as: (i) Are there any standard operating procedures for handling cases of accountability? (ii) Do these procedures vary from mission to mission? (iii) Is there sufficient political support and advocacy for promoting accountability? (iv) What external challenges exist in promoting accountability, and are any policies being developed to address them? (v) Should all crimes against peacekeepers fall within the scope of accountability, not just those resulting in fatalities? (vi) What mechanisms exist to prosecute offenders after missions have concluded? (vii) How can Member States contribute to promoting accountability, and are there mission-level mechanisms to strengthen the capacities of host states? The emerging list of questions identified by states, UN Secretariat and field missions reinforce the urgency of the need to undertake examinations for the practical benefits of the states, UN, field missions and international community as a whole.

18. **Absolute pressing concerns of the international community, *inter alia*, UN member States, Troop Contributing Countries, UN Security Council, UN Secretary-General:** Fourth, the Commission can also consider those topics that reflect new developments in international law and pressing concerns of the international community. It is imperative to highlight the needs expressed by the States condemning attacks against UN peacekeeping personnel. As the proposed study has highlighted, the attacks against UN peacekeepers despite efforts of the international community, continue to remain a significant concern. The years 2024 and 2025 have witnessed killing and injury to UN peacekeeping personnel and have elevated the concerns of the UN Secretary-General, UN Under Secretary-General for Peacekeeping Operations, UN Security Council, Member States, the Troop Contributing Countries. The underlying need and concern singularly point to a direction of holding perpetrators accountable for crimes committed against the UN peacekeeping personnel. United Nations Interim Force in Lebanon (UNIFIL) witnessed killings and injury of the peacekeepers and associated personnel on 10 October, 11 October, 29 October, 7 November, 19 November, 22 November, 2024. **Two peacekeepers from Sri Lanka** were injured at UNIFIL headquarters on 10 October 2024. **Two peacekeepers from Indonesia** were **injured** after two explosions occurred close to an observation tower near the mission’s base on 11 October 2024. **Eight peacekeepers from Austria** were wounded after a rocket hit UNIFIL headquarters in southern Lebanon on 29 October 2024.

<sup>52</sup> Article 9 of the Safety Convention requires all states which are parties to make the intentional commission of various attacks and hostile acts against UN or associated personnel crimes under their national law, in addition to their general duty to either extradite or try those accused of such offenses. United Kingdom: [Section 1 of the UN Personnel Act 1997](#); Germany: [Section 10 of the Act to Introduce the Code of Crimes against International Law, 2002](#); France: [Article 461-12 of the Code penal 1992](#); South Africa: [Section 8 \(2\)\(b\)\(iii\) of the Implementation of the Rome Statute of the International Criminal Court Act, 2022](#); Sudan: [Article 154\(g\) of the Armed Forces Act, 2007](#); Finland: [Section 7\(15\) of the Criminal Code of Finland, 1889](#); Australia: [Section 268.79 of the Criminal Code Act 1995](#); Azerbaijan: [Section 116.0.3 of the Criminal Code 2000](#); Belgium: [Article 136.17quater of the Code Penal 1867](#); Canada: [Crimes Against Humanity and War Crimes Act, 2000](#) Also see: ICRC, *Practice relating to rule 33*, available at [Customary IHL - Practice relating to rule 33 Personnel and Objects Involved in a Peacekeeping Mission \(icrc.org\)](#), last accessed on 13 February 2023.

<sup>53</sup> ICRC, *Rule 33 of the IHL Database*, available at <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule33>, last accessed on 12 February 2023.

<sup>54</sup> International Law Commission, Article 19 of *Draft Code of Crimes against Peace and Security of Mankind, 1996*. The clarifications and improvements in the legal frameworks surrounding the protection of UN personnel and associated personnel are essential steps towards achieving the fulfilment of the commitment of the Commission.

