



NEAR EAST UNIVERSITY  
INSITUTE OF GRADUATE STUDIES  
INTERNATIONAL LAW

**HUMAN RIGHT VIOLATIONS BY THE  
PEACEKEEPING FORCES IN SOMALIA**

ABDULKADIR MOHAMUD SAHAL

MASTER'S THESIS

NICOSIA  
2021

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MASTER'S THESIS

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**NICOSIA**

**2021**

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## DECLARATION

I'm Abdulkadir Mohamud Sahal, hereby declare that this dissertation entitled Human Right Violations by the Peacekeeping Forces in Somalia' has been prepared myself under the guidance and supervision of 'Assoc. Prof. Dr. Reşat Volkan Günel' in partial fulfillment of the Near East University, Graduate School of Social Sciences regulations and does not to the best of my knowledge breach and Law of Copyrights and has been tested for plagiarism and a copy of the result can be found in the Thesis.

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## **ABSTRACT**

### **HUMAN RIGHT VIOLATIONS BY THE PEACEKEEPING FORCES IN SOMALIA**

The focus of this thesis is on human rights violations by the peacekeeping forces in Somalia. However, violations of international humanitarian and human rights laws are now synonymous with the present-day peacekeepers and the situation in Somalia is not an exception in the state's long-standing conflict. The study findings revealed that abuses of human rights by the external peacekeeping forces have resulted to scores of civilian victims of various abuses such as injuries, sexual exploitations of women displaced from their homes, acts which are against international humanitarian law. From this study finding, both State and non-state actors at the same time have carried out extrajudicial killings, sexual and gender-based violence, detention, as well as several abductions of civilians. All these acts consistently violate international human rights law, and it is of specific worry that journalists and many civilians have been locked up for long period with no charges. Also, numbers of children in the state have seriously suffered in the hand of the forces, as even many were exposed to serious violations in the course of armed forces operations, which includes killing, maiming by the national forces and other militia groups. Therefore, in my own opinion, putting in place innovative advocacy that could offer revolutionary alternatives even while guaranteeing the fact that affected individuals of abuses of human rights are safeguarded from retaliation in the event that the people come out to get justice.

**Keywords:** Peacekeeping forces, International Human Rights, Human Rights Violations.

## ÖZ

### SOMALİ'DEKİ BARIŞ KUVVETLERİ TARAFINDAN İNSAN HAKLARI İHLALLERİ

Bu tezin odak noktası, Somali'deki barışı koruma güçlerinin insan hakları ihlalleri üzerinedir. Bununla birlikte, uluslararası insani yardım ve insan hakları yasalarının ihlalleri artık günümüz barış güçleriyle eş anlamlıdır ve Somali'deki durum, devletin uzun süredir devam eden çatışmasında bir istisna değildir. Çalışma bulguları, dış barışı koruma güçleri tarafından insan hakları ihlallerinin, yaralanmalar, evlerinden çıkan kadınların cinsel istismarları ve uluslararası insancıl hukuka aykırı eylemler gibi çeşitli istismarların çok sayıda sivil kurbanına yol açtığını ortaya koydu. Bu araştırma bulgusundan, hem devlet hem de devlet dışı aktörler aynı anda yargısız infazlar, cinsel ve cinsiyete dayalı şiddet, gözetim ve sivillere yönelik çeşitli kaçırımlar gerçekleştirdiler. Tüm bu eylemler tutarlı bir şekilde uluslararası insan hakları hukukunu ihlal ediyor ve gazetecilerin ve birçok sivilin uzun süre hiçbir suçlama olmaksızın hapiste tutulmaları kaygı verici. Ayrıca, silahlı kuvvetler operasyonları sırasında, ulusal kuvvetler ve diğer milis grupları tarafından öldürülme, sakat bırakma dahil olmak üzere ciddi ihlallere maruz kaldığından, eyaletteki çocukların sayısı da kuvvetlerin elinde ciddi şekilde acı çekti. Bu nedenle, kendi görüşüme göre, insan hakları ihlallerinden etkilenen bireylerin adalet elde etmek için ortaya çıkması durumunda misillemeden korunurken bile devrimci alternatifler sunabilecek yenilikçi savunuculuğu devreye sokmak.

Anahtar kelimeler: Barışı koruma güçleri, Uluslararası İnsan Hakları, İnsan Hakları İhlalleri.

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## ABBREVIATIONS

**AMISOM** - African Union Mission in Somalia

**AU** – African Union

**AUC** - African Union Commission

**BBC** – British Broadcasting Corporation

**CEDAW** - Committee on the Elimination of Discrimination against Women

**CIA** – Centre for Intelligent Agency

**DPKO** - Department of Peacekeeping Operations

**DRC** - Democratic Republic of the Congo

**ICCPR** - Covenant on Civil and Political Rights

**ICESCR** - International Covenant on Economic, Social and Cultural Rights

**IGAD** - Inter-Governmental Authority on Development

**IHL** - International Humanitarian Law

**IPA** - International Peace Academy

**LAS** – League of Arab State

**MINUSTAH** - Stabilization Mission in Haiti

**OAU** – Organization of African Unity

**SEMG** - Security Council Monitoring Group on Somalia and Eritrea

**SMA** - status of mission agreement

**SRSO-SVC** - Special Representative of the Secretary-General on Violence in Conflict

**TFG** - Transitional Federal Government

**UDHR** - Universal Declaration of Human Rights

**UK** – United Kingdom

**UN** – United Nations

**UNOSOM** – United Nations Operation in Somalia

**UNSC** – United Nations Security Council

# CHAPTER 1

## INTRODUCTION

### 1.1 Background to the Study

Peacekeeping forces usually are deployed to regions of conflict or perhaps to post-conflict areas to aid or support the peacebuilding process. If the peacekeeping forces could maintain a ceasefire between conflicting groups, the likelihood of having a productive peace arrangement can increase and, therefore, make it possible for the post-conflict forces to provide stability for the development of dependable and secure governmental functions. However, among the international organizations is the United Nations, which happens to be a leader in peacekeeping missions with 24 peacekeeping missions active in four different continents<sup>1</sup>. In spite of some level of success that has been recorded by peacekeeping forces as well as the good goal of peacekeeping missions, international peacekeeping troops have been linked to various forms of human rights violations.

Furthermore, following the takeover of power from the state former President Siad Barre in 1991, the state of Somali became unstable and gradually moved toward a "failed state"

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<sup>1</sup>Current Peace Perations, United Nations Peacekeeping, <http://ww.un.org/en/peacekeeping/operations/current.shtml>

structure with no working government or Centre power to hold the state together<sup>2</sup>. Ever since then, the state has been experiencing gross forms of lawlessness and struggles among various parties to the conflict for the past two decades<sup>3</sup>. Even as drought and famine to a very large extent impacted negatively on the general populace in 1992, likewise Islamist insurgency as well brought about intense civil contention between 2010-2012.

Yet, the new administration that came to office in 2012 with the support of international community does not change the situation, as scores of Somalis are being displaced within the state. As a result of "armed conflict and famine", which have lasted for more than two decades, Somalia's nascent Constitution as well as judicial institutions continues to be inefficient. According to various Human Rights' Organization reports, a large number of the displaced Somalis have become victims of rape and sexual violence, most especially the "children and women"<sup>4</sup>.

More so, the United Nations' (UN) department for the control of human rights violations has not been able to handle this situation. Persecution of the perpetrator of these evil acts

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<sup>2</sup>Dr. Andre Le Sage, *Stateless Justice in Somalia: "Formal and informal Rule of Law Initiatives, Centre For Humanitarian Dialogue"*. 13 (2005), available at [http://www.ssrnetwork.net/uploaded\\_files/4397.pdf](http://www.ssrnetwork.net/uploaded_files/4397.pdf).

<sup>3</sup>Somalia Profile, BBC News, July 4, 2013, <http://www.bbc.co.uk/news/world-africa-14094503>.

<sup>4</sup>Somalia Profile, BBC News b, July 4, 2013, <http://www.bbc.co.uk/news/world-africa-14094503>.

went away with it without being brought to book. And one of the factors that permitted this is that Somalia has a weak legal system, which is too vulnerable or unsound to enable local prosecution. Whenever the UN commences a new peacekeeping mission, it ensures that a "status of mission agreement" (SOMA) agreement is entered into with the host state that manages the commitments of the peacekeepers to the host state as well as the "rights, privileges, and immunities" of the peacekeepers<sup>5</sup>. However, these kinds of arrangements come with "complete immunities" for the peacekeepers' actions within the host country<sup>6</sup>. For the most part, such a contract indicates, irrespective of the crime committed by the peacekeeper, that she/he is not under the jurisdiction of the host state but rather only his own state could subject him to any trial. We all know that is not happening, because most crimes committed by these peacekeepers, even with clear evidence that they are guilty, yet nothing was done to serve justice to the victims<sup>7</sup>.

Despite the fact that the peacekeepers have done well in protecting the people to have a peaceful environment, their activities at the same time have in the present-day been linked

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<sup>5</sup> UN (2013) Security council report. Org/atf/cf/7b5fc9b.6d27

<sup>6</sup> Burke E. *Reflections on the Revolution in France*. Trans. Beitz C. (Hammondsport: Penguin Books, 1968) 45.

<sup>7</sup> Burke E. *Reflections on the Revolution in France*. Trans. Beitz C. (Hammondsport: Penguin Books, 1968) 45.

to sexual victimization and misuse of power over the conflict ravaged communities they are required to secure. Sad to say, the peacekeepers now benefit from complete impunity.

There is no doubt about the fact that the presence of peacekeepers in any state that has a weak legal structure does promote the sexual exploitation of women. For instance, some states like "Angola, Bosnia and Herzegovina, Cambodia, Democratic Republic of the Congo (DRC), East Timor, Eritrea, Kosovo, Liberia, Mozambique, Sierra Leone, and our country of interest Somalia", several instances of "rape, pedophilia, prostitution, and other forms of sexual exploitation and abuse" have happened in recent times<sup>8</sup>. The impact of these violations is severe. This does not just affect only the large number of vulnerable sections of country, but its consequences with regards to the profile of peacekeeping campaigns as well as the United Nations in general are likewise exceedingly broad. This act probably undermines the institution's efforts to effectively discharge its duties of protecting the vulnerable<sup>9</sup>.

Moreover, Peacekeepers are generally required to defend the civilian populace, also without doubt to protect against any heinous acts of human right violations, such as sex-

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8 Chiyuki A. 2017. Cedric de Coning, and Ramesh Thakur, eds., *Unintended Consequences of Peacekeeping Operations* (New York: United Nations University Press,).

<sup>9</sup> UNGA 2017 "Criminal accountability of United Nations officials and experts on mission," Note by the Secretariat, A/62/879, paras 2–3.

related brutality, which is associated with several contemporary conflicts. This specific obligation is the philosophy of the peacekeepers' operations, according to the G8 Foreign Ministers 2013<sup>10</sup>. However, the United Nations Security Council in June 2012 implemented a resolution regarding women, peace and security whereby "the Secretary-General to strengthen efforts to implement the policy of zero tolerance on sexual exploitation and abuse by UN personnel and urges concerned Member States to ensure full accountability, including prosecutions, in cases of such conduct involving their nationals"<sup>11</sup>. And this resolution is followed by several many creating basically similar requests all aiming at reducing the rate of human rights violations by the peacekeepers while on missions. That being said, it is in the light of the above that this is study meant to examine the incidences or occurrences of human right violations by the peacekeeping forces in Somalia.

## **1.2 Research Questions**

The United Nations (UN) through UNOSOM and the African Troop Contributing States through (AMISOM) are the two major peacekeeping forces in Somalia. These two bodies have been accused of violating human rights in one way or the other during their peacekeeping missions. In principle, these organizations are limited by International

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<sup>10</sup> This is underscored in the 2013 Declaration on Preventing Sexual Violence in Conflict, adopted by G8 foreign ministers in London on April 11, 2013:

<sup>11</sup> UN 2013, Security council report. [Org/atf/cf/7b5fc9b.6d27](https://www.un.org/News/Press/docs/2013/1306_SGSM.html)

Human Rights Law responsibilities coming from various legal origins. Each of the legal principles stands against the misuse of power during peacekeeping missions that directly or indirectly violates the fundamental human rights of these citizens. According to Humanitarian Affairs, human right violation is a pervasive problem in Somalia. Oftentimes these acts are carried out by armed men in uniform. Hence, the vital questions that need to be answered are:

- i. What is the international law stance on human rights violations by peacekeeping troops during peacekeeping missions?
- ii. How have the peacekeepers violated human rights during their peacekeeping mission in Somalia?
- iii. How has the Somalia national force violated Somalis' human rights?

### **1.2 Objective of the Study**

The main objective of this study is to extensively examine the alleged human rights violations carried out by peacekeeping forces in Somalia during Somalia conflicts. However, the specific objectives are to:

- i. To analyze human rights violations in relation to international law on peacekeeping.
- ii. Assess the level of human rights violations by peacekeepers in Somalia during peacekeeping missions.



