

The United Nations Peacekeeping Law Reform Project

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The immense growth of United Nations (UN) peacekeeping in quantitative, qualitative and normative terms is one of the major developments of the post Cold-War era. Peacekeeping has become a key activity of the UN despite the fact that it was not envisaged in the Charter. The Secretary-General currently has command of more than 120,000 UN peacekeeping personnel, at a cost of about \$8 billion per year. The demand for UN peacekeeping continues to grow, and the Security Council is mandating ever more robust and complex tasks for peacekeepers. With these greater demands, however, there have been significant and growing challenges for the management of UN peacekeeping.

2 While UN peacekeeping reform has been a focus of intense discussion since 1990, there has been limited consideration of how legal issues may contribute to improving UN peacekeeping. The United Nations Peacekeeping Law Reform Project (the Project) was set up to identify concrete ways to improve UN peacekeeping by combining practical and academic expertise. The University of Essex has a wealth of UN and human rights experience which is relevant to this work.

3 The current focus of the Project is to prepare two major studies for the UN peacekeeping community. The first concerns the United Nations Model Status of Forces Agreement and, the second, the human rights standards relevant to UN peacekeeping. The two studies will be the focus of a one-day practitioner and expert consultation in London in June 2010. This meeting will invite a mix of defence and foreign policy officials, UN officials, military, civil society groups, research institutions and academic experts. There will also be a pre-consultation at UN headquarters with delegates and others at the beginning of April 2010.

4 The Model UN Status of Forces Agreement (Model SOFA) (A/45/494) was prepared by the UN Secretary-General in 1990. It sets out the rights, obligations and duties as between the United Nations and the host State. The Model SOFA is the starting point for the UN and host States discussions, and is often deemed by the Security Council to be legally in force until a mission-specific SOFA is concluded. The aim of the study is to review SOFAs of the last 20 years and consider if additions to the Model SOFA are justified based on the body of UN practice since 1990. A number of central aspects of today's UN peacekeeping efforts, such as policing, are not addressed in the Model SOFA. For a UN peacekeeping mission to be effective, it needs to have clear legal arrangements which match its mandate and activities.

5 In 1999 the Secretary-General Kofi Annan, after significant assistance by the International Committee for the Red Cross, circulated a “Bulletin on Observance by UN Forces of International Humanitarian Law”. The Bulletin, an internal UN document binding on all UN peacekeepers, in essence provided a set of minimum standards to apply without prejudice the broader situation under international law. There were difficult issues to grapple with in preparing the Bulletin, but its conclusion was an important development. The Bulletin provided a core of certainty regarding the standards that the UN and UN peacekeepers would observe, and in doing so clarified the situation for all actors.

6 In comparison, there is a lack of clarity concerning the human rights standards that UN peacekeeping should observe. The matter has not been addressed in any UN documents or decisions. While human rights standards may be of limited relevance to ‘traditional’ peacekeeping, the immense growth of UN peacekeeping in policing, justice, corrections, and rule of law has completely changed the situation. The issues are quite real and currently being played out, for example, in recent tensions between a UN peacekeeping mission and some UN human rights institutions. It would assist UN peacekeeping if the situation could be made clearer, and UN peacekeepers could then get on with the job. The second study will accordingly focus on reviewing the possibilities, usefulness and challenges for a Bulletin on the observance of human rights standards.

7 The Project will seek maximum input from practitioners and experts in preparing the two studies for the UN peacekeeping community. The New York consultation in April will provide the opportunity for dialogue, and a short note will be circulated prior to this consultation to assist the dialogue. A more substantial preliminary report, including with identification of key issues, will be circulated prior to the London consultation to those attending. A few key participants, including from the UN, will be invited to participate in the London consultation. The two final studies will be prepared later in 2010, with a view to their presentation to the UN peacekeeping community in New York. At all stages, the Project encourages interest and feedback from those able to contribute to its work.

8 The Project is headed by Mr Scott Sheeran, a Lecturer at the School of Law and Human Rights Centre (ssheeran@essex.ac.uk). Scott is a former legal adviser for the New Zealand Permanent Mission to the United Nations in New York, and a former Vice-Chair of the Legal (Sixth) Committee of the UN General Assembly. The Project team also includes four post-graduate students at the University of Essex – Charline Daelman, Susana Grau-Battle, Maka Meshveliani and Alex Moorehead. The Project is supported by the University of Essex and the Government of [name].