UNIFIL convoy bringing newly arrived peacekeepers, due to a nearby drone attack in south Lebanon, led to injuring **five peacekeepers** on 7 November 2024. **Four peacekeepers** from **Ghana** were **wounded** when a rocket hit their base in southern Lebanon on 19 November 2024. **Four peacekeepers** from **Italy** were **wounded** when two rockets struck in Shama on 22 November 2024.<sup>55</sup> The Security Council condemned these incidents that impacted the UNIFIL positions and killed and injured UNIFIL peacekeepers.<sup>56</sup> The Security Council, while expressing deep appreciation to UNIFIL troop-contributing countries, **urged all parties to take all measures to respect the safety and security of UNIFIL personnel and premises.**<sup>57</sup> At least **116 UNRWA personnel have been confirmed killed** in 2024 in the conflict between Israel and Hamas.<sup>58</sup>

19. Year 2025 was yet again a year where UN peacekeepers fell victims to attacks. In January 2025, **several blue helmets were killed** serving the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). In the wake of the attacks, Greece echoed that attacks against peacekeepers may constitute war crimes, and noted that attacks against MONUSCO peacekeepers constitute a basis for sanctions designations. The United Kingdom also made these points. Slovenia stressed that the attacks constitute “an attack on peace itself” and also underlined the UN Security Council responsibility “**to stand unequivocally behind [its personnel]** in these perilous times **and ensure they return safely to their loved ones**”.<sup>59</sup> Condemning the **killing of peacekeeper from Kenya** on 28 March 2025, (MINUSCA), the Security Council condemned the attack in the strongest terms and reiterated that attacks against peacekeepers may constitute war crimes. The Council called on the Government of the Central African Republic to swiftly investigate the attack with the support of MINUSCA, promote accountability for such acts by bringing perpetrators to justice, and keep the relevant troop contributing country informed of the progress consistent with Security Council resolutions 2518 (2020) and 2589 (2021).<sup>60</sup> **One peacekeeper** from **Tunisia** was killed in February 2025, while serving the MINUSCA. The Security Council also expressed its deep appreciation to MINUSCA’s troop and police-contributing countries.<sup>61</sup> **Two UN helicopters** conducting an evacuation **came under fire**, resulting in the **death of a crew member and injuries to two others** in the United Nations Mission in South Sudan (UNMISS) on 7 March 2025. The Security Council reiterated that attacks against peacekeepers may constitute war crimes. The Council called for those responsible for the attacks to be held accountable.<sup>62</sup> **Detention of over 60 UN Peacekeepers** on 28 February 2025 serving United Nations Interim Security Force for Abyei (UNISFA) led the Security Council unequivocally condemning the Rapid Support Forces’ detention of over 60 UN Peacekeepers, armed abduction of eight civilian personnel and looting of a UNISFA logistics convoy. The Security Council expressed deep alarm over threats to the safety and security of UNISFA peacekeepers and civilian personnel. The Council condemned all forms of violence against UN personnel and civilians, including targeted kidnapping, and reiterated that attacks against peacekeepers may constitute war crimes.<sup>63</sup> In February 2025, UNIFIL convoy taking peacekeepers to Beirut airport was violently attacked, and a vehicle was set on fire. UNIFIL **outgoing Deputy Force Commander from Nepal**, who was returning home after ending his mission, was **injured**. Several other peacekeepers were also injured. UNIFIL demanded a full and immediate investigation by Lebanese authorities and for all perpetrators to be brought to justice.<sup>64</sup> The UN Secretary-General stated that the perpetrators must be held accountable. And **the safety and security of UN personnel and property must be respected at all times**. He added that attacks against peacekeepers are in

<sup>55</sup> <https://press.un.org/en/2025/org1746.doc.htm>.

<sup>56</sup> <https://press.un.org/en/2024/sc15897.doc.htm>

<sup>57</sup> <https://press.un.org/en/2024/sc15897.doc.htm>

<sup>58</sup> *Ibid.*

<sup>59</sup> <https://press.un.org/en/2025/sc15981.doc.htm>.

<sup>60</sup> <https://news.un.org/en/story/2025/03/1161706>.

<sup>61</sup> <https://press.un.org/en/2025/sc15994.doc.htm>.

<sup>62</sup> <https://press.un.org/en/2025/sc16026.doc.htm>.

<sup>63</sup> <https://press.un.org/en/2025/sc16022.doc.htm#:~:text=The%20members%20of%20the%20Security,of%20eight%20vehicles%20and%20280%2C000>.

<sup>64</sup> <https://unifil.unmissions.org/unifil-statement-14-february-2025#:~:text=We%20are%20shocked%20by%20this,may%20amount%20to%20war%20crimes>.

breach of international law, including international humanitarian law as applicable, and may constitute war crimes.<sup>65</sup> These incidents, killings and attacks against UN peacekeeping personnel year after year, aiming at times to delegitimise the entire UN Peacekeeping mandate, underlines the necessity for a detailed study and guidelines on legal aspects of accountability for crimes committed against them. A subsidiary organ of the UN General Assembly, namely, the UN International Law Commission, consisting of persons of recognised competence in international law and whose works have over the last 75 years, remain source of doctrinal and practical application and help to the international community, is most suited to conduct such a study.

