

# Ph.D. Thesis Evaluation Report

Thesis Title: Sexual Exploitation and Abuse by UN Peacekeepers  
Author: Mgr. Jan Králík, LL.M.  
Supervisor: Prof. JUDr. Pavel Šturma, DrSc.  
Reviewer: JUDr. Martin Faix, PhD., MJI

## 1. Introduction

The author has chosen to explore one of the negative side effects of UN peacekeeping operations, namely the problem of sexual exploitation and abuse committed by UN peacekeepers, with particular focus on military personnel. It is almost obsolete to say that the importance of this topic is equal to its complexity, involving heavily discussed questions of international law, such as responsibility of international organisations, application of human rights law and international humanitarian law to international organisations, and others. The choice of the topic may at first sight appear somehow unsatisfactory, as especially the sexual exploitation and abuse by UN peacekeepers, as one of the most widespread and heavily problematic negative side effect of UN peacekeeping, has been discussed at all possible levels (States, international organisations, academia) already for decades. However, taking into account the simple fact that until now such misconduct continues to occur and only relatively unsatisfactory results of measures taken against SEA can be tracked, I commend the author's choice of the topic, which continues to constitute an urgent international law matter from both, practical as well as theoretical perspective.

## 2. Definition of research scope and goals

First 15 pages of the thesis were used to delineate the methodology, including reasons for the choice of the topic, goals of the thesis, key questions, as well as the actual methodology, i.e. the question of methods used to approach the topic. I may note that methodology is particularly important part of the PhD thesis and determines often the success or failure of the whole PhD project.

In the introductory part of this evaluation, I commended author's choice of the topic. Unfortunately, I consider the definition of the goals and the scope of the thesis rather vague. I admit that the scope can be derived in general terms already from the title of the thesis, however it is the Introduction, in which the author should provide a precise picture of his research goals and the scope of the thesis. In my view, such a clear picture cannot be drawn from rather general questions included in the introductory chapter, which imply that rather a non-legal analysis of the issue will follow ("Principal question no. 1: What are the main hindrances that prevent effective punishment of the perpetrators of SEA?"). The sub-question does not help any further, as it simply attempts to identify legal "gaps" without further clarifying what this means and how such gaps shall be identified (missing regulation? wrong interpretation? problems with regard to application and implementation of the existing rules?). Moreover, the author unfortunately actually blurs contours of what the thesis is aiming at by attempting to "examine the legal framework governing establishment and functioning of peacekeeping operations" and at the same time to "analyze national approaches (legislation, vetting procedures as for example screening of peacekeepers) of some of the greatest peacekeeping TCC and draw the consequences thereof". Such a mixture of legal (domestic and international) and extra-

legal (especially policy) considerations creates certain nebulosity, on what exactly the author will focus, but mainly how he will approach the issue.

Another argument, why I consider the introductory explanations on goals, methods and key questions as sufficient, but not fully satisfactory is, that apparently the extent of the following analysis does not correspond with author's explanations in this regard. To put it simply, the author e.g. declares the issue of the role of judicial bodies addressing the SEA as one of the two key questions, but the amount of the text devoted to this topic does not necessarily correspond with such declaration.

### **3. Methods, conclusions, contribution to knowledge and thesis structure**

The methods used in the thesis are in general adequate and justified. Taking the thesis as a whole, the author demonstrated sufficiently the ability to choose justified methods for reaching the research goals and to apply them. Nevertheless, the thesis suffers from some methodological and structural flaws, as will be explained.

In the whole, the thesis structure reflects and is relevant to the set goals, and in general it allows the author to produce reliable results. However, certain nebulosity created at the beginning of the thesis (with regard to goals, key questions and methods) continues also when reviewing the structure of the thesis. Leaving aside the first descriptive chapter on history of UN peacekeeping, the second chapter is a mix of a variety of topics. The subchapters cover different issues – some of them address certain aspects of international law framework applicable to (UN) peacekeeping (e.g. SOFA, UN Standard of Conduct, UN MoU, etc.), but some of them offer rather information on UN reaction to SEA from historical perspective. Such a mixture of approaches leads to questionable results: in the concluding remarks of the chapter, the author himself turns his attention (and language) rather to “policy” issues, losing by this to some extent the sharpness of looking at the analysed issue from a legal perspective. Brief information on national legal framework is even less helpful here as not only an depth analysis is not possible (a problem recognized by the author himself), but covers only some countries (chosen apparently on the basis of a sole criterion the country being one of “biggest” contributors to peacekeeping contingents of the UN). Similar systematic problems occur also in the following chapters. Particularly visible is such an approach in the conclusion, where the author himself recognizes that *“as was previously contended, this is a problem of a complex nature, perhaps more a political one, and needs to be examined from various angles.”*

In my opinion, the thesis would also benefit from a deeper analysis of legal aspects of the topic chosen. This can be demonstrated e.g. on the chapter addressing the issues of applicability of IHL. In this chapter, the author presents opinions of other writers (e.g. p. 63 of Greenwood on sources of IHL obligations applicable to peacekeepers), but any further discussion or substantiated statement of the author is lacking. Similarly the chapter addressing issues of responsibility contains well summarized review of relevant jurisprudence, but a deeper analysis (which the reader can legitimate expect, since exploration of the “role” of judicial bodies was declared as one of the key questions by the author) is missing.

With regard to structure of the thesis, I of course recognize the author's right and responsibility to choose a structure which in his opinion fits best to find answers to research question raised. In my opinion however, the thesis would have benefited from a more clear structure with regard to defining the applicable international legal framework. The structure chosen spreads elements of the

framework over the thesis, which makes it not necessarily easy to identify the “gaps” and to provide a comprehensive and coherent picture of the issue.

#### **4. Presentation and language, command of sources**

The overall appearance of the thesis is in general appropriate. The thesis contains no such grammatical or spelling errors that would seriously complicate reading. It is written in coherent, although not necessarily always formally proper style (e.g. using “us” for the person of the author). In general, satisfactory attention has been paid to the overall appearance of the thesis despite minor errors (e.g. in citations, missing citations [e.g. p. 63, citing Greenwood], spelling, etc.).

References of concerned literature are sufficient and cover the present state of knowledge. Mgr. Králík demonstrated sufficient command of the relevant literature and other relevant sources and applied in a way as required by the relevant provisions of the Faculty of Law.

#### **5. Overall result:**

The present thesis is a structured and independently written PhD thesis with identifiable contribution of the author. Despite certain flaws, I commend author’s efforts and well identifiable engagement, and consider the submitted thesis as a piece of academic work, which meets the general requirements for this type of academic works, as required by the relevant provisions of the Charles University in Prague and its Faculty of Law.

**For the reasons and under consideration of the reservations named above, I recommend the PhD thesis of Mgr. Jan Králík, LL.M., entitled “Sexual Exploitation and Abuse by UN Peacekeepers” for acceptance.**

Questions to the defendant:

1. Taking into role the increasing role of regional organisations in peacekeeping, can you offer a comparative perspective on SEA issue within the context of other international organisations (e.g. EU, AU, etc.)?
2. The author is proposing establishment of a sanction mechanism in order to end the impunity of SEA perpetrators. How such system could be implemented into current UN legal framework? And would such system be transferable also to other international organisations?