

**Seventieth session
Sixth Committee
Agenda item 80**

Criminal accountability of United Nations Officials and Experts on Mission

Oral report of the Chairperson of the Working Group

Chairperson: Thembile Joyini (South Africa)

I. Introduction

1. Pursuant to General Assembly resolution 69/114 of 10 December 2014, the Sixth Committee decided, at its 1st meeting, on 12 October 2015, to establish a working group with a view to continuing the consideration of the report of the Group of Legal Experts (A/60/980), in particular its legal aspects, taking into account the views of Member States, and also noting the inputs by the Secretariat. The Committee also decided to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency.
2. At the same meeting, the Sixth Committee elected Mr. Thembile Joyini (South Africa) as Chairperson of the Working Group.
3. The Working Group had before it the report of the Group of Legal Experts on ensuring the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations (A/60/980); the reports of the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission (A/62/54 and A/63/54); the Note by the Secretariat (A/62/329); and the reports of the Secretary-General (A/63/260 and Add.1; A/64/183 and Add.1; A/65/185; A/66/174 and Add.1; A/67/213; A/68/173; A/69/210; and A/70/208) on the subject. In addition, the Working Group had before it the report of the Office of Internal Oversight Services on the Evaluation of the Enforcement and Remedial Assistance Efforts for Sexual Exploitation and Abuse by the United Nations and Related Personnel in Peacekeeping Operations (IED-15-001); the report of the High-level Independent Panel on Peace Operations on uniting our strengths for peace (A/70/95-S/2015/446); and the report of the

Secretary-General on The future of United Nations peace operations: implementation of the recommendations of the High-Level Independent Panel on Peace Operations (A/70/357-S/2015/682). Furthermore, it had before it an informal compilation prepared by the Secretariat collating information submitted by Member States in relation to their implementation of paragraph 3 common to all resolutions on criminal accountability of United Nations officials and experts on mission.

II. Proceedings of the Working Group

5. The Working Group held 3 meetings, on 16, 21 and 28 October 2015. The Working Group agreed to conduct its discussions in the framework of informal consultations.

6. At the 1st meeting, which was procedural, the Chairperson presented information on the relevant documents to assist in the debate during this session. At its 2nd meeting, the Chairperson provided a background briefing for delegates on the substantive work on the topic in the Sixth Committee and in the Ad Hoc Committee and Working Group respectively. Moreover, representatives of the General Legal Division (OLA/GLD) and the Office of the Legal Counsel (OLA/OLC) of the Office of Legal Affairs; the Conduct and Discipline Unit (CDU) of the Department of Field Support; and of the Office of Internal Oversight Services (OIOS) provided an informal briefing, which was followed by a question-and-answer segment. At its 3rd meeting, in view of the adoption of the measures contained in General Assembly resolutions 62/63 and 63/119, as read with resolution 69/114, the Working Group focused its discussions first on the consideration of the aspects of the report of the Group of Legal Experts concerning the elaboration of a convention. The Working Group subsequently discussed any additional measures that may be taken, for possible inclusion in this year's resolution, that would enhance further the mechanisms of accountability, contained in General Assembly resolutions 62/63 and 63/119, as subsequently reiterated, since the Working Group session in 2012, in resolutions 67/88, 68/105 and 69/114.

7. The following section of the report constitutes an informal summary for reference purposes only, not an official record of the proceedings, of the exchange of views in the Working Group.

III. Informal Summary of discussions in the Working Group

8. Regarding the question whether discussions could commence on negotiations of the draft international convention relating to the criminal accountability of United Nations officials and experts on mission, as proposed by the Group of Legal Experts in its report (A/60/980), delegations expressed divergent views. Some delegations reiterated their position that it was premature to commence negotiations, while other delegations expressed a readiness to begin the process. These views reflected the positions of delegations as expressed in the plenary debate of the Committee on the item at its 9th meeting on 16 October (A/C.6/70/SR.9).

9. Some delegations stated that given that the situation as pertains to the criminal accountability of United Nations officials and experts on mission remained of serious concern, more in-depth discussion was needed to examine the issues that had formed the elements of the report of the Group of Legal Experts. It was emphasized that the short-term measures embodied in resolutions on this topic, which intended to address this situation, had been set out since the sixty-second session of the General Assembly, and had yet to adequately address the problem. These delegations also stressed that rather than a simple binary focus on whether or not to have a convention, it was important for the Working Group to engage in substantive discussions to catalyse further progress on these questions. These delegations advocated for the holding of the Working Group at the seventy-first session of the General Assembly, and for the possibility of some form of intersessional work. The view was also expressed that the draft convention to be elaborated should also cover military personnel engaged in peacekeeping operations.

10. Delegations highlighted the need for more information from both the Secretariat and Member States so as to be in a position to more fully assess the scope and nature of

any obstacles to seeking criminal accountability in appropriate situations, as well as to promote more substantive discussions on the report of the Group of Legal Experts.

11 Regarding the discussion on further practical aspects that could enhance the measures of accountability, as set out in previous resolutions on this topic, delegations highlighted the need to be presented with a comprehensive picture of the empirical data on the subject. In their view, this would permit a more informed discussion of the issues raised in the report of the Group of Legal Experts to occur in due course. The measures suggested by delegations included more detailed and expansive requests for information from the Secretariat; proposals relating to follow up by the Secretariat with Member States once referrals have been made to them; citations to a number of other United Nations reports within the resolution; the need to highlight the issue of financial crimes given their proportionate prevalence; and the potential of convening the Working Group in the following session. It was considered that some of these additional measures would be subject to further elaboration in the context of the discussion of the resolution this year.

12. During the useful and engaging question-and answer-session with representatives of OLA/GLD, CDU and of OIOS, some delegations posed questions concerning the difficulty of fully comprehending the nature and scale of the problem concerning criminal accountability of United Nations officials and experts on mission, given the number of differing reports containing information and figures that made it difficult to appreciate the fuller picture, the range and kinds of allegations reported, and possibilities of under-reporting of incidents.

13. Questions also focused on whether light could be shed on any impediments to potential prosecutions within the national jurisdictions of those Member States to whom referrals had been made, the nature of responses received from Governments and whether there was any follow up. Information was also sought on the measures taken by the Secretariat to develop awareness among local populations on mechanisms available to report criminal conduct, as well as measures to safeguard against retaliation. The

interactive dialogue was greatly appreciated, and should be repeated at any future sessions of the Working Group, as appropriate.

14. This concludes my oral report on the work of the Working Group on Criminal Accountability of United Nations Officials and Experts on Mission at this year's session. I am most grateful to delegations for their cooperation and assistance to the Chair in furthering the work on the item. This remains an issue of concern to Member States and the United Nations. I remain available to work with delegations in order to ensure that we maintain our focus on ensuring that there is no impunity for criminal activity committed by United Nations officials and experts on mission.

Thank you.