20. The dynamic nature of safety and security threats posed by organized armed groups, terrorists, spread of misinformation and disinformation campaigns about peacekeeping missions and their mandates have resulted in exponential increase in the number of crimes committed against UN peacekeeping personnel in the recent years.<sup>66</sup> The UN Peacekeeping Ministerial held from 13 to 14 May 2025, reiterated concerns on safety and security of UN peacekeeping personnel. Besides UN Secretary-General and Under Secretary-General for Peacekeeping Operations, states from various regions of the world, among others, Germany, Indonesia, Ireland, Japan, Kenya, Malawi, Romania, South Africa, Ghana, Australia, Denmark, Poland and Zambia. The UN Secretary-General emphasized that “We need to ask some tough questions about the mandates guiding these operations, and what the outcomes and solutions should look like”.<sup>67</sup>

#### **D. The topic refers and builds upon the work of the International Law Commission**

21. The report of the ILC on the work of its 48th session (6 May-26 July 1996), contains the text of, and commentaries to Draft Code of Crimes against Peace and Security of Mankind. The draft Article 19 recognizes and defines crimes against United Nations and associated personnel. These crimes entail negative consequences for the effective performance of the mandate entrusted to them and the broader negative consequences on the ability of the United Nations to effectively perform its central role in the maintenance of international peace and security. The Commission affirmed the **special responsibility** of the international community to ensure the effective prosecution and punishment of perpetrators and expressed the concern that these crimes occur in situations in which the national law-enforcement or criminal justice system is not fully functional or capable of responding to the crimes. The topic will analyse the previous work of the Commission on Article 19 of the Draft Code of Crimes against the Peace and Security of Mankind.

#### **E. Scope and content of the topic**

22. The objective of this topic is to determine whether existing international legal instruments are capable of meeting the current and future challenges of UN peacekeeping operations and, if not, to find ways of filling legal gaps to enhance legal accountability for crimes against UN peacekeeping personnel.

23. The scope of the topic is as follows:

a. First, the development of a taxonomy of UN peacekeeping operations which takes into account the shift from traditional to modern peacekeeping operations. The UN Charter does not make reference to peacekeeping, and there is no jurisprudence defining “a

<sup>65</sup> <https://press.un.org/en/2025/sgsm22556.doc.htm>.

<sup>66</sup> Ministry of External Affairs of India, *Keynote address by External Affairs Minister, Dr. S Jaishankar at launch of Group of Friends on UNSCR 2589: Accountability for crimes against peacekeepers*, (16 December 2022), <https://mea.gov.in/Speeches>.

<sup>67</sup> <https://peacekeeping.un.org/en/remarks-to-media-following-peacekeeping-ministerial-meeting-future-of-peacekeeping>.

peacekeeping operation in accordance with the Charter of the United Nations”.<sup>68</sup> Defining this and associated terms is therefore crucial to ascertain the meaning and scope of ‘United Nations Personnel and Associated Personnel involved in peacekeeping operations.’

b. Second, a detailed consideration of the international legal frameworks that apply to crimes against UN peacekeeping personnel, including the Safety Convention, Geneva Conventions, Additional Protocols and International Humanitarian Law. This will include review of the legal definitions of ‘crimes against UN peacekeeping personnel’ and ‘intentionally directing attack against peacekeeping personnel.’<sup>69</sup> It will also include express recognition and codification of customary international law in relation to crimes against UN peacekeeping personnel and the protection entitled to a UN peacekeeping mission.

c. Third, the scope will address the issue of accountability for crimes against UN peacekeeping personnel. The term ‘accountability’ is used to study all feasible methods of holding the perpetrators accountable. The topic will address only legal aspects of accountability and will focus on the legal elements of answerability, liability and attributability. This part of the topic will consider, *inter alia*, the efficacy of provisions in the peacekeeping mandates governing accountability for crimes against UN peacekeeping personnel and the legal consequences of serious violations of status-of-force or status-of-mission agreements in respect of reporting, investigation and prosecution of such crimes, including after the cessation of such agreements. It will include a review of existing mechanisms to report, investigate, and prosecute the perpetrators of crimes against UN peacekeeping personnel with the aim of identifying the possibilities of proposing a procedure for general application in the investigation of such crimes.<sup>70</sup>

d. In order to ensure comprehensiveness, the study will also examine the applicability of universal jurisdiction, *aut dedere aut judicare*, the international law governing immunities and privileges, state responsibility, and the principle of complementarity. The state practices of troop-contributing and troop-hosting countries, along with decisions from special tribunals such as the Special Criminal Court of the Central African Republic and the Special Court of Sierra Leone, will provide important insights from States and relevant international organizations for the consideration of this topic.