#### **1.4 Research Methodology**

This study adopted qualitative research approach, mapping and analyzing carrying out thorough reviews on a variety of peacekeeping troops and their missions in Somalia. The objective of this study is to find out with regards to the various occurrences of human rights violations in Somalia how and who is responsible for them. The study therefore gathered its data primarily from a number of UN documents, human rights organizations reports, scholarly journals, articles, internet, School libraries, international law documents and news media. Also, other documents regarding Somalia conflicts, human rights, peacekeeping and human right violation reports that details the situational happening during the course of the Somalia peacekeeping mission will not be let unvisited. This in turn will give the study firsthand information pertaining to how the human rights of vulnerable civilians were violated in Somalia by the peacekeeping forces, who have portrayed their ridiculous acts of violating international law best practices during the course of peacekeeping missions.

#### **1.5 Structure of the Study**

Chapter one of this study focused on the introductory part where peacekeeping in Somalia was introduced along the objectives and research questions the study tends to answer. This section further explores also the significance of the study and as well the study approach (methodology) was highlighted. Chapter Two reflects on the concept of peacekeeping and human rights. Firstly, it critically examines peacekeeping under international law. It therefore further evaluates fundamental human rights according to international

humanitarian laws. Chapter Three gives an analysis on the peacekeeping mission in Somalia by systematically exploring the Somalia conflict and its root cause, the intervention offered by peacekeeping mission in Somalia under African Union (AMISOM), United Nations (UNOSOM) and finally take a brief look at the immunity of international organization troops on peacekeeping missions. Chapter Four focuses on human rights violation attributed to peacekeeping forces in Somalia, in order to get the actual facts. The Chapter looked at international law in the context of peacekeeping and alleged sexual exploitation by AMISOM forces in Somalia, as well as alleged rape and sexual assault by United Nations peacekeepers. The criminalizing sexual exploitation and abuse by them is also analyzed. Human right violation by national forces of Somalia and international law against human rights violation during peacekeeping were explained. Chapter Five concludes on the findings of the study.

## **CHAPTER 2**

### **THE SOMALIA CONFLICT**

#### **2.1 Introduction**

The aim of this chapter is to examine the peacekeeping mission in Somalia by systematically analyzing that which brought about the conflict, the involvement of the international community through their various interventions under the auspices of the African Union (AMISOM) and the United Nations (UNOSOM) and eventually in summary examine the immunity of international organization troops on peacekeeping missions.

#### **2.2 An Overview of Conflict in Somalia**

Somalia has been experiencing protracted social conflict for almost three decades and persisted since the fall of the Siad Barre regime. Since 1991, Somalia's central government has been completely ineffective to discharge its basic duty of protecting lives and property. In the past years, the Somali conflict situation had been changing with respect to its severity, the kinds of actors involved and even its dynamics. This conflict is raging on between Transitional Federal Government (TFG) forces alongside their supporters, on one side, and al-Shabab together with some other fundamentalist armed groups, on the other side. Whereas the Transitional Federal Government that was improved in the beginning of 2009 right after the peace arrangement involving the

Transitional Federal Government and the average opposition group the "Alliance for the Re-liberation of Somalia" (ARS-Djibouti) received international legitimacy and the assistance of Inter-Governmental Authority on Development (IGAD), opposition groups, in particular al-Shabab, supposedly are offered assistance from a number of states in the region and even some other states from the Middle East<sup>12</sup>.

One other noteworthy development is the expansion of the conflict from inland parts to the sea area off the coast of Somalia. Pirates took advantage of the coastal water of Somalia to foster their activities, seriously affecting the state maritime security architecture and trade. However, in the past few years, both local and international organizations have put forward different initiatives to resolve this extremely protracted social conflict. Thus far, not less than 15 internationally driven peace procedures have been organized. And both the United Nations and African Union are constantly at the fore front of these peace processes.

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<sup>12</sup> The Transitional Federal Government having some sort of support from the AU through AMISOM was able to manage the situation basically in a small part of Mogadishu, the state capital. While al-Shabab and various others armed groups were in control of most part of the southern Somalia egion. Although in the beginning politicization of clan identity dominated the conflict space with various clans protecting their identity under their leadership, but, new development in the recent phase of the conflict is the increase tension among various ideologies of Islam.

Among the accomplishments recorded by the United Nations-driven peace approach has been bringing about a consensus between the "TFG and the ARS-Djibouti" that brought about the emergence of a new president and the extension of the TFG Legislative authority in the year 2009. Despite the fact that this development has raised the people's hope for peace in the Somali state, the unsuccessful peace process and the al-Shabab organization alongside various opposition groups brought Somalia back to her knees.

Even as this conflict remains unresolved, the Somali conflict goes on to test the creativity and good will of the people working making effort to resolve it. It could be said that the Somalia conflict is not an unexpected and mysterious eruption. Instead, it is due to the interplay of various historical, social and political actions that has molded the political and socio-economic system of the Somali state<sup>13</sup>.

## **2.3 Background of the Conflict**

### **2.3.1 Historical Cause**

Land is an important resource. It has been the root cause of local and international conflicts over the years and the case of Somalia in the Horn Region is one of them where the colonial partition of the people and their lands remain a bone of contention between the people. It was after the Berlin Conference in 1884 that Somali people and their lands were

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<sup>13</sup> Somalia: Deeply Flawed Rape Investigation, "Human Rights Watch news release, November 11, 2013; AMISOM spokesperson speech, August 24, 2013", <http://www.bosasopress.com/afhayeenka-amisom-oo-hadalo-loo-fasirtay-jeesjees-isaga-fogeyay-kufsi-aygeysteen-amisom-dhageyso> (accessed August 19, 2020)

divided among different colonial powers. Northern Somalia, referred to as “Somaliland” and “Northern Frontier Districts” (NFD) pre-dominated by Somalis, was taken over by the British. The French proclaimed “Northwest coast” modern-day Djibouti as their colony. The Ethiopian Empire took over “Ogaden” and at the same time Italy secured “South Somalia” as its colony<sup>14</sup>. One of the consequences of this partition was felt by cattle herders whose free movement from one location to another has been altered owing to the fact that the division had brought each of these regions under different authorities<sup>15</sup>. As a result, the Somali people ended-up with only one option, that is, to abide by the various new policy structures the colonial powers approved<sup>16</sup>. According to one of the famous Somali poets:

*“The British, the Ethiopians, and the Italians are squabbling,  
The country is snatched and divided by whosoever is stronger,  
The Country is sold piece by piece without our knowledge, And  
for me this is the Teeth of the Last day”*<sup>17</sup>.

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<sup>14</sup>“Somalia: Instability, Conflict, and Federalism. Master Thesis 2016 Submitted to Norwegian University of Life Sciences” Magan, A. I. 2016.

<sup>15</sup>Asiwaju, A. I. (1985). “*Partitioned Africans: Ethnic Relations Across Africa's International Boundaries, 1884 1984* (pp. 155 179)”. Available at: <https://books.google.no/books?id=0Wr6GUxdelcC> [Accessed 02 August 2020]

<sup>16</sup> Asiwaju 1985, pp. 34.

<sup>17</sup>David, W. E. (1996). Environmental Scarcity as a Cause of Violent Conflict (handle.dtic.mil/100.2/ADA 314878 ed., pp. 20-22). Kansas USA.

As such, the Somalis were unable to have free access to some of these resources as they normally have for many years; even for them to move from one territory to another at that point requires having to pay a weighty tax or perhaps face the possibility of being denied entry to the territory. The individual colonial power was committed to protect its own interest. For instance, the British sought to make use of Somaliland as a base to produce meat for their troops in Aden, Yemen, France built the Somali coast as their coaling station and a base that links to their colonies in Africa as well as Indo-China. On the other hand, Ethiopia wanted to broaden and acquire more lands and resources<sup>18</sup>. Also, the British authority as well used NFD as a buffer-zone against the migration of Somalis and the Oromo from south and north. Ethiopians' interest was not similar to those of European powers. Ethiopian troops on a regular basis raided and harassed the Somali pastoralist group in Ogaden territory. When the imperial forces began their operation, the Somalis were robbed of their belongings, which include food items, livestock, and land and some were even taken as slaves. Due to what the Somali people was experiencing then, a Somali former Prime Minister in 1965 in one of his popular address was cited as saying:

*“Our bad-luck doesn’t come from the productiveness of the land, neither it is from the insufficiency of mineral prosperity. These constraints from wellbeing were accepted and paid for, by our forefathers from whom we inherited, among other things, a spiritual and cultural abundance of inestimable value: the*

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<sup>18</sup>Asiwaju, 1985.pp. 155 179.

*teaching of Islam on the one hand and lyric poetry on the other ... No! is that our neighboring countries, with whom, like the rest of Africa, we seek to enhance advantageous and good relations, are not our neighbors. Our neighbors are our Somali kinsmen whose citizenship has been falsified by indiscriminate boundary arrangements. They have to move from artificial frontiers to their pasturelands. They occupy the same terrain and peruse the same pastoral economy as ourselves. We speak the same language. We share the same creed, the same culture and the same traditions. How can we regard our brothers as foreigners?"<sup>19</sup>.*

The above opinion shows how the Somalis feel very uncomfortable with the partition of the Somali territory by the colonial powers. The people now see their own brothers neighboring countries. In my own view, whatever peace process that would be put in place to resolve the Somalia conflict will have to put into consideration the region itself for the peace process to bring forth the expected outcome.

### **2.3.2 The Social Basis of the Conflict**

Clan identity stands out as the most crucial social structure among the Somalis. For several decades, the clan has been the sole most significant factor that has traditionally determined group identity and the social interaction of Somalis. A large number of them distinguish

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<sup>19</sup> Somalia: Instability, Conflict, and Federalism. Master Thesis 2016 Submitted to Norwegian University of Life Sciences Magan, A. I. (2016).



among themselves according to their lineage. Traditionally, this has been the factor that helps organized law and order as well as social interactions among the different clan groups<sup>20</sup>. However, the fact that the clan system has been hijacked by political leaders following the colonial management brought about Somalis much more competition over the political power and resources of the contemporary central state enforced on Somalis by the colonial administration<sup>21</sup>. This condition was made worse any time the opposition to Barre's regime rose after the conquest of Somalia forces by the Ethiopia government and the 1978 unsuccessful coup targeted to overthrow the governing administration<sup>22</sup>.

More so, Barre's regime deeply employed an organized use of the clan existing structure of political division in an effort to improve its hold on power. Then again, Barre' regime further marginalized some specific clans, with special focus on the key ones, and also use government military power to clamp down on the clans, who were allegedly accused of the plot of failed coup to bring down his regime. Thus, such development over the years showed a considerable implications not merely in terms of the Somali approach when it

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<sup>20</sup> ECHR 1988. International law is believed to be considerable. *See generally*, MERRILLS, THE DEVELOPMENT OF INTERNATIONAL LAW BY THE forces in Northern Ireland violated Article 3 (prohibition on degrading and inhuman treatment). The contribution of the ECHR

<sup>21</sup> Throughout the period of the Siad Barre leadership in Somalia, further division among the clans become more intense and even more created as certain clan groups took over Somali political offices and others were sidelined and put through uncomfortable and perhaps violent treatment.

<sup>22</sup> *Blood and Bone: The Call of Kinship in Somali Society*, Lewis, I M (1994). Lawrenceville, NJ: Red Sea Press

comes to enthusiasm towards the central government but likewise in terms of how the clans relate with each other<sup>23</sup>.

### **2.3.3 The Political Basis of the Conflict**

Aside the social basis of the Somali conflict, the political struggle for power at the same time is another development that led to the fall of the Somali state in 1991. This factor in relation to others that I have mentioned is in one way or the other connected together, such as the high handedness under Siad Barre and the reliance of the Somali state for aid from its Cold War allies as well as the socialist economic plan, the corrupt and familiar structure of governance, in addition to regional power politics<sup>24</sup>. Barre's regime assumed office through a coup to take over power from the civilian administration founded through election. The colonial masters left Somalia with democracy dependent on the parliamentary democratic system of ruling, even though the state didn't have enough human resources, institutional civilization and social foundation required to make such a system of government an effective one. In spite of the occurrence of corruption in addition to stagnant economic development that frustrated Somalis, political liberties together with

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<sup>23</sup> Osman A & Issaka K. Souare (eds) *Somalia at Crossroads: Challenges and Perspectives on Reconstituting a Failed State*, 2007, 40, 44.

<sup>24</sup> Afyare Abdi Elmi and Abdulahi Barise, (2006). The Somali Conflict: Root causes, obstacles, and peace-building strategies, *African Security Review*, 15(1) (2006), 34–35.

liberty of group were permitted. All through his period the state was still able to hold two parliamentary and presidential political elections<sup>25</sup>.

