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International Humanitarian Law And Un Peace Operations

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ABSTRACT

International Humanitarian Law (IHL) and the Law of Wars are used synonymously. IHL comes to play during the war and armed conflicts where human rights are violated ruthlessly. The parties involved in the dispute are likely to endanger the peace and security of the region and the dispute needs to be resolved to secure peace and security. UN act as an intermediary between the parties engaged in war and reinforces peace and security through its agencies and with the help of other signatories of the UN Security Council. The need for the peacekeeping forces comes into the picture at the time of resolution of the dispute in a specific region through peaceful means, the Security Council may call upon the state parties in this regard. The UN does not have its military force but takes assistance from state-parties. 120 countries have contributed to more than 70 peacekeeping operations through their military forces up till now.

Keywords: *IHL, the Law of Wars, peace and security, peacekeeping forces, the Security Council.*

I. INTRODUCTION

On 26 June 1945, in San Francisco, the Charter of the United Nations was signed. The Charter of the United Nations acts as the fundamental document for all the work associated with the UN.² The objective behind the establishment of the UN was to “save succeeding generations from the scourge of war”³ and secure international peace and security. Peacekeeping has not been explicitly mentioned in the Charter but UN peacekeepers provide security and peacebuilding services to establish a mechanism for transition from conflict to peace.⁴ According to the Cambridge Dictionary, peacekeeping is defined as “the activity of preventing war and violence, especially using armed forces not involved in a disagreement to prevent

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² United Nations, *United Nations Peacekeeping Operations: Principles and Guidelines*, available at <https://peacekeeping.un.org/sites/default/files/capstone_eng_0.pdf> (August 4, 2020).

³ The Charter of United Nations, preamble, available at <<https://www.un.int/news/basic-facts-charter-united-nations#:~:text=We%20the%20peoples%20of%20the,and%20women%20and%20of%20nations>> (August 4, 2020).

⁴ United Nations Peacekeeping, *What is peacekeeping*, available at <<https://peacekeeping.un.org/en/what-is-peacekeeping>> (August 4, 2020).

fighting”.⁵

Peacekeeping has evolved as one of the main instruments by the UN for maintaining peace and security in areas involved in the conflict. The Security Council is one of the six main organs of the UN that have the primary responsibility of maintaining international peace and security. According to the Charter, there are four purposes of the UN:

- maintenance of international peace and security;
- development of friendly relations among nations;
- cooperation in solving international problem and promotion of respect for human rights;
- and become a center for harmonization of the actions of the nations.⁶

Chapters VI, VII, and VIII of the Charter provides a legal basis for peacekeeping operations. Chapter VI deals with “Pacific Settlement of Disputes”, Chapter VII deals with “Action with Respect to the Peace, Breaches of the Peace, and Acts of Aggression”, whereas Chapter VIII deals with “Regional Agreements”.⁷

The parties involved in a dispute is likely to endanger the peace and security of the region and the dispute needs to be resolved to secure peace and security. The need of the peacekeeping forces comes into the picture at the time of resolution of the dispute in a specific region through peaceful means⁸, the Security Council may call upon the state parties in this regard. Traditionally peacekeeping operations have a direct relation with Chapter VII of the UN Charter which deals with ‘Pacific Settlement of Disputes’. However, while passing a resolution authorizing the deployment of the peacekeeping operations, the Security Council need not refer to any of the chapters of the Charter. Recently, the practice of evoking Chapter VII of the Charter is being introduced and it is used frequently by the Security Council during deployment of the peacekeeping operations in the post-conflict zones where the respective state is unable to maintain the peace, law, and order.⁹

⁵ Available at < <https://dictionary.cambridge.org/dictionary/english/peacekeeping>> (August 4, 2020).

⁶ United Nations Security Council, *What is the Security Council?*, available at < <https://www.un.org/securitycouncil/content/what-security-council#:~:text=The%20United%20Nations%20Charter%20established,meet%20whenever%20peace%20is%20threatened.>> (August 4, 2020).

⁷ The United Nations, *UN Charter*, available at < <https://www.un.org/en/sections/un-charter/un-charter-full-text/>> (August 4, 2020).

⁸ Wg Cdr (Retd) Dr. U C Jha, *International Humanitarian Law: The Laws of War*, p.no.(Chapter 13, IHL and UN Peace Operations) (Vij Books India Pvt Ltd, New Delhi, India, 2011).

⁹ *Supra*

II. BACKGROUND OF THE UN PEACEKEEPING

In 1948, the Security Council for the first time authorized the deployment of the UN military observers to Palestine whereas military forces were used for the first time in the Suez crisis in 1956.¹⁰ When the UN military was deployed to Palestine, its role was to observe the status of Israel and its Arab neighbour's Armistice Agreement.¹¹ It is notable that the UN does not have its military force but takes assistance from state-parties. As of 30 June 2020, 120 countries have contributed to more than 70 peacekeeping operations through military, police, and civilian personnel.¹² While serving under the UN flag, more than 3000 UN peacemakers from some 120 countries have lost their lives.

Ethiopia, Bangladesh, Rwanda, Nepal, and India in the order are the countries that contribute the most of troops and police in UN peacekeeping operations.¹³ Developing countries provide for troops whereas developed countries contribute most of the funding like the USA, Japan Germany, and the U.K in order.

III. CODE OF PERSONAL CONDUCT FOR BLUE HELMETS¹⁴

Most of the countries that contribute through military forces apply their own code of conduct along with that the nature of the task assigned to them differs from case to case, therefore, the Status of Forces Agreement (SOFA)¹⁵ varies from mission to mission.

