

Sixty-seventh session
Sixth Committee
Agenda item 76

Criminal accountability of United Nations Officials and Experts on Mission

Oral report of the Chairman of the Working Group

Chairperson: Dire Tladi (South Africa)

I. Introduction

1. Pursuant to General Assembly resolution 66/93 of 9 December 2011, the Sixth Committee decided, at its 1st meeting, on 8 October 2012, 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 the information contained in the note by the Secretariat (A/62/329). 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 12th meeting, on 17 October, the Sixth Committee elected Mr. Dire Tladi (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 Note by the Secretariat (A/62/329) and the reports of the Secretary-General (A/63/260 and Add.1 and A/64/183 and Add.1 and A/65/185 and A/66/174 and Add.1 and A/67/213) on the subject. 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.

II. Proceedings of the Working Group

5. The Working Group held 2 meetings, on 23 and 25 October 2012. The Working Group agreed to conduct its discussions in the framework of informal consultations.
6. At the 1st meeting, the Working Group adopted its work programme. In particular, in view of the adoption of the measures contained in General Assembly resolutions 62/63 and 63/119, the Working Group focused its discussions on the consideration of the aspects of the report of the Group of Legal Experts concerning the elaboration of a convention.
7. The following section of the report constitutes an informal summary for reference purpose 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. The Working Group, while emphasizing that any criminal misconduct by United Nations officials and experts on mission tarnished the image and credibility of the United Nations and underscoring the importance of the zero tolerance policy, exchanged views mainly on the question whether it was timely and appropriate to start negotiations on a 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).

9. Having already considered this matter in the context of the Working Group of the Sixth Committee at the Sixty-fourth session of the General Assembly (2009), some delegations considered that it was still premature to commence any negotiations on the elaboration of a convention. It was noted that presently work should remain focused on the implementation, at the national level, of the measures adopted in General Assembly resolutions 62/63 of 6 December 2007 and 63/119 of 11 December 2008, in particular the introduction of appropriate modifications by individual States to their own legislation, as well as enhanced cooperation among States, and with the United Nations. It was also recalled that that changes had been made to the revised model memorandum of understanding with troop contributing countries, which were supposed to address the issues of criminal accountability. Some delegations expressed the view that greater understanding of the potential jurisdictional gaps and other obstacles to addressing this problem was needed, and that the focus on this topic should not be on the form to be adopted, but on the content and nature of measures to be effected. The possible need for capacity building in relation to the adoption and the implementation of the necessary legislation was also referred to. Some delegations expressed the desire to supplement the assessment of the measures included in the resolutions of criminal accountability, as set out in the relevant reports of the Secretary-General, with a more focused clarification and more details on where the problems exactly lie and what obstacles currently exist to their resolution. The possibility of regular assessment and briefings by appropriate Secretariat units was also proposed as this would help delegations have a better appreciation of the problems encountered.

10. Some delegations expressed their readiness to commence negotiations on the elaboration of a convention. It was stated that a relatively comprehensive list of measures had been set out in the relevant General Assembly resolutions, and yet these measures did not appear to have resolved the issues at hand. It was nevertheless stressed that the elaboration of a convention could be preceded by an assessment of the problems to be resolved, as this would affect the nature of the convention to be elaborated. It was emphasized that the failure by States to prosecute their nationals, despite the presence of evidence that is presentable before their courts, created a culture of impunity that would hurt the credibility of all peacekeeping operations. The view was also expressed that the draft convention to be elaborated should also cover military personnel engaged in peacekeeping operations.

Mr. Chairman,

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 topic.

Thank you.