This earlier test of the West model of the democratic system that brought about the establishment of about 60 political parties never last long. This democratic model was terminated following the military coup, which took over power from the Somali Youth League administration in 1969 and resulted in the Siad Barre regime establishment. Despite the fact that Barre's assumption to office received general popular support in its early years because of the need to revive Somali state economy in addition to strengthening national unity policy, the new regime shortly evolved into an authoritarian government<sup>26</sup>.

Somalia in all her economic plans was depending on support coming from its Cold War allies. Something pathetic regarding this reliance on external aid was that the aid received by the state government was however mismanaged and however diverted for different purposes aside building the state economy, making people generally refer to Somalia as "the Graveyard of Aid"<sup>27</sup>. It was learnt that most part of the aids received was largely utilized to compensate those followers of the Barre government as well as broaden the

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<sup>25</sup> Lewis, I M (1994) *Blood and Bone: The Call of Kinship in Somali Society*, Lawrenceville, NJ: Red Sea Press,

<sup>26</sup> Afyare Abdi Elmi and Abdulahi Barise. pp. 34-35.

<sup>27</sup> Menkhaus, 2005, pp. 34

security architecture of the state security forces, in particular the military, in order to have total control over opposition groups. Because of that, at the conclusion of the Cold War, the aid stopped coming from external supports, Somalia however was unable to maintain itself due to its fragile economic structure. Aside this lack of good economic structure, there are some other political problems. In particular, the surge in armed groups created an atmosphere in Somalia that made the state failure swift and unpreventable<sup>28</sup>.

#### **2.4 The Intervention of Peacekeeping Forces in Somalia**

The fall of the former President Siad Barre in January 1991 brought about struggle for power and resources among the various clans in the Somali state. In November, the most extreme struggle took place in the capital, Mogadishu, among two different groups, one group, on one hand, acting in support of the Interim former President Mahdi Mohamed and on the other hand, different groups backing the Chairman of the USC, General Farah Aidid. From that time till now, this struggle that started among a few groups has spread throughout the Somali state and, ever since that time, continued to be an obstacle to the relations between the various clan groups in the state<sup>29</sup>.

However, this struggle among clans leads to loss of life in addition to the destruction of property, driving Somalis in their hundreds of thousands out of their community and

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<sup>28</sup> Menkhaus, 2005, pp. 35

<sup>29</sup> Cowell, A. 1993, "Italy, In U.N. Rift, Threatens Recall of Somalia Troops", The New York Times, 16/7/93.

leading to a serious demand for relief support from the international community. In essence, for about 4.5 million people in Somalia, not less than fifty percent of the projected human population predisposed to acute mal-nutrition as well as mal-nutrition associated illness, as the majority that were suffered from this ugly situation reside in the countryside. It was previously believed that most likely between 1991 and 1999 about 300,000 people had lost their lives through this struggle. Nearly one million Somalis that were displaced from their homes sought for refuge in neighboring states as well as in other regions<sup>30</sup>.

This political mayhem, declining security condition and prevalent armed conflict along with looting people's property worsen the situation and significantly limit the external humanitarian supports. More so, this struggle situation for almost three decades has made life uneasy and caused instability in the Horn of Africa region, even as it continues to make relations among states in the regions more challenging as well as impacting negatively on the peace and security structure of the region. It is in response to this conflict situation that both regional and international organizations made various attempts through their various initiatives geared towards managing and controlling this situation. This would be briefly under the next sub-heading.

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<sup>30</sup> Paul, D.W. 2009. "Into the Mogadishu maelstrom: the African union mission in Somalia 16 international peacekeeping". 541

#### **2.4.1 The African Union Mission in Somalia (AMISOM)**

Through the various attempts by the Somalia central government alongside regional organizations to assemble an African peacekeeping force in response to the Somali conflict in 2005, the mission was backed by the African Union and the Intergovernmental Authority on Development so as to establish a protection and training mission in Somalia<sup>31</sup>. thus, the African union Peace and Security Council initiated AMISOM in January 2007 with the basic mandate of six months to give assistance for transition institutions and assist in humanitarian functions, as well as build peaceful settings in Somalia. However, the UNSC officially approved and supported AMISOM in February 2007 and, since this time, the mission has continually been supported by the United Nations. All through this period, the resolution approved approximately a 22, 000troop strength in Somalia for effective outcome.

Part of the regional organization effort to manage Somali the conflict was the SOMA agreement agreed upon by the TFG and the AU in the year 2007. More so, Section 54 of the agreement pinpoints, in common terms that "all AMISOM staff are immune from legal course of action for every act carried out in their official capacity"<sup>32</sup>. Like-wise section 55(b) further makes clear that "military personnel of AMISOM who commit any

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<sup>31</sup> Paul, D.W. 2009, pp. 541

<sup>32</sup> UN 2007. security council resolution on the protection of civilians in armed conflict

violations in Somalia are subject to the exclusive jurisdiction of their home state"<sup>33</sup>. Thus, such rule implies that the Somali state wouldn't be able to successfully take legal action against any AMISOM troops pertaining to whatever violations they carried out while discharging their duty in Somalia. That was the situation regardless of the signed contract, which requires AMISOM staffs to regard Somalia's laws and policies. Typically, the agreement does indeed put together a few shared duties between the Somali authorities and AMISOM authorities with regards to the "arrest, interrogation, and detention of AMISOM staff's members" for infractions committed in the Somali state, yet AMISOM's member states are charged with the obligations of prosecution of AMISOM staffs<sup>34</sup>.

#### **2.4.2 The United Nations Mission in Somalia (UNOSOM)**

The United Nations Operation in Somalia (UNOSOM I) was established in April 1992 to manage the cease-fire in Mogadishu and to protect United Nations servicemen, as well as provide humanitarian supports. UNOSOM was expected to set a model for more muscular post-Cold War peacekeeping and state-building.

Even so, UNOSOM I wasn't able to deliver the expected security and protection, considering that the two factions looted and caused problems with humanitarian supports, each worried that this sort of services assisted the other<sup>35</sup>. The United Nations along with

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<sup>33</sup> See UN 2007 security resolution

<sup>34</sup> UN 2013 Security council report. [Org/atf/cf/7b5fc9b.6d27](https://www.un.org/atf/cf/7b5fc9b.6d27)

<sup>35</sup> See Coyne, 2006, pp.24

United States assistance was to deliver humanitarian aids, disarm those armed groups in conflict and, therefore, establish a stable central government according to Western principle. The launch of “Operation Restore Hope” at the same time called “Unified Task Force” by the United States to some level helped to calm the situation before the mission was then transferred to the UNOSOM II provided supplies from the humanitarian aid had in a long way minimized the famine issue.

The UNITAF mission was effective to some level in providing various humanitarian supports needed by the Somalis. However, the international community effort through UNOSOM II was not effective in resolving the Somali conflict or creating political, social and economic transformation as expected from the mission mandate<sup>36</sup>. At the same time, the humanitarian mission not just made worse the existing divisions between armed groups, but as a result of low-level local leader participation in the peacebuilding action, it took away potential and the likelihood to achieve peace. Today, the unsolved problem that was left behind by the United Nations and the U.S is part of what is fuelling instability in the Horn Region. Various opposition groups have now Exploit the gap of lack of an effective central authority in Somalia for their selfish gains.

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<sup>36</sup> Coyne, 2006, pp. 12



## **CHAPTER 3**

### **PEACEKEEPING AND HUMAN RIGHTS**

#### **3.1 Introduction**

The second chapter of this study focuses on the concept of peacekeeping and human rights. Under this chapter, peacekeeping in relation to international law is were highlighted in addition to the legal backing of peacekeeping under international law during conflict situations. The section also highlights the fundamental rights of humans according to the Geneva Convention of 1946.

#### **3.2 The Concept of Peacekeeping**

According to the United Nations, peacekeeping was conceptualized out of important, greatly developed and a realistic reaction to a challenge calling for a quick response. As a result, there is absolutely no consensual meaning of the term "peacekeeping". Bear in mind that a generally applied effective description is provided by the International Peace Academy (IPA) in 2015, which states that "peacekeeping is the prevention, containment, moderation and termination of hostilities between or within states, through the medium of a peaceful third-party intervention organized and directed internationally, using multinational forces of soldiers, police and civilians to restore and maintain peace"<sup>37</sup>.

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<sup>37</sup> International Peacekeeping Association (IPA) 2015, pp 21

However, one particular recent undertaking by the United Nations to define peacekeeping could be seen in what was in the beginning called the "Capstone Doctrine" in 2008, rather than indicating precisely what peace operations comprise or stands for. The Department of Peacekeeping Operations (DPKO) (2012) basically recognized "peacekeeping" as among five "peace and security activities". The five activities are shown below<sup>38</sup>;

- **Conflict prevention:** this includes functional and diplomatic strategies to protect against differences from thriving to violent conflict;
- **Peacekeeping:** actions carried out to maintain peace, though weak and mostly useful in a situation where conflict has ceased and therefore to support the parties to the conflict on the implementation of contracts between them;
- **Peacemaking:** This involves employing the military and the police alongside additional strategies to implement the will of the United Nations Security Council;
- **Peace enforcement:** Employing military support and strategic policy that incorporate civilian teams to put in place the basic principles required for lasting peace;
- **Peace building:** "a range of measures aimed at reducing the risk of lapsing or relapsing into conflict"<sup>39</sup>.

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<sup>38</sup> Department of Peacekeeping Operations (DPKO) (2012)

<sup>39</sup> IPA 2015, pp. 22

The expansion of peacekeeping operations following the Cold War had introduced a new classification in which peacekeeping was divided into two distinctive forms: "traditional or first-generation, on the one hand, and new or multidimensional peacekeeping (the 2<sup>nd</sup> and 3<sup>rd</sup> generation of peacekeeping), on the other"<sup>40</sup>. However, the United Nations peacekeeping process needs to be adjusted to diverse situations due to the fact that they could hardly harmonize with the traditional structure of the existing first-generation of peacekeeping related basically to serve as observation missions, as its structure and features happen to be generally armed forces and its goal is to establish peace or facilitate ceasefire among parties to conflicts, so as to have sufficient time required to work out resolution of a particular conflict.

During 2<sup>nd</sup> generation peacekeeping operations, which were seen as the multi-faceted operation era, within this period, the United Nations started to be included in stopping intra-state conflicts via multi-dimensional procedures that incorporated strategies like: "separation of combatants, disarmament of irregular forces, assistance with reintegration into civil society, establishment of new policing systems; and monitoring of elections for new governments"<sup>41</sup>. In the 3<sup>rd</sup> generation peacekeeping era, operations happened to be precipitated by the resurrection of much more critical animosities that had been subdued, instead of resolved, at the time of Cold War and that inspired disputes caused by the most

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<sup>40</sup> IPA 2015, pp. 23

<sup>41</sup> See DPKO, 2012, pp 23

serious violations of human rights in an anarchic situation. Generally, the initiatives of this peacekeeping era centered on the much more constrained goal of offering humanitarian help, instead of resolving conflict situations for lasting peace<sup>42</sup>.

### **3.2.1 The Principles of Peacekeeping**

From the first to the fourth generation of the United Nation peacekeeping operation, there are three fundamental concepts, which continue to facilitate the United Nations peacekeeping missions as a means for sustaining world peace. It should be noted that these three basic principles are linked and collectively strengthen United Nations peacekeeping mission:

- i. Consent of the parties
- ii. Impartiality
- iii. Non-use of force with the exception of in self-defense and defense of the mission mandate.

**Consent of the parties:** Before the United Nations peacekeeping operations are implemented, the consent of the major groups to the conflict must be consulted. This therefore necessitates a dedication from the groups to a political procedure. Their approval of a peacekeeping mission offers the United Nations the needed liberty of action, either “political or physical”, to undertake its required duties. If this approval of involvement for

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42 Jeremy T. & Michael E W. 2014, UN Operations in Africa Provide a Mechanism for Japan’s Military Normalization Agenda , retrieved 7 February 2014

the third party is lacking, peacekeepers could be another party that galvanized the conflict and, therefore, getting pulled in the direction of enforcement procedure, as well as far from its basic purpose of maintaining calm and stability in the area<sup>43</sup>.

Even if groups to the conflict have given their approval for the involvement of UN peacekeepers, this still does not always lead to or ensure that there would at the same time be authorization at the local level, in particular in a situation where the major groups have dispute among their members or possibly lack strong leaders that can effectively manage them. While in some situations having this consent is much less likely in more intense situations that involve many armed parties that have no leadership<sup>44</sup>.

**Impartiality:** Neutrality is definitely essential to keeping up with the permission and collaboration of the foremost groups to the conflict. However, this needs not be mixed up with neutrality or perhaps inactivity. It is the mandate that UN peacekeepers need to be unbiased while carrying out their duties among the parties to the conflict. However, they should be neutral while delivering on their mandate. Basically, like we see referees on the pitch has been neutral while officiating games only to penalize violation, that is also applicable to peacekeepers while carrying out their duties. They must not allow any wrong

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43 Lundgren, M, (2018). "Backdoor peacekeeping: Does participation in UN peacekeeping reduce coups at home?" *Journal of Peace Research*.55(4):508523.doi:10.1177/0022343317747668

<sup>44</sup> Brahimi report, 2012, pp. 23

acts from the conflicting groups that breach the agreements on the peace plan or the global norms and standards, which the UN represents.