Peacekeeping forces act under different circumstances hence, they have certain privileges, immunity, and status granted to them. The Convention on Privileges and Immunities¹⁶ of 13 February 1946 and the Convention on Safety of United Nations and Associated Personnel¹⁷ adopted on 9 December 1994 by the UN General Assembly provides legal backing to the above-mentioned rights to the peacekeepers. There are ten rules which are also called the Code of Personal Conduct for Blue Helmets, adhered by the peacekeeping forces. Since 1998, a pocket card of ten rules have been provided to the uniformed personnel, these are as follows:

¹⁰ United Nations Peacekeeping, *Our History*, available at < <https://peacekeeping.un.org/en/our-history>> (August 4, 2020).

¹¹ *Supra*

¹² *Supra*

¹³ United Nations Peacekeeping, *Troop, and Police Contributors*, available at < <https://peacekeeping.un.org/en/troop-and-police-contributors>> (August 4, 2020).

¹⁴ See, *peacekeeping, peacemaking, and peacebuilding*, available at < <https://www.britannica.com/topic/United-Nations/Peacekeeping-peacemaking-and-peace-building#ref750840>> (August 4, 2020).

¹⁵ North Atlantic Treaty Organization, *Partnership for Peace Status of Forces Agreement*, available at < https://www.nato.int/cps/en/natohq/topics_50086.htm> (August 4, 2020).

¹⁶ United Nations, *Treaty Series*, Vol. 1, p.15, available at < https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=III-1&chapter=3&clang=_en> (August 4, 2020).

¹⁷ Office of Legal Affairs Codification Division, *Convention on the Safety of United Nations and Associated Personnel*, available at < <https://www.un.org/law/cod/safety.htm>> (August 4, 2020).

- i. Dress, think, talk in a manner displaying the highest degree of integrity and impartiality. No misuse of authority as a peacekeeper and maintain the dignity and pride that comes with it.
- ii. The peacekeeper is directed to abide by the law of the land and respect the culture, customs, and practices of the host country.
- iii. The inhabitants of the host country shall be treated with respect, compassion, and courtesy. Peacekeepers are serving in the host country in the capacity of a guest hence, actions with the attributes would be welcomed with admiration. Forces are directed strictly not to accept any material gift, honour, and reward.
- iv. Any indulgence in immoral acts such as sexual, physical, psychological exploitation, or abuse of the inhabitants of the host country or any other individual especially women and children are strictly prohibited.
- v. Human rights of all should be regarded and respected. Aid and support to infirm, sick, and weak should be provided. Detainees, prisoners, or people in the custody should not be treated in revenge or with malice.
- vi. United nation's money, vehicle, equipment, and property assigned to the peacekeeper should be handled and accounted properly. Trade and barter of the aforesaid items for persona benefit are strictly prohibited.
- vii. Regardless of the creed, gender, rank, or origin, all members of the mission including other United Nations contingents should be treated with military courtesy and appropriate compliments.
- viii. The environment inclusive of flora and fauna of the host country should be respected and promoted.
- ix. Engagement in excessive consumption of alcohol or drugs is restricted.
- x. Utmost discretion should be exercised while handling confidential information and matters of official business that can bring danger to lives and soil the reputation of the United Nations.¹⁸

IV. CATEGORIES OF UN PEACEKEEPING

Peacekeeping can be categorized into two heads:

¹⁸ Conduct in UN Field Missions, *Ten Rules/Codes of Personal Conduct for Blue Helmet*, available at <<https://conduct.unmissions.org/ten-rulescode-personal-conduct-blue-helmets>> (August 4, 2020).

i. Military Observer mission

It constitutes unarmed officers who are observers, which comprises the strength ranging from a few observers to several hundred.¹⁹ On 24 January 1949, the first group of United Nations military observers arrived in the State of Jammu and Kashmir for the supervision of the ceasefire between India and Pakistan. These observers under the command of the Military Advisor appointed by the UN Secretary-General formed the nucleus of the United Nations Military Observer Group in India and Pakistan (UNMOGIP).²⁰

ii. Peacekeeping Forces

It comprises mainly of armed military units with the strength ranging from a thousand to ten thousand of troops.²¹

V. CONCLUSION

The largest and most visible representation of the United Nations is made by the UN Peacekeeping, it is investing collectively in global stability, peace, and security. A significant change in the lives of the millions of vulnerable people has been made and the environment for lasting peace has developed by the UN peacemakers. The core of the UN Peacekeeping are to establish a viable political process as support and not substitute national efforts. The success of the peacekeeping depends upon the active and sustainable political process because of the political nature of the peacekeeping.

The Security Council plays a vital role in ending the conflict and protect the people through cooperation and commitment during the mission with realistic and clear mandates. The main objectives of peacekeepers are to protect civilians, prevent conflict, reduce violence, ensure security, and empower national authorities to assume these responsibilities. Coherent security and peacebuilding strategies along with political strategy are required for achieving these goals.

¹⁹ *Supra* note 8.

²⁰ United Nations peacekeeping, *UNMOGIP Fact Sheet, Observing the Ceasefire in Jammu and Kashmir*, available at <https://peacekeeping.un.org/en/mission/unmogip#:~:text=UNMOGIP%20Fact%20sheet&text=The%20first%20group%20of%20United,State%20of%20Jammu%20and%20Kashmir.>> (August 4, 2020).

²¹ *Supra* note 19.