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GOVERNMENT OF CANADA COMPIATION OF NATIONAL PROVISIONS ON

CRIMINAL ACCOUNTABILITY FOR UN OFFICIALS OR EXPERTS ON MISSION

Canada's capacity to hold to account its nationals, whenever they serve as United Nations officials or experts on mission, for criminal and other unacceptable conduct is embodied in several pieces of legislation. These include:

- a) *The Criminal Code of Canada (Criminal Code)*
- b) *The National Defence Act (NDA)*

- d) *The Crimes Against Humanity and War Crimes Act (CAHWCA)*
- e) *The Corruption of Foreign Public Officials Act (CFPOA)*

Canada's legal system holds Canada's nationals accountable to a number of criminal offences

- ii. offences in relation to cultural property (subsection 7(2.01))
- iii. offences against or on board fixed platforms or international maritime navigation (subsection 7(2.1))
- iv. offences against or on board fixed platforms or navigation in the internal waters or territorial sea of another state (subsection 7(2.2))

- vi. space station — Canadian crew members (subsection 7(2.3))
- vii. hostage taking (subsection 7(3.1))
- viii. certain offences against internationally protected persons (subsection 7(3))

- x. offences involving nuclear material, explosives, or other lethal devices (subsections

provincial or municipal) officials or ordinary Canadians who might be serving with the UN as they would not fall within the definition of "employee". However, the Royal Canadian Mounted Police and the Canadian Armed Forces are covered under the

legislation and codes of conduct, which will be discussed in more detail below.

Further, offences which apply to Canadian officials by virtue of their status (other than

The *Code of Service Discipline (CSD)* is the legislative authority of the Canadian Armed

- who is subject to the military justice system;
- the service offences for which a person can be charged and the maximum punishment that may be imposed;
- who has the authority to arrest, hold and release CAF members from custody;
- service tribunals and their jurisdiction to conduct trials of persons charged with service offences; and
- establishes processes for the review and appeal of findings and sentence after trial

Specifically, section 60 of the NDA outlines who is subject to the CSD and extraterritorial jurisdiction is addressed in sections 67, 130(1)(b) and 132.

Pursuant to section 60 members of the Canadian Armed Forces ("CAF") are subject to the CSD when deployed on UN missions abroad. The NDA extends to civilians in certain circumstances, where civilians are "attached to" or "accompanying" Canadian Forces units. As a result, civilians who would not otherwise be subject to the *Code of Service Discipline* are subject to the CSD if they are:

~~...in a position of an officer or non-commissioned member of the~~

- *to provide for the establishment of a Code of Conduct that emphasizes the importance of maintaining the public trust and reinforces the high standard of conduct expected of members (paragraph 36.2(b))*

(2) at the time the offence is alleged to have been committed

- (i) the person was a Canadian citizen or was employed by Canada in a civilian or military capacity,
- (ii) the person was a citizen of a state that was engaged in an armed conflict against Canada, or was employed in a civilian or military capacity in that state

- state,
- (iii) the victim of the alleged offence was a Canadian citizen, or
- (iv) the victim of the alleged offence was a citizen of a state that was allied with Canada in an armed conflict

criminal cases, this is primarily a matter for the Member States whose nationals serve with the UN in various capacities to address, bearing in mind that a balance must be struck in which criminality of any kind can be investigated, prosecuted and punished quickly and effectively, while at the same time protecting the human rights of accused persons and the