In spite of the necessity to create and safeguard suitable relationships with the group, a peacekeeping process has got to stay completely away from actions which could jeopardize its position of neutrality. A peacekeeping operation must never shy away from an intense usage of the concept of neutrality or worry mis-interpreting its actions. However, if peacekeepers failed to do this, it could result to a situation where each party consent to the peacekeeping process is withdrawn.

**Non-use of force except in self-defense and defense of the mandate:** It should be noted that United Nations peacekeeping missions are certainly not an enforcement means. But bear in mind that they might make use of force in some strategic stage, aided by endorsement from UNSC, in the event that peacekeepers are acting in self-defense and the protection of the mission mandate. In some unstable circumstances, the UNSC has granted United Nations peacekeepers “robust” procedures permitting them to "employ all the necessary means” to prevent forceful initiatives to interrupt political processes and defend civilians whom are susceptible to certain physical assault, as well as support the state government in keeping law and order. Despite the fact that on the ground they could in some cases come out similar, "robust peacekeeping should not be confused with peace enforcement, as envisaged under Chapter VII of the United Nations Charter".

### **3.3 Peacekeeping in International Law**

The United Nations following the Cold War created peacekeeping operations due to its necessity to help to maintain world peace. Though the creation of this mission was not initially part of the United Nations Charter of 1945, however, over time it was included and since the commencement of such activities called “peacekeeping”, its advantage is vital, for it has demonstrated to be useful in protecting and maintaining a minimal level of "peace and security" in various conflicts ravaging regions across the globe. Even though it becomes better as the days go by, the “traditional” form of peacekeeping force initially implemented in Suez in 1956 mirrored the conventional form, concepts of international law as it was however centered on the agreement of the host government, or besides the fact that it comprise armed forces intervention, its regard for sovereignty of the host states was demonstrated in the impartiality of such military forces<sup>45</sup>. The trinity of the peacekeeping concepts of authorization, neutrality, as well as non-application of intense force really demonstrated those basic concepts of international law of respecting the

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<sup>45</sup> Symonides, J (2002) *Human Rights, Concepts and Standards*. New Delhi: Rawat Publications. This is underscored in the 2013 Declaration on Preventing Sexual Violence in Conflict, adopted by G8 foreign ministers in London on April 11, 2013:

sovereignty of states hosting external forces, non-interference and the non-application of force available in the "Article 2 of the UN Charter"<sup>46</sup>.

Looking at the dialectic involving "consensual peacekeeping" alongside its further hostile version was actually developed earlier during the 2<sup>nd</sup> comprehensive peacekeeping operation between 1960 to 1964 in the Democratic Republic of Congo. However, this is believed to have come back again as part of the United Nations principles of peacekeeping, as it faces the challenges of how to carry out the "protection of civilians plan by using coercive mandates" granted to United Nations troops<sup>47</sup>. The term "Coercive mandates" simply implies that peacekeeping forces are actually progressively traversing the line turning to "war fighters, or combatants" when you look at it from the aspect of international humanitarian law, thereby leading to misunderstandings regarding the legal standing of peacekeeping forces that are commonly not viewed as real targets. Without doubt, any attempts to attack them is not allowed. Likewise, the consensual after Cold War peacekeeping era has even changed significantly from the conventional troops of the Cold War, developing in the beginning of 1990s, to elaborate "civilian-military

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<sup>46</sup> Also, Article 2 "paragraph 7" and Chapter VII "Article 42" of the United Nations Charter each acknowledged that the UNSC possesses forces to embark on enforcement measures that have resulted in situations where peacekeepers are being given much more "coercive mandates"

<sup>47</sup> *Ibid 1*



operations" developed to ensure stability, peace and also introduce in its design "military, police, humanitarian" as well as other civilian aspects<sup>48</sup>.

### **3.4 The Concept of Human Rights**

#### **3.4.1 Human Rights**

The basic principle in comprehending human rights is the understanding of the phrase 'rights', which is covered by the broader thought or meaning, for instance, the needs, wishes and aspirations that individuals possess and show. These claims that are as well backed with many objective guidelines or broad theory, regardless if it is of a code of values or moral theory or that of governmental principles or political concepts or even that of a legal system, are normally and suitably referred to as rights. According to Appelbaum (2012), there are four kinds of legal rights. They are:

- a. Rights with correlative tasks. Mr. A made a claim upon Mr. B on to which the law imposes an obligation to conform. This kind of rights is present in torts, agreements, criminal law, etc.
- b. Legal liberties, benefits and licenses include conduct, which is permissible in law. Instances include the right towards a reasonable usage of one's belongings, as well as liberty of expression as contained in the law.
- c. Legal authority to modify the legal stance associated with an individual as well as other person, for instance, right to file a suit regarding a breach of duty,

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<sup>48</sup> *Ibid* 2

another is the right to get married, the authority a judge have to try a culprit and the right of a lawmaker to enact laws.

- d. Legal protection. Mr. A is absorbed from using authority against other person and such absorption is acknowledged by law, for instance, the protection of diplomats as well as the constitutional defense of rights that thus restrict the executive arm of government as well as the legislature.

Even though human rights tend to be a crucial part of international law and relations, the exact meaning remains as questionable for a long time. The actual Charter of the United Nation on which the establishment of the laws of human rights is usually attributed, is standard. Article 1(3) consists part of the reasons of the institution, the campaign and support of a regard for human rights as well as basic liberties for everyone, yet not interpreting them<sup>49</sup>. UN Charter Art 1 often the Universal Proclamation likewise never put the definition into consideration<sup>50</sup>.

The effectual aspect regarding the Universal Declaration basically outlined the legal rights and liberties with no definition. This model is duplicated in the many other significant international human rights laws.<sup>51</sup> Henkin asserted that the concept of human rights is

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<sup>49</sup> Henkin L. 1989 *International Law* (St. Paul, MN: West Publishing,) 15.

<sup>50</sup> Its introduction simply suggests that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world” (Universal Declaration, preamble, para1).

<sup>51</sup> See Henkin 1989, pp.22, para 3

certainly related, however certainly not equal to, good justice and democracy. But it's a political concept having a moral framework that describes the connection, which ought to exist among persons and modern society<sup>52</sup>.

Human rights usually are assertions declared and accepted in the form of a right, but not claim on love, as well as brotherhood, grace and also charity. These are claims within several applied law. They tend to be rights on society, the way it is symbolized through the government and its officers. "The good society is one in which individual rights flourish and in which their protection and promotion are the fundamental objectives of government"<sup>53</sup>. However, Henkin mentioned somewhere else that:

*"human rights are those liberties, immunities and benefits which in terms of accepted contemporary values, means that all human beings should be able to claim 'as a right' from the society in which they live"*<sup>54</sup>.

The relationship involving the 'ought' along with 'is' in human rights is highlighted by Nsirimovu<sup>55</sup>. The term "human rights" implies the situations of life that people have right to anticipate by reason of simply being a human being. This idea consists of not really a

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<sup>52</sup> See Henkin 1989, pp.23, para 1

<sup>53</sup> See Henkin 1989, pp.16

<sup>54</sup> For further information, see Henkin 1989, pp. 12

<sup>55</sup> Nsirimovu R. 1994. *Human Rights Educations Techniques in Schools* (Lagos: Macmillan,)24.

declaration of reality but instead a benchmark against which circumstances in practice might be measured. Neither will the expected presence of rights always suggest the presence as well as the probability of laws to impose or preserve rights. Nevertheless, in practice that might often become the situation. Rights are generally the standards as well as the differentiating symbols of any civilized modern society. The most important principles accepted within the over-arching principle of rights might be recognized as “freedom, equality, justice as well as self-determination”<sup>56</sup>.

Dowrick however described human rights as all these claim made by persons on their own or for others, backed by several theories that focus upon the humanity of a person, on a person being a human being as well as a part of mankind<sup>57</sup>.

All these rights are usually built in the nature of man and consequently guaranteed as well as safeguarded through the state with no variation of any kind. Whenever these rights are not abided with by any person, no matter if it is the state or even non-governmental actors, it makes up violations of human rights. Whenever mass violations of these kinds of rights take place, it indicates abuses of human rights.

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<sup>56</sup> See Nsirimovu R. 1994, pp. 27, para 4

<sup>57</sup> Dowrick 1979 stated that “human rights basically incorporate moral and political creed along with intellectualistic as well as theological origins”.

### **3.4.2 Human Right Violations**

Certainly, in this modern-day, there is currently a near-worldwide general belief that each and every person is entitled to specific fundamental rights in any situation. As mentioned earlier, these rights consist of specific "civil liberties and political rights" and the foremost basic of these rights are "the right to life and physical safety"<sup>58</sup>. Human rights tend to be the articulation of the demand for "justice, tolerance mutual respect, and human dignity" in every people's actions. Talking of rights makes it possible for us to point out the thought that everyone is generally part of the scope of values and justice.

However, it should be noted that, safeguarding human rights means to make sure that all individuals are given a certain level of reasonable, humane treatment. To the contrary, when fundamental human rights are violated, that shows that peoples' basic moral entitlements have been taken away from them. It is actually that such individuals have been treated badly just like they are not humans and, therefore, do not deserve to be respected as equal to others. Instances are various actions of people towards other members of the society, like "crimes against humanity, which includes genocide, torture, slavery, rape, forced sterilization or medical experimentation, and purposive hunger". Due to the fact that these plans are oftentimes executed by governing bodies, constraining the

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<sup>58</sup> Don H,& Thomas G. W (2001). "The Responsibility to Protect: Supplementary Volume to the Report of the International Commission on Intervention and State Sovereignty". (Canada: International Development Research Centre),144.

unrestrained power of the state is an essential aspect of international law. Fundamental laws, which do not allow some of the several "crimes against humanity" are the standard of non-discrimination as well as the belief that some specific fundamental rights are applicable globally<sup>59</sup>.

In spite of the fact that in a few certain circumstances, states' specialists can suspend certain human rights through the discrediting handle. Particularly, within the worldwide setting, the proclamation of an across the nation crisis circumstance is one of the exceptionally few choices that allow the interference of particular human rights through forms alluded to as "derogation" arrangements<sup>60</sup>.

Derogation "represents the legitimately mandated authority of states," who are frequently bound by the obligations of constitutions, "to suspend particular gracious and political freedom so as to bargain with emergencies situation" and "can be approved solely by the concern to come back to typical after accomplishing the anticipated goal" <sup>61</sup>. The recognition that this instrument is distinguishing certain human rights, making it

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<sup>59</sup> See Don H & Thomas G. W 2001, pp. 145

<sup>60</sup> See Tapp, 2019, to discredit isn't compelled to an as it was worldwide setting, a person state can embrace it, fair that not each state has it consolidated in their states' constitutions, bringing around different approaches for the defense of human rights as well as unmistakable checking capacities, locally and universally.

<sup>61</sup> UNCHR 1982 working paper on the accountability of international personnel taking part in peace support operations submitted by Françoise Hampson," E/CN

conceivable for states to discredit from a number of rights, and setting out the circumstances in which these measures are respected as lawful - would show required adaptability with small or negligible checked right infringement, has driven to its selection into a few worldwide arrangements as well as a number of imperial states' constitutions. But the major challenge frequently confronted with usually “the right time to derogate” and “when not to derogate”.

### **3.4.3 The Various Forms of Human Rights Violations**

Looking at the number of how many people that have been killed as a result of "combat and the collateral damage" brought about by warfare tend to be merely a minimal portion of the severe suffering and destruction induced by conflicts. On the course of long-term conflicts, attacks on political rights and the basic human right to life are generally common. A few among the gravest violations of human right to life are "massacres, the starvation of entire populations, and genocide". The "term genocide is generally perceived as the deliberate extermination of a particular ethnic, racial or religious group". Getting rid of a party of individuals, bringing about severe physical or psychological damage, impacting actions to reduce delivery or intentionally moving young children are generally many means to cause devastation to a group. Genocide is commonly considered to be the highest crime one can commit against humanity.

Also, the term "war crime" relates to a breach of the principles of law (justice in war) by any anyone, no matter who is involved either armed forces or civilian<sup>62</sup>. The rules that guide armed conflict do not allow assaults on ordinary people as well as prohibit the use of firearms, which could result in severe impact or long-term environmental damage<sup>63</sup>. Various additional war crimes comprise holding people hostage, shooting on communities that are unprotected and while not having military importance, for example, in places like "hospitals or schools, inhuman treatment of prisoners, including biological experiments and the pillage destruction of property<sup>64</sup>. However, all these above-mentioned wrongful acts are obviously prohibited by international law, but these kinds of war crimes happen to be widespread among us.