24. The scope of the topic will be confined to legal aspects of accountability for crimes against UN peacekeeping personnel. Without minimising the importance of the issue, due to the need to confine the topic to a manageable extent, the aspect of the accountability of UN peacekeepers for actions during peacekeeping operations is not addressed in this study. This is in line with UN Security Council Resolution 2589 (2021) on promoting accountability for crimes against peacekeepers. Similarly, the topic focuses on ‘UN Mandated Peacekeeping Operations’ and excludes other UN operations, given the particular importance and impact of crimes against UN peacekeeping personnel.

25. The overall purpose of the study is to assess the international legal frameworks applicable to UN peacekeeping operations and all feasible means to study legal aspects of accountability for crimes against UN peacekeeping personnel. The study aims to present **draft guidelines** that will be of assistance to States and the UN in implementing peacekeeping operations so that crimes against UN peacekeeping personnel are adequately addressed to prevent impunity.

<sup>68</sup> Special Court for Sierra Leone, *Prosecutor v. Sesay* (Issa Hassan), Judgment, Case number SCSL-04-15-T, ICL 667 (SCSL 2009) at para. 221: at <https://www.rscsl.org/Documents/Decisions/RUF/1234/SCSL-04-15-T-1234-searchable.pdf>.

<sup>69</sup> The scope of the study includes review of definitions of UN Personnel and Associated Personnel.

<sup>70</sup> In various cases, the mandate of the UN Peacekeeping may expire, however, the life span of accountability cases goes beyond Mission mandates, and, therefore, there has to be continuity of UN support to prosecuting crimes against peacekeepers. Group of Friends, consisting of 49 states and international and regional organisations have been playing an important role in sensitizing the entire international community and advocating for the means, methods and mechanisms to address the accountability to peacekeepers.

## Conclusion

26. The legal needs, interests and concerns felt by states and the international community for identifying, assessing and taking measures of accountability for crimes against UN peacekeeping personnel, remain one of the most important steps forward for the overall protection and safety of the UN peacekeeping personnel.<sup>71</sup> **Consequently, the efforts of ILC in clarifying, codifying and progressively consolidating international law in this area will be of direct practical value.** It would also supplement other efforts of the UN such as the Project on Implementation of Resolution 2589 (2023-26). The ILC work is a logical step forward in consolidating the state practice, doctrine and emerging jurisprudence. The final output that is proposed is **draft guidelines**. ILC has been transitioning from hard-law draft articles to draft-guidelines or conclusions. One of the main objectives is to enable soft-law influence through draft guidelines. Furthermore, given that the ILC is examining this topic for the first time, and that the existing Safety Convention and Optional Protocol, though exist, are insufficient to address the variety of situations and the gaps. Recognizing the sensitivity of the topic, a comprehensive and thoroughly researched and well-argued soft-law instrument – namely, draft guidelines - would find better acceptance among States. This shift will continue to align with ILC works of the last 15 years, i.e. preference for soft law norms instead of hard law norms which can find more support for the gradual development, interpretation, and evolution of the norms. **Draft guidelines** will be an effective vehicle of codifying and progressively developing international law, and that the Commission is indeed well-structured to produce soft law in form of draft guidelines. Recognising the sensitivity of the topic, needs and existing gaps, draft guidelines will be more helpful to states, both host and sending States and the UN and peacekeepers in general. A synchronous advancement of law alongside various initiatives to promote accountability for crimes against UN peacekeeping personnel strengthens peacekeeping operations and eventually contributes to a more effective role of the UN in the promotion and maintenance of international peace and security.

27. Both the UN International Law Commission and the UN Peacekeeping have completed 75 years and as the UN commemorates its 80th year of existence, this ILC study proposal concludes by paying tribute to all United Nations peacekeeping personnel who have sacrificed their lives in the line of duty for the cause of peace and security.

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