Currently, the act of raping women and girls has become a normal thing among peacekeepers. Even as this problem persisted, there has been little to no significant efforts by the international community to deal with the challenge of sexual assault by the peacekeepers while carrying out their duties<sup>65</sup>. Then again, it should be noted that, sexual

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<sup>62</sup> Jordan J.P. 2001. *Human Rights Module: On Crimes Against Humanity, Genocide, Other Crimes Against Human Rights, and War Crimes*, (Carolina Academic Press.), 130.

<sup>63</sup> Hubert W. P. 2003, United Nations Press Release SG/SM/6524 SC/6503 "Secretary-General Says Proposals in his Report on Africa Require New Ways of Thinking, of Acting"

<sup>64</sup> Patil, V. T. 2001. *Human Rights, Third Millennium Vision*. Delhi: Authors Press, pp.3-5.

<sup>65</sup> Amnesty International, 2013 "*Amnesty International Report 2013: the state of the world's human rights*" (Index: POL 10/001/2013).



violence that usually consists of "sexual mutilation, sexual humiliation, and forced pregnancy" is now widespread. One of the factors fueling this act among the perpetrators could be such a viewpoint that "women are the spoils of war" that troops are entitled to. Women's trafficking is another type of "sexual slavery" through which women are moved across state boundaries and sold for prostitution. These kinds of supposed comfort women are some other instances of institutionalized sexual assault towards women in the period of war. Sexual assault is at times considered to be a means to harm males and destroy locality self-importance or perhaps hurt men who are unable to protect their women<sup>66</sup>.

There are situations whereby instead of just eliminating entire populations in a particular area, the federal authority's forces could possibly undertake systems of torture on everyone. Torture could be sometimes "physical or psychological" and the main purpose is to humiliate or annihilate the self-esteem of such individuals. However, physical torture may possibly comprise "mutilation, beatings, and electric shocks to lips, gums, and genitals"<sup>67</sup>. Whereas, while carrying out psychological torture, arrested persons is in some cases do not have access to water and food for some time interval, sometimes could be asked to remain standing for a number of hours, limited of rest and many others.

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<sup>66</sup> Women Watch, 2010, pp. 5

<sup>67</sup> Cassese A. 1990. *Human Rights in a Changing World* (Philadelphia: Temple University Press) 3 and 158. Chicago Press, p. 137. (ed.)

### **3.5 International Humanitarian Law**

International Humanitarian Law (IHL) at the same time generally known as the "laws of armed conflict" is a law which controls the conduct of war "Jus Cogen". This is an aspect of international law that tries to restrict the impact of armed conflict by defending individuals that are not taking part in conflict and by limiting and managing the means and approaches of warfare obtainable to combatants.

The concerns for humanity as well as the prevention of human suffering are the major factors that inspired international humanitarian law. It consists of a set of principles founded by "treaty or custom" which tries to protect people and property, which could be in one way or the other impacted by armed conflict and restricts the rights of parties to a conflict to make use of strategies and any warfare approach they feel like using<sup>68</sup>.

However, various international laws originated from some international legal agreements, for instance, the "Geneva Conventions, customary international law, standard rules of nations, as well as case law". To put this in a different way, international laws demonstrate how a nation should conduct herself during warfare, in how the nations relate with one another and how people interests and rights are guarded, generally indicating non-

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<sup>68</sup> International Committee of the Red Cross, Customary International Humanitarian Law (Cambridge: Cambridge Univ. Press, 2005), rule 93 ("Rape and other forms of sexual violence are prohibited").

combatants when relating with each other<sup>69</sup>. Additionally, it is intended for balancing humanitarian affairs and military basic needs and to subject hostilities to the rule of law simply by reducing its damaging impact and decrease sufferings attributed to war situations.

Major violations of IHL are generally referred to as "war crimes". International humanitarian law, "*jus in bello*", supervises the actions of nations' troops while engaging in warfare. It is however different from "*jus ad bellum*", which controls the conduct of engaging in armed conflict and also comes with crimes against tranquility and hostility. Collectively, the "*jus in bello*" and "*jus ad bellum*" consist of the two forms of the laws regulating any form of warfare and regulating all the facets of international armed conflicts.

The IHL is compulsory for every state bound by the suitable treaties. At the same time, one can find various other customary unwritten principles of warfare several of which were given consideration at the Nuremberg War Trials. As part of war principles, these at the same time explain that which are expected from parties to conflict along with restrictions regarding their conduct while engaging with irregular forces as well as non-signatories states. But it should be noted that IHL functions on a stringent division

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<sup>69</sup> *Ibid* 3

between rules suitable in international armed conflict and internal armed conflict, although this particular dichotomy is largely contested<sup>70</sup>.

For decades, international law scholars have contested the relationship between "international human rights law" and "international humanitarian law"<sup>71</sup>. In the views of pluralist scholars, international human rights law appeared different from international humanitarian law. Advocates of the constitutionalist strategy consider international humanitarian law as a subset of international human rights law. The bottom line is that, those people who give preference to independent, self-contained regimes underline the distinctions in usage; international humanitarian law is applicable simply under armed conflict situations (Yun, 2014). In contrast, a much more systemic viewpoint makes clear that international humanitarian law signifies the purpose of international human rights law. This consists of standard best practice rules that apply to anyone in every moment in addition to some particular rules that apply to specific conditions, for instance, armed conflict and armed forces activities or perhaps to specific groups of persons, which include displaced persons, such as "the 1951 Refugee Convention, the 1989 Convention on the

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<sup>70</sup> Jordan J.P. 2001. Human Rights Module: On Crimes Against Humanity, Genocide, Other Crimes Against Human Rights, and War Crimes, (Carolina Academic Press.), 130.

<sup>71</sup> Yun, S. 2014. "Obligations of Armed Non-State Actors Under General Human Rights Law – the Case of the Optional Protocol to the Convention on the Rights of the Child". Journal of Humanitarian Legal studies Volume 5, issue1-2

Rights of the Child and the 1949 Third Geneva Convention"<sup>72</sup>. Therefore, some of the key provisions under international humanitarian law would be highlighted below.

### **3.6 Key Provision and the Principle Applicable to Civilians under International Humanitarian Law**

As seen from the 4th Geneva Convention, there is more concentration on the civilian populace. A pair of added protocols put into practice in 1977 expand as well as enhance the security of the civilian in "international (AP I) and non-international (AP II) armed conflict": for instance, through the implementation of the principle limiting civilian attack in conflict situations. A "civilian" could be seen as "any person not belonging to the armed forces", which includes foreigners and displaced persons<sup>73</sup>. Even so, it is acknowledged that during operations, various military actions could result to civilian injuries.

#### **3.6.1 The Principle of Distinction**

The principle of distinction is responsible for protecting the civilian populace and civilian properties from the effects of military actions in war situation. This principle calls for each and every parties to a conflict to differentiate continually under any given situation, the difference between "combatants and military goals, on the one hand", and "civilians and

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<sup>72</sup> Davenport, C., & Armstrong, D. A., II (2004). "Democracy and the violation of human rights: A statistical analysis from 1976 to 1996". *American Journal of Political Science*, 48(3), 538-554. <https://doi.org/10.1111/j.0092-5853.2004.00086.x>

<sup>73</sup> Kesic, V. "The status of rape as a war crime in international law: Changes introduced after the wars in the former Yugoslavia and Rwanda". MA thesis, New School University, 2001.

civilian property on the other hand", and exclusively permitted to carry out their military actions against the former. It however withdraws such protection from civilians if they for any reason participate in such hostilities. This has been put into practice under customary international law during both international and non-international armed conflict situations.

### **3.6.2 Necessity and Proportionality**

Necessity and proportionality are both founded ideas in humanitarian law. Under International Humanitarian Law, a belligerent could employ exclusively the level and the kind of force needed to win a war. Additionally, it further clarifies that any attacks on the military side should not result in the loss of civilian life regarded as too much in regards to the direct military benefits expected. Military commanders within their capacity must ensure that casualties to the civilian must be at the possible lowest levels<sup>74</sup>.

### **3.6.3 The Principle of Humane Treatment**

The principle of humane treatment demands that civilians under any circumstances should be treated humanely always. Common Article 3 of the GCs stands against violence to human lives which includes vicious treatment and torture, taking people hostage, humiliating and awkward treatment of people, as well as killings without standard trial against civilians, including persons *hors de combat* "wounded, sick and shipwrecked". Every civilian deserves to be respected and given mental integrity, honor, family liberties,

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<sup>74</sup> Fleck D, "The legal status of personnel involved in United Nations peace operations", (2013) 95 International Review of the Red Cross 613

religious freedom and practices and their manners and traditions<sup>75</sup>. All these basic principles of humane treatment have long been established by the ICRC as a norm of customary international law pertinent in any conflict situation.

#### **3.6.4 The Principle of Non-Discrimination**

Another important principle of international humanitarian law is "the principle of non-discrimination". Given special preference to prisoners of war, civilians and persons hors de combat as a result of their race, gender, state, faith or political judgment is not allowed. All protected individuals would be managed under the same condition by the conflicting parties with no variation, depending on the aforementioned features. Everyone that has suffered under any conflict situation is qualified to apply for the protection of their basic rights and therefore be guaranteed free of bias.

#### **3.7 International Law against Human Right Violation during Peacekeeping**

Based on the sequence of reported cases of sexual abuse among the United Nations peacekeepers for the past few decades pressured the UNSC to establish disallowed actions and move to put into practice a "zero tolerance" solution<sup>76</sup>. According to a circulated bulletin from the United Nations Secretary-General in 2003, this focused on distinctive procedures geared toward protecting women and young girls from peacekeepers' sexual

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<sup>75</sup> Moghaddam, F. M., & Riley, C. J. (2005). Toward a cultural theory of rights and duties in human development. In N.

<sup>76</sup> UN 2003. Secretary-general's Bulletin on special measures for protection from sexual exploitation and sexual abuse, ST/SGB/2003/13, 9 October 2003.

harassment. This Bulletin's classification on sexual abuse, which in turn has turned out to be the global norm, involved "situations where women and girls are vulnerable and a differential power relationship exists between them and peacekeepers and humanitarian actors". The Bulletin clearly constrained any "exchange of money, employment, goods or services for sex, including sexual favor or other forms of humiliating, degrading or exploitative actions"<sup>77</sup>.

The Bulletin further emphasized the fact that "sexual exploitation and sexual abuse" amount to a major violation of human rights and are as a result grounds for disciplinary actions, such as dismissal. However, in one of the United Nations assessment reports in 2005, it was revealed that this Bulletin guiding principle was not conformed with and, in response to that, some comprehensive recommendations that would help the United Nations system to be completely overhauled so as to be able to tackle sexual abuse by peacekeeping troops<sup>78</sup>.

Clearly, the review document proposed some precautionary actions to be taken in order to reduce such human right violation among the peacekeepers. Among these recommended measures are training and sensitizing troops to issues of violence against women; "an effective program of outreach to local communities; data collection systems to track the

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77 UN 2013 Security Council report. [Org/atf/cf/7b5fc9b.6d27](https://www.un.org/News/Press/docs/2013/1306_SGSM.html)

78 UN 2005 security council resolution on the children and armed conflict.



investigation and resolution of allegations of sexual exploitation and abuse; and the establishment of several full-time positions at headquarters and in the field to coordinate action on sexual abuse and exploitation issues in missions”<sup>79</sup>. In addition, the evaluation report as well suggested that there should be an "on-site courts martial" by troop-contributing nations, which would probably help in access to witnesses and proof in peacekeeping places<sup>80</sup>.

One of the recent joint efforts between the United Nations Office of the Special Representative of the Secretary-General on Violence in Conflict (SRSG-SVC) and the African Union Commission (AUC) in 2014 brought about the signing of the Structure of Cooperation Regarding the Protection and Solution to Conflict linked Sexual Violence in Africa in order to jointly deal with conflict related sexual violence in the Africa region. Within the landmark arrangement, the AUC and the SRSG-SVC are regarded as focal points and the two organizations come to an agreement to work together on top priority aspects, for instance, "dealing with impunity for perpetrators and multi-sectoral services for survivors". The structure made the two organizations build a joint technique to bring sexual violence to its minimal level in conflict situation<sup>81</sup>.

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79 AUC 2013. Reviewed Code of Conduct specifies that soldiers should not “indulge in acts of sexual, physical or psychological abuse or exploitation of the local population” and that “any exchange of money, employment, goods or services” for sex must be punished.

<sup>80</sup> AUC (2013) pp 104

<sup>81</sup> AUC (2013) pp 110

It should be noted that, sexual abuse and exploitation in whatever form in a conflict environment breach international humanitarian and human rights law, which often are pertinent to the execution of peacekeeping missions. International humanitarian law put together principles protecting civilians in both international and local conflicts and both states and non-state actors are bound by these principles. According to the 1949 Geneva Conventions, international humanitarian law is likewise binding on soldiers engaging in multinational peace assistance missions in the event that they get involved in any violence act<sup>82</sup>.

All the four Geneva Conventions of 1949 and its Supplemental Specifications absolutely and clearly considered sexual violence a major violation of International humanitarian law. Moreover, Sexual violence is at the same time not allowed according to the "customary international law" and under the "international criminal courts". More so, sexual abuse and exploitation additionally breach conditions of key international human rights agreements most of which have been given consent to by state contributing troops for AMISOM<sup>83</sup>.

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<sup>82</sup> "Geneva Conventions 1949 and the two 1977 Protocols Additional to the Geneva Conventions" (Protocols I & II). Common article 3 to the Geneva Conventions prohibits "violence to life and person" including cruel treatment and torture and "outrages upon personal dignity." The prohibition of "outrages upon personal dignity

<sup>83</sup> See Red Cross 2005: another aspect of human rights likewise is the right the internally displaced person has according to "the United Nations resolutions on Internal

Another United Nations guiding principles on human right violations is "Resolution 1882", which prohibits violence against young children and, therefore, calls on states to put a stop to this form of violation. In the same manner, the United Nations Security Council Resolution 1820 regarding Women, Peace and Security prohibited any form of violence against women within conflict conditions, as well as sets out special guiding principles for nations as regards to peacekeeping operations<sup>84</sup>.

### **3.8 The Immunity of International Organizations Troops on Peacekeeping**

#### **Missions: Some Previous Experiences**

Under this subheading, the study will be discussing whether various states contributing troops usually are in all likelihood responsible for every violation of human rights by the peacekeeping personnel. Generally, this evaluation is in two dimensions: one is “whether the state in question exercises exclusive or effective control over its troops in the receiving country, and secondly, whether human rights obligations have extraterritorial application to the sending country”<sup>85</sup>. However, according to a recent recommendation in both the

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Displacement, the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) and the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa" (Kampala Convention)

<sup>84</sup> United Nations Security Council Resolution (2009) 1882 on Children and Armed Conflict, 2009, paras. 1 and 16.

<sup>85</sup> *Al-Skeini v. UK*, App. No. 55721/07, 7 July 2011.

European Court of Human Rights and the Inter-American human rights system, Al-Skeini propose that human rights responsibilities do apply extraterritorially whenever a state has efficiently managed its military actions in other states. One instance was the conclusion by the Dutch Supreme Court maintaining the fact that the Netherlands was accountable for the killings of three Bosnian Muslim brothers in the 1995 Srebrenica massacre.

When acting in their official capacity under the United Nations peacekeeping mission, some Bosnians were chased out by the Dutch peacekeepers from the UN refuge complex at the time of the genocide in Srebrenica, thus resulting to theirs being killed by Bosnian-Serb forces<sup>86</sup>. The Dutch Supreme Court discovered that, within international law, whenever a group from a particular state is carrying out an action and assuming they are doing that under an international organization, its actions are however associated with the state that send them, the international organization or perhaps both of them. However, in cases like this, it was affirmed by the Court that despite the fact that the United Nations along with Dutch authorities were in charge of the troops involved, it is believed that the Dutch authorities had "effective control" at the time when these activities were carried out and were as a result accountable for any misconduct by the peacekeepers<sup>87</sup>.

In my own opinion, I considered such judgment to be of utmost necessarily considering that it figures out that peacekeepers tend not to act in a legal vacuum in addition to the

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<sup>86</sup> Marlise, S. (2007). Dutch peacekeepers are found responsible for death N.Y Times

<sup>87</sup> See Marlise, S. 2007, pp. 67, para 1

fact that prosecution immunity would not automatically be applicable to all United Nations or peacekeeping operations, rather to any individuals that have acted without breaking the law while carrying out their charged responsibilities.

Despite the fact that this judgment fails to be construed as a binding precedent in places other than the Netherlands, it may be a sign that various other courts could possibly as well hold states accountable for the activities of their peacekeeping forces working in foreign countries. However, many other law courts could possibly consider the Dutch Supreme Court's judgments due to the fact the Court prior to its decision took into consideration two sets of rules designed by the International Law Commission of the United Nations: “the Draft Articles on Responsibility of States for Internationally Wrongful Acts of 2001 and the Draft Articles on the Responsibility of International Organizations of 2011”<sup>88</sup>.

However, according to the Dutch Supreme Court, any time the Netherlands supports United Nations peacekeeping missions through troops contribution, it should be noted that these contributed troops would continue to remain in the service of the Netherlands and only the state has the authority to come to a decision on personnel matters and take

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88 UN Charter, Article 2 (7): "Nothing contained in the present charter shall authorize the UN to intervene in matters which are essentially within the domestic jurisdiction of any state."

necessary disciplinary actions in line with the state criminal laws<sup>89</sup>. Therefore, several other legal courts having this kind of case may in the same way make use of this sort of point to prove the fact that a state can take necessary disciplinary action against its troops serving abroad for peacekeeping<sup>90</sup>.

One more instance of a situation where peacekeeping operations have led to problems in a host state is that of the United Nations peacekeeping mission in Haiti. The UNSC in 2004 organized the United Nations Stabilization Mission in Haiti (MINUSTAH) after an arm struggle that forced the country's President to step down. In response to the year 2010 terrible earthquake, the United Nations Security Council increased the number of MINUSTAH soldiers in Haiti. Some of the added troops were sent from Nepal to be a part of the MINUSTAH peacekeeping personnel in Haiti. However, the Nepalese troops following their arrival in Haiti were stationed in an area with close proximity to a tributary of the Artibonite River that happened to be the country's primary sources of potable water. Stationing troops close to the country's major source of water is not the problem, but the problem is the poor sanitation facilities and sewage constructed by the UN for the Nepalese ultimately polluted the tributary with cholera. Because the Cholera diseases is a widespread problem in Nepal and there was a cholera breakout in Nepal earlier before the

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89 Wilson, R. J. & Hurvitz, E. S. (2014). Human Rights Violations by Peacekeeping Forces in Somalia. Human Rights Brief. Volume 21 | Issue 2, article 1

<sup>90</sup> Wilson, R. J. & Hurvitz, E. S. 2014, pp 22

troops came down to Haiti for peacekeeping mission. The Haitian Ministry of Public Health observed after their investigation an indication of cholera disease around the river the MINUSTAH camp in about two months that the soldiers arrived at Haiti from Nepal<sup>91</sup>.

The United Nations when received the report of this cholera rejected the cholera outbreak and claimed it to have been caused by the improper sewage facilities built on the Haiti major source of water, although one article made available by the Yale School of Public Health and the Yale Law School on this issue came to the conclusion that the United Nations was responsible for the Haiti cholera outbreak and that the United Nations' not taken the responsibility and as well rewarding the affected individuals from this outbreak were seen as a breach of an obligation agreement with the Haitian federal government according to the international law<sup>92</sup>. Individuals affected by this cholera outbreak took legal action against the UN through a law suit filed in a United States federal court as at 2013. But a statement from the United Nations claimed that it could not accept the law suit pursuant to Section of the Convention on the Privileges and Immunities of the United Nations. "This convention is binding on the United States, and in addition to the Convention, the U.S. International Organizations Immunities Act provides that international organizations shall enjoy the same immunity from suit and every form of

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<sup>91</sup> Ivan, W. Joe, V (2013) U.N sued for bringing cholera to Haiti, causing outbreak that killed thousands.

<sup>92</sup> Ivan, W. Joe, V 2013 pp 24

judicial process as is enjoyed by foreign governments, except to the extent that such organizations may expressly waive their immunity for the purpose of any proceedings or by the terms of any contract" (UN charter, 2004).

Therefore, according to these international and domestic legal tools, the United Nations' disagreement with the law suit hold under the immunity and privileges the Convention pointed out. It should be noted that this UN and Haiti situation nevertheless raises significant concerns regarding the degree to which traditional organizational immunities can be overrule by the more basic values built in in the international human rights of victims of severe or ongoing human rights violations.



## **CHAPTER 4**

### **HUMAN RIGHTS VIOLATION ATTRIBUTED TO PEACEKEEPING FORCES IN SOMALIA**

#### **4.1 Introduction**

This chapter mainly exploits the human rights violation attributed to peacekeeping troops in the Somali state; it therefore considered some of the reported alleged sexual exploitation by AMISOM peacekeeping forces in Somalia and alleged sexual harassment by the United Nations peacekeeping troops and the national forces of Somalia. And lastly, efforts towards criminalizing sexual exploitations and abuses by peacekeepers were discussed.

#### **4.2 Human Rights Violations by Peacekeeping Forces**

Over the past fifteen years, the policy and academic literature on peacekeeping and human rights violation most especially sexual exploitation and abuse (SEA) have steadily grown and the theme has largely been the concern of feminist scholars, and activists and the media. So far, peacekeepers have been accused of a range of crimes: from trading “sex for food”, organizing trafficking in women through to rape and murder. Still, it seems that eradicating the crimes and criminal behavior of peacekeepers remains problematic and with no long- term solution.

#### **4.2.1 Human Right Violations by AMISOM Forces in Somalia**

According to Human Rights Watch (HRW), more than twenty occurrences of sexual abuses and maltreatment by AMISOM troops were recorded that took place mostly in the AMISOM base in Mogadishu. To some extent, the HRW investigation uncovered a specific pattern of maltreatment, which might be regarded as systematic, though its investigators could not inspect some places in which AMISOM forces were stationed. Yet, the HRW result of investigations brought about major concerns regarding the violations of human rights by AMISOM troops against Somali women and young girls.

However, according to some of the survivors of these exploitations, they felt helpless, dreadful of fighting back or retribution and even the stigma and a sense of shame of such maltreatment brought to them, many continue to endure because they have no other places to go as they didn't want to leave their inherited homes. More so, the HRW findings' outcomes were in accordance with earlier accounts by United Nations organizations and the Security Council Monitoring Group on Somalia and Eritrea (SEMG), which observed that claims of sexual abuse and maltreatment among AMISOM peacekeeping forces continued to emerge daily<sup>93</sup>.

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93 UNDP, UNPOS, & UN (2012). "Woman, "Violence in the Lives of Girls and Women in the Somali Republic, on file with Human Rights Watch. The report assessed types of violence against women and girls in Somalia and included allegations of sexual exploitation by AMISOM forces in exchange for money and food"

One of the advantages AMISOM soldiers had is the substantial earnings as well as easy access to food items compared to several Somalis living in the neighborhoods of the troops' base, most especially displaced people. The salary scale of every soldier deployed for AMISOM mission was expected to be given not less than \$1,000 per month, with about \$200 being removed by the states contributing the troops<sup>94</sup>. However, with how these women were exposed and the level of power relations between them and the troops, this act was obviously “sexually exploitative”, as described by the United Nation Secretary-General’s 2003 article on exclusive procedures for protection from sexual abuse<sup>95</sup>. From most of the sexual exploitation recorded, there was always the involvement of a Somali intermediary, in many cases said to be an interpreter between the locals and the soldiers, getting women and girls for the soldiers to molest them either while these women were seeking humanitarian supports or medications<sup>96</sup>.

According to the report of International Refugee Rights Initiatives (IRRI): “Some girls were been taken to Uganda and are in a dire situation. A few girls have been infected with HIV. Sexual and gender-based violence and exploitation are common”<sup>97</sup>. The reports of

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94 Barbara, E ( 2014) “AMISOM relief as EU releases \$1b for security,” The East African, July 19,2014, (accessed July 23, 2014), <http://www.theeastafrican.co.ke/news/Amisom-relief-as-EU-releases--1b-for-security/-/2558/2390216/-/bt2b0q/-/index.html>

95 UN (2013) Security council report. Org/atf/cf/7b5fc9b.6d27

<sup>96</sup> UN 2012 reports pp 24

<sup>97</sup> IRRI (2016). International Refugee Rights Initiative annual report, *Country Reports*. December 2016 [www.refugee-rights.org/countryreports](http://www.refugee-rights.org/countryreports)

human rights groups, for instance Amnesty International<sup>98</sup> and Human Rights Watch<sup>99</sup> had at the same time verified accusations of sex-related assault of vulnerable women and girls at the hands of peacekeeping soldiers. After the release of the HRW report in 2014, the African Union established a helpline, an evaluation panel to organize policy plan as well as a team to investigate various allegations of the misconduct of its troops. The investigation team was able to affirm two violation cases among the 21 misconducts reported by the HRW and for that reason recommended to AU various approaches to tackle such a situation<sup>100</sup>. According to the force commander in responses “camps had been sealed against any unnecessary interaction with the civilian population” and that “businesses had been removed from within the camps, thus reducing contacts between civilians and soldiers”. Even though it is likely that this may possibly assist to reduce the possibilities for sexual violence, it at the same time broadened the “them and us” ideas between the mission and Somali people, which had been criticized by many individuals that gave the account of their experience with the soldiers<sup>101</sup>.

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<sup>98</sup> Amnesty International, (2013) *Amnesty International Report 2013: the state of the world's human rights* (Index: POL 10/001/2013).

<sup>99</sup> Human Rights Watch (2014). Qamar R., Mogadishu, February 7, 2014. All names of survivors used in the report are pseudonyms

<sup>100</sup> African Union report, 2015, pp. 46.

<sup>101</sup> IRRI report (2016): pp 24

One among the rape cases, according to a victim, "a soldier raped her and that soldier's gang raped three other women who were with her at the same time"<sup>102</sup>. Also, in the UPDF base in north Mogadishu was an alleged case of child rape on the borders of the Baidoa community by a Ugandan soldier. However, majority of these sexual exploitations took place between 2013 and 2014. It was however learnt that the soldiers had access to these women through giving of medical treatment to them when they were ill or when in need of humanitarian services<sup>103</sup>.

Another rape incidence was that of 15-year-old, Qamar, R. in late 2013 who visited the Burundian X-Control base in order to receive medication for her ill mother. According to Human Right Watch, an interpreter was said to have instructed her to go and take the medication she needed from two Burundian soldiers. She acted according to the instruction given to her and followed the two solders to a less crowded apartment where they raped her and gave her a sum of 10 dollars while leaving<sup>104</sup>.

The account of many other women and girls that had been sexually exploited in one way or the other likewise talked about the military men giving them food items and/or cash following their heinous act just to make them look like they practice transactional sex and,

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<sup>102</sup> HRM 2014:13

<sup>103</sup> UNDP, (2014). Woman, "Violence in the Lives of Girls and Women in the Somali Republic," 2014.

<sup>104</sup> HRW 2014, pp. 23

therefore prevented them from talking to the authorities about it. There is also the case of Ayanna, S., in 2014. Ayanna was a displaced person and visited the Burundian X-Control base on a Monday to receive medication for her ill child. According to Ayanna, she was instructed by a Somali interpreter at the base to come back alone. After she returned on the second day, the same Somali man told her and other three other young girls to go and meet some uniformed men close to a bunker. According to Ayanna, "the soldiers held them at gunpoint, pulled them into a bunker area, and threatened them, they beat and raped four of us and severely injured one of us. We had to carry the injured girl back home. They gave us porridge, cookies, and \$5, but they didn't say anything to us, they threw the items at us and a bag to put them in. We carried them with the girl. We never got our medications we went there for"<sup>105</sup>.

In a more recent sexual violence accusation by the AMISOM troops, according to a report by International Refugee Rights Initiatives in 2017, the account of a man in Mogadishu described how his son died in 2014 which he ascribed to the AMISOM mission: "My son was brought to my house by members of the community after he had been run over by AMISOM. There were so many witnesses. I was told an AMISOM police tank had run him over. Someone had noted down the license plate. The officers in the car were wearing uniforms with the Ugandan flag. They were travelling very fast and ran over him

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<sup>105</sup> HRW 2014, pp. 35

completely. They didn't even stop. There was nothing we could do for him"<sup>106</sup>. Even though the AMISOM authority did follow-up on the accusations and even came to question the family of the deceased, the case ended without getting expected justice for the victim.

However, aside the issue of sexual exploitation, there was at the same time regular discuss of violations by AMISOM causing the deaths of many civilians. According to the report of HRW, one particular occurrence that was regularly mentioned, in particular by civilians from Marka, was the incidence that happened in 2015 in a wedding ceremony where six men were killed by Ugandan soldiers. According to a report of IRRRI 2016<sup>107</sup>: "In Marka, they killed innocent people celebrating in a wedding ceremony. They [also] have run over many people with their convoys. You can't say every time it is an accident"<sup>108</sup>. HRW reported this occurrence and reported on how AMISOM failed to look into it or reward the affected persons of yet another event that happened in July 2016, where 14 civilians were allegedly killed by Ethiopian troops in Somalia's Bay region.

In a different account also, a woman in her testimony mentioned that "hit and run" incidents regularly take place, and referred that this was due to the fact AMISOM soldiers were afraid our people would likely attacked them if perhaps they stopped to take

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<sup>106</sup> IRRRI report (2016): pp 25

<sup>107</sup> IRRRI report (2016): pp 32

<sup>108</sup> "Human Rights Watch, Rape by Peacekeepers UN, Troop-Contributing Countries Should Hold Abusers Accountable, February 4, 2017".

responsibility. An additional account also maintained that troops indiscriminately shoot during an attack: “When their base is attacked or troops get attacked, they come out and start firing at people. The troops they don’t differentiate between Al-Shabaab and civilians”<sup>109</sup>.

Only between 1st September, 2015 and 31st May, 2016, the United Nations affirmed 25 civilians have been killed and all the deaths were linked to AMISOM. However, it was just in two of those cases that AMISOM acknowledged its members’ involvement. AMISOM was accused in several incidents of killing civilians “through the indiscriminate and/or excessive use of force in response to an attack on their forces, or the commission of purposive acts of retaliation or punishment”<sup>110</sup>.

#### **4.2.2 Human Right Violations by United Nations Peacekeepers**

Following the conclusion of the Cold War, the transforming structure of United Nations peacekeeping missions made the organization to modify and broaden its missions from "traditional missions" consisting of stringently military actions to more elaborate "multidimensional approach" that could bring about the inclusion of all-inclusive peace deals so as to aid the laying of solid structure for lasting peace<sup>111</sup>. However, in the modern time, peacekeeping missions involve a series of complex tasks all geared toward assisting

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<sup>109</sup> IIRRI report (2016): pp 28

<sup>110</sup> UNSC (2016). “United nation security council” resolution 1772. S/res/1772/2016

<sup>111</sup> UN (2010) proposed capacity on personnel conduct issues,” A/60/862, May 24, 2010.



nations affected by conflict to build self-sufficient institutions for effective governance, to protect people rights, encourage building security of life and property, to control illegal arms flow, rehabilitation and reintegration of former militia groups' members<sup>112</sup>.

In spite of the developmental and changing goals of the organization, nonetheless there have been various accusations of serious sexual harassment by United Nation peacekeeping troops for a number of years, although the possibilities for sexual exploitation among peacekeepers that are on missions is well acknowledged. According to a former Assistant Secretary General for United Nations Peacekeeping, "sexual abuse is either a problem or a potential problem in every single one of the United Nations peacekeeping operations<sup>113</sup>.

In 1992, an accusation that United Nations peacekeeping troops were engaged in cases of sexual harassment against local girls and women was countered by one popular statement that "Boys will be boys" by Yasushi Akashi, a former head of the United Nations Transnational Authority in stationed in Cambodia. Such kind of thought, however, has somewhat been equally associated with another famous viewpoint of Nazi Propaganda Minister, Joseph Goebbels, that "Men should be trained as warriors and women as

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<sup>112</sup> See UN, 2010: A/60/862, May 24, 2010.

<sup>113</sup> Martin, S. (2005). *Must boys be boys? Ending sexual violence and abuse in UN peacekeeping missions*. Washington, DC: Refugees International, 2005.

recreation for warriors, anything at all other than this amounts to foolishness"<sup>114</sup>. These kinds of point of view have for a very long time displayed major Officers ideas concerning situations of sexual exploitation and harassment by peacekeepers<sup>115</sup>.

Generally, one may not be able to say that obviously the sexual exploitation and abuse (SEA) cases in United Nations Peacekeeping Operations (UNPKO) are increasing or decreasing. With respect to the Conduct and Discipline Unit (CDU) previous reports, for instance, the number of cases reported in 2012 dropped but in the year 2013 a sharp increase was observed. However, the report in 2014 and 2015 was also similar, as 24 and 18 cases were reported respectively<sup>116</sup>, although this fluctuation in the number of cases ought to be handled carefully, as these changes observed could be as result of "changes in the rates of coverage, changes in awareness, the readiness of the DPKO to follow-up on accusations, and the level media interest to release details regarding such incidents.

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114 Kesic, V. (2001). "The status of rape as a war crime in international law: Changes introduced after the wars in the former Yugoslavia and Rwanda". MA thesis, New School University, 2001.<sup>115</sup> Ballesteros, A. (2004) "Trafficking in human beings and international peacekeeping missions: The 2004 NATO THB policy". *Connections* 6/3. 2007. 125.

<sup>116</sup> Simic, O. "Protection from Protectors: Sexual Abuse in UN Peacekeeping Missions, In: e-international relations" [online]. 2015-10-9 [Accessed 2020-11-30]. Available at: <<http://www.e-ir.info/2015/10/09/protection-from-protectors-sexual-abuse-in-un-peacekeeping-missions/>>.

#### **4.2.3 Human Right Violations by The National Forces of Somalia and al-Shabaab**

Nearly all the parties involved in the persisted armed conflicts, which included the AMISOM troops and national forces of Somalia (NFS), had in one way or the other broken international human rights and humanitarian law<sup>117</sup>. For more than the two decades that this conflict was on, innocent lives had been lost and many injured during struggles between armed groups and government forces. However, it is quite challenging to have the actual number of civilian victims due to lack of a casualty monitoring system, in spite of suggestions by the UNSC and the AMISOM of the need for such system to be put in place for effective casualty monitoring<sup>118</sup>.

Even though there was a fall in recorded civilian casualties in 2012, insecurity continued to be on the high side and also civilians became more vulnerable to the risk of indiscriminate fire, the primary target of attacks. Between the first and second quarter of 2014, a large number of civilians murdered indiscriminately was caused by being trapped in between gun battle among armed groups and government force. There had at the same time been various attacks targeted at places of high value and person of high profile like "Villa Somalia, the presidential palace", which had been under gun fire attack for more than twice between 2013 and 2014. Even the Parliament house was not left out, as it was

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<sup>117</sup> Amnesty International Report (2012). (Index: POL 10/001/2012 Sexual exploitation and abuse have been reported throughout UN peacekeeping missions, including Cambodia

<sup>118</sup> UNSC (2012), United Nations Security Council resolution art. 17

as well in May 2014 attacked, leading to the death of ten civilians<sup>119</sup>. Weeks later, the Al-Shabaab organization claimed to be responsible for the above-mentioned attacks and maintained the power to embark on several attacks into 2015, undertaking one to two heavy attacks every month. Since the year 2011, civilians have continued to be a primary target of armed attacks and killings in central Somalia. In spite of Al-Shabaab's disengagement of their various militia and weapons from Mogadishu in August 2011, the group however had ever more engaged in more directly civilian killings<sup>120</sup>.

In July 2014 at the time of the Ramadhan celebration, the incidence of assassination attempts got to its peak after the Al-Shabaab organization lost its grip on power in the capital city. The residents became so much vulnerable to armed men attacks from both the national force and Al-Shabaab force for a range of purposes. For instance, there were 3 men who were arrested and believed to be spies possibly for the Central Intelligence Agency (CIA) and United Kingdom intelligence. These men were seemingly shot and killed in the open public by the Al-Shabaab force in Marca in July 2012. Another incident was a

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119 UN (2013) Security council report. Org/atf/cf/7b5fc9b.6d27

120 Amnesty International, (2013) "*Amnesty International Report 2013: the state of the world's human rights*" (Index: POL 10/001/2013).

woman who was presumably stoned to death by hooded men in Barawe in September 2014. Her crime was said to be on the suspicion of bigamy<sup>121</sup>.

In an attempt to change the policy guiding recruitment into the force in 2012, the government brought in two action projects in order to avoid and put a stop to the recruitment of the underage into their forces, in addition to protect against the killing of young children by parties in conflict. In spite of the fact that the regular operating principles for dealing with children previously connected with armed groups were signed by the Minister of Defense and the Minister of National Security, this principle have suffered a setback, as it has not been put to practice. Children in their large number were constantly recruited by Al-Shabaab group as well as even forced by the group into marriage. More so, the government-affiliated militias are likewise guilty of children soldier recruitment. According to a report from Amnesty International in 2011, about 50 children found to be below the age of 18 were recruited by the national army and at the same time sent overseas to undertake military training<sup>122</sup>.

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121 UNHCR, A (2015) “United Nations High Commissioner for Refugees, *country operations profile – Somalia*, available at <http://www.unhcr.org/pages/49e483ad6.html#>, accessed 15 June 2015”.

<sup>122</sup> Amnesty International, 2013, pp.69

### **4.3 Efforts toward Criminalizing Sexual Exploitation and Abuse by Peacekeepers**

In spite of the peacekeeping troops' huge role they have played to bring about long lasting peace and security among various parties to conflict in our society, there have been reported cases of sexual exploitation and abuse of the weak local people they are expected to take care of. Unfortunately, the peacekeepers reap some benefits from close to absolute impunity. It can be said that the position of peacekeeping troops in states with weak legal and social supports could encourage the sexual exploitation of the vulnerable population. An instance could be seen from states, such as "Angola, Bosnia and Herzegovina, Cambodia, Democratic Republic of the Congo (DRC), East Timor, Eritrea, Kosovo, Liberia, Mozambique, Sierra Leone, and Somalia", of many cases of immorality, such as rape, pedophilia and prostitution and also some other kinds of sexual abuse and exploitation that became the normal tradition among peacekeepers in the recent time<sup>123</sup>. The consequence of this sort of actions and violations of human right is huge. Apart from the fact that it has a negative impact on the individual victim in the society, its implications for the status and image of peacekeeping missions and even for the United Nations in general are at the same time very broad, perhaps interfering with the organization from effectively undertaking some other facets of its operations<sup>124</sup>.

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<sup>123</sup> Chiyuki A. (2017). Cedric de Coning, and Ramesh Thakur, eds., *Unintended Consequences of Peacekeeping Operations* (New York: United Nations University Press,).

<sup>124</sup> UNGA, 2017: 23

Moreover, there have been various challenges faced whenever sexual misconduct claims are to be investigated. Without a doubt, understanding from international criminal tribunals and courts highlights the point that until both a clear functional technique and detectives exclusively trained in the analysis of this kind of criminal acts are made available, information of a sufficient high quality is less likely to be obtainable<sup>125</sup>. In other words, the stigma, worry, pressure and isolation caused by this kind of barbaric act necessitate exceptional exploration techniques. This need is in particular distinct whenever both the suspected individual and the detective are foreign nationals. But the truth is that the difficulties related to effectively and properly investigate sexual violence cases would continue to come up regardless of the suspects and the investigators' nationality<sup>126</sup>. I must say, that these difficulties faced may be attributed to the typical nonchalant attitude toward the thorough investigation of alleged sexual exploitation cases, thereby making it not surprising that a number of the accusations are not thought of to have led to criminal prosecutions. With respect to the United Nations Model Status of Forces Agreement, "troop-contributing states have the special responsibility to discipline

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<sup>125</sup> UN (2009) "proposed capacity on personnel conduct issues," A/60/862, May 24, 2006. See also UN Secretary-General, "Special measures for protection from sexual exploitation and sexual abuse".

<sup>126</sup> Simi, 2015: pp 5.

and criminally sanction their military contingents"<sup>127</sup>. Most likely for some other employees that states contributing troops do not have total jurisdiction, the intensified action has regales been for the United Nations to direct the issues to the troop contributing states.

As soon as accusations of major violations carried out by peacekeepers are raised, the United Nations in response could repatriate such personnel involved and therefore, give recommendations to the state contributing troop, and suspend such personnel from taking part in any future peacekeeping missions. While suspected individuals made a comeback to the sending state, suspects at this point could and need to be subjected to that country's criminal and disciplinary jurisdiction. But, according to Françoise Hampson, having this kind of trial involves specific practical challenges, which include being able to access information regarding the incidence from the host state. At the same time, local laws likewise will not at all times be permitted to carry out extra-territorial prosecutions. Eventually, some of these gaps could protect against specific groups of individuals or specific kinds of criminal acts from being charged. Hence, if the states contributing troops are not able to take action for any other above-mentioned reasons, the result is impunity<sup>128</sup>.

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<sup>127</sup> UNGA (1990) "Model status-of-forces-agreement for peacekeeping operations, report of the Secretary General", A/45/594, October 9, 1990." The different categories and status of persons on missions is described in UN Commission on Human Rights".

<sup>128</sup> UNHCR, A ( 2015) United Nations High Commissioner for Refugees, *country operations profile*



Details regarding troop contributing state investigated cases of misconducts and prosecutions is inconsistent and accessible principally via anecdotal public media accounts. This is as a result of the United Nations Department of Field Support's Conduct and Discipline Unit used to release simply general reports of cases, not really details on concluded prosecutions for every state contributing troop for its operations. That is, the data mostly take note of the total number of allegations the Conduct and Discipline Unit has accepted to its queries still not the one each state have taken expected legal action about or concluded.

One of the challenges facing when it comes to the issues of peacekeepers violating local people human rights is too much media focus on those cases that are found to be specifically notorious or well publicized cases. Not too long ago was a reported case tried in a Pakistani court martial operating in Haiti obviously determined that a few Pakistani police officers were guilty of sexual abuse<sup>129</sup>. For instance, major details that implicated 14 Moroccan soldiers supporting in Côte d'Ivoire which included DNA information exhibiting that they had fathered children- even with all these evidences, the Moroccan federal government still dropped all legal charges against them. Another instance was that of several claims against Indian troops for their alleged involvement with underage sex

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<sup>129</sup> However, this reported case seemed to be far more an exemption as compared with the rule. Several convincing claims had not really in the past lead to criminal prosecution.

relationships in the DRC was in the same way not seen to have led into any meaningful legal prosecutions<sup>130</sup>.

Moreover, another recent misconduct case of peacekeepers was that of a Uruguayan soldier allegedly believed to have abused a teenage boy sexually in Haiti. Through the influence of the media publicity of this case, the Uruguayan President was said to have been pressured to give an apology on behalf of the force. Even so, obviously due to paucity of information in spite of the circulated video footage in social media, much lesser legal action was only taken against the soldier in question. In my own view, an effective legal action against the suspect or culprit of sexual violence or misconduct demands competent and experienced investigators at the beginning in order to figure out the way and method to adopt while gathering the relevant information required to bring the perpetrator to face the wrath of the law. I believe as well that this expertise could be found within the United Nations personnel, although it may not be as such within local military prosecutors, regardless if this is coming from a troop sending state or the host country<sup>131</sup>.

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<sup>130</sup> Steve S. (2010) "U.N. Peacekeepers Dodge Discipline," *Wall Street Journal*, March 22, 2010, <http://online.wsj.com>.

<sup>131</sup> Gerald C (2012) "Peacekeepers gone wild: How much more abuse will the UN ignore in Congo?" *Globe and Mail*, August 3, 2012, "[www.theglobeandmail.com/news/politics/second-reading/peacekeepers-gone-wild-howmuch-more-abuse-will-the-un-ignore-in-congo/article4462151](http://www.theglobeandmail.com/news/politics/second-reading/peacekeepers-gone-wild-howmuch-more-abuse-will-the-un-ignore-in-congo/article4462151)"

However, in 2007, the "model memorandum of understanding" guiding the relationship between the state contributing troops and the United Nations responded to the suggestions made in the Zeid report. This to some extent help to put more importance on why the organization and the supporting states make sure that soldiers found guilty of any misconduct while on a mission are prosecuted by the sending states. More so, this new development was followed by guarantying on information sharing, permitting the United Nations to conduct its preliminary investigations and vetting the accused before sending them back to their state of origin<sup>132</sup>.

The Somali state, despite the fact that it is slow but gradually coming through from its status as "a failed state", would have to make sure that its citizens enjoy some of the fundamental human rights law the abiding individual enjoys elsewhere. I think Circumstances whereby only a few strictures on violation, major discretion in operational setting, and the international immunities ought in no way to work as a cover from both "violations of fundamental human rights or grave violations of the laws of war", considering that at this time there are regulations guiding peacekeeping operations, and anyone found violating such principles should be brought to book. In addition, I believed that International peacekeepers have played a huge role in bringing peace back to some of the war torn countries across in the World, yet they should not make worse an already complicated situation through their actions.

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<sup>132</sup> id

## **CHAPTER 5**

### **CONCLUSIONS**

#### **Conclusion**

This study focuses on the "Human Right Violations by the Peacekeeping Forces in Somalia during peacekeeping operations". After the Cold War, a number of International human rights guiding principles were passed into law to uphold world peace and safeguard mankind in all situations even at the time of conflict situations. However, these kinds of law build peace in a crisis situation and enforce the basic principle of common humankind, as well as call for resolution. It generally stands against the use of limitless force or absolute war and looks for how to prohibit the utilization of assault in the hope of sustaining the required conditions for a comeback to peace situation.

However, in some cases, conflicts advance further than the level that international standards in any crisis conditions are not abided with. When the number of affected individuals increases and a lot more persons are taken captive, tortured or perhaps killed of which is abuse of their right to life; it as a result becomes a lot more challenging to follow the guidelines of human rights laws. As mentioned by the international human rights law, any forms of violations in conflict situations breach "international humanitarian and human rights law" that are pertinent to peacekeeping troops while on missions. International humanitarian law define defense for ordinary people in both

international and internal armed dispute situations and in addition to its being applicable to either state or non-state peacekeeping forces. Also, as seen from our analysis, International humanitarian law is at the same time "binding on troops participating in multinational peace support operations" in the event that these troops participate in conflicts.

Furthermore, this study finding revealed that, in the last three decades, the Somalis have suffered high levels of human rights violations in the hands of peacekeepers either from the United Nations peacekeepers or the African Union. However, the national force of the Somali state is not left out as one of the perpetrators of these heinous acts. These violations range from illegally detaining of journalists, torture, killings and, above all, abuse of women and children rights. The protracted social conflict in Somalia has led to the occurrences of sexual assault against "women, men, boys and girls", with women and girls in particular being affected most. Continuous lack of security, weak rule of law and being short of humanitarian aid have made worse the violations of human rights in the state. Gender inequality, power imbalances and slow development toward meeting Somalia's responsibilities under international human rights treaties among others, contributed to the building of an environment in which citizens' fundamental rights are taken away most importantly women and children that are vulnerable to gender based violence, including conflict related sexual violence and sexual exploitation and abuse from state forces and the external forces saddled with the responsibilities to protect the people. Women and

children who are homeless or from marginalized ethnic groups are affected most because of insufficient defense systems, being short of or simply having minimal access to formal and informal legal rights systems.

On the other hand, the study shows that it is not only the external forces behind these acts; the violation of human rights or abuses has continued to be carried out by the members of the "Somali National Armed Forces (SNAF), armed opposition and some other militia groups". As reviews show, not less than fifty percent of these acts were carried out by armed men on government uniforms. As a result, this is absolutely against the principle of international human rights law that says, "All protected persons shall be treated with the same consideration by parties to the conflict, without distinction based on race, religion, sex or political opinion. Each and every person affected by armed conflict is entitled to his or her fundamental rights and guarantees, without discrimination".

However, regardless of peacekeepers' great efforts as well as the sacrifices that have been made in the past just to ensure that civilians have peace and adequate security, African Union troops currently have more and more been linked to abuse and violations of human rights, in particular, the sexual exploitation of the women they are mandated to protect. Sadly, they benefit from close to complete impunity. It is a simple fact that the presence of peacekeepers in states with weak legal and social systems could promote the abuse of human rights. And as such, the fact that peacekeepers could only be charged by the troop sending states is really limiting the host countries of the power to prosecute the 76

peacekeepers when they carried out these violations of citizens' rights. And I must say, little to none efforts have been put in place to correct these anomalies. That is a mockery of international human rights law, so to say.

Why do I say so? In the same way I pointed out previously, in 2013, the accusations of mass rape presumably carried out by particular government forces in the Democratic Republic of Congo apparently driven the United Nations to evaluate the components of its security segment assistance in the state but that is not enough because at the end the dozens of sexual abuse accusations towards Africa Union and United Nations peacekeepers in the DRC continued to be unattended to till date. This is part of the weakness of the hosting states' inability to hold peacekeepers responsible for their actions under their national laws. Major violations of international humanitarian laws are referred to as "war crimes" and these are absolutely against the key conditions and basic principle applied to civilians in conflict situations under international law.

However, it should be noted that the consequence of these wrong doing and different kinds of violations is stark. But not just is it a primary one for the majority of somewhat insecure sections of population, its implications for the position of peacekeeping project to African Union and the United Nations in general are in addition very broad, most likely affecting the organizations from effectively executing various other aspects of their operations. Peacekeepers are required to take care of civilians and really protect them against the

human right violations which have become associated with a lot of contemporary conflicts.

A number of peacekeeping and conflict reduction attempts have been unsuccessful either to safeguard violation of human rights or also to support the groups in the direction of sorting out their difference. To some extent, this is mainly because in the modern time, inter-state wars have reduced; there is now more of intra-state wars. A lot of internal issues consist of a spike in a structured violence, such as the case of Somalia. Human rights violations of various kinds "genocide, crimes against humanity, and aggression against civilians" all have grown to be a core component of hostilities in these "internal" clashes. The "outsiders" are dehumanized, making violations of human rights, for instance, major ethnic cleansing, much more mentally prospective. As a result, I must say, abuses of fundamental human rights are generally at the center of these contemporary conflicts.

Despite the fact that Somalia is rising from its former reputation as a "failed state", the leadership of the country needs at this point to guarantee that civilians fundamental human rights will be guarded, because, as shown in our study, you will find numerous challenges with legal obligation from the aspect of the state national force and international community interventions that have compounded the state problems. Therefore, in my own opinion, innovative advocacy should be put in place that could offer revolutionary alternatives even while guaranteeing the fact that the affected individuals of abuses of the



human rights are safeguarded from retaliation in the event that these people come out and try to get justice.

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