

CEI INTERNATIONAL AFFAIRS

Sexual Exploitation and Abuse by UN peacekeepers

Calling into question solutions implemented

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Barcelona, 7th May 2015

Index

Introduction2

I. Peacekeeping Operations

 I.I Definition.....3

 I.II Principles.....3

 I.III Evolution.....5

 I.IV Personnel.....6

II. Sexual Exploitation and Abuse : The scope of the problem

 II.I Overview6

 II.II Definition8

 II.III Contributing factors9

 a) The victims: local population.....9

 b) The perpetrators: UN peacekeepers10

III. Discussing solutions implemented by the United Nations

 III.I Preventive measures.....11

 III.II Enforcement measures.....14

 III.III Criminal accountability18

 III.IV Remedial action.....21

Conclusion.....23

Bibliography and documentation24

Introduction¹

“When ma asked me to go to the stream to wash plates, a peacekeeper asked me to take my clothes off so that he can take a picture. When I asked him to give me money he told me: *no money for children only biscuit.*”

This quotation is from a young girl in one of the refugee camps in the countries of the Mano River Sub Region in West Africa where United Nations High Commissioner for Refugees (UNHCR) and Save the Children UK (SCUK) carried out an investigation about alleged sexual exploitation and abuse by aid workers in 2002. While their report² had notable media coverage and public outcry, the allegations about peacekeeper’s involvement in sexual misconduct had already emerged in the early 1990s.

A recent article published by Foreign Policy sums up nine cases of sexual exploitation and abuse committed by UN peacekeepers and reported to the media (FP). In the Democratic Republic of the Congo, peacekeepers offered starving and orphaned girls small snacks in return for sexual favours; three Pakistani peacekeepers were convicted in Haiti in 2012 for sexually abusing a 14-year-old boy; a young girl told the BBC she was gang-raped by almost 10 peacekeepers in a field near her place; in Burundi two perpetrators were repatriated for having sex with a minor prostitute; local witnesses revealed that peacekeeping personnel withheld basic services from desperate civilians until they offered them sexual favours in Guinea, Liberia and Sierra Leone; during the UN mission in Cambodia in 1992-1993, the number of prostitutes rose from 6000 to 25000 due to increasing demand from peacekeepers (Csáky 2008, 10); “peacekeepers babies” are left behind without financial support to stigmatised mothers in East Timor; recently French soldiers have been accused of sexually exploiting children living in camps for orphans and displaced civilians.

Although this long list could appear to be composed of exceptional cases, sexual exploitation and abuse in conflict areas has become an ordinary issue, perpetuated by many.

The issue is of great interest since it directly affects the United Nations, the very guarantor of human rights internationally. Furthermore, sexually abusive acts are more likely to be socially condemned than other kinds of misconduct. The defamation of the UN’s reputation being deteriorated could make its peace missions, one of its most powerful assets, pointless as no credibility would be granted to the mandate. UN’s *raison d’être*, the maintenance of international peace and security, is at stake with such claims.

The aim of the paper is to try and find out the roots of the problem and discuss the way United Nations deals with the situation. Hence, this essay shall argue that, although United Nations has implemented several measures to address the issue and fix the reputation and the credibility of Peacekeeping Operations, they haven’t been as successful as expected.

The topic is divided into the following three parts. The first part focuses on Peacekeeping Operations as such; we will go through its definition, principles, evolution and personnel. The second part analyses the scope of the problem. A comprehensive definition of sexual exploitation and abuse will be put forward, as well as the contributing factors of the problem from both the victim’s and the perpetrator’s side. The third part tackles the strategy adopted

¹ I would like to express my sincere thanks to Dr. Xavier Pons Rafols for his follow-up, to my parents for their love and support, and to Max Grell for his patience.

² Entitled “Note for Implementing and Operational Partners on Sexual Violence and Exploitations: The Experience of Refugee Children in Guinea, Liberia and Sierra Leone”.

by the UN, split up into preventive and enforcement measures, criminal accountability and remedial action. Lastly, it is said that whereas implemented measures can be improved, the ultimate solution to overcome sexually abusive acts by peacekeepers is to put an end to (armed) conflicts in territories where the UN operates, eventually building a sustainable and long-lasting peace.

I. Peacekeeping Operations

I.I Definition

Cardona Llorens exhaustively defines Peacekeeping Operations as operations involving military personnel, but without enforcement powers, created by the Security Council and carried out by a subsidiary organ (usually the General Assembly or the Secretariat), whose functions are conflict prevention, peacemaking (restoration of peace), peacekeeping and/or peacebuilding (Casanovas and Rodrigo 2014, 430).

Conflict prevention addresses the structural sources of conflict in order to build a solid peace. Whereas conflict prevention could be unnoticeable by the parties, peacemaking is more visible. The latter deals with on-going conflicts and attempts to bring them to a halt. Besides, peacekeeping has recently evolved from a traditional military model of observing ceasefires to incorporate a complex model made of many components, military and civilian.

Peacebuilding, on the other hand, is a more recent term used to define “activities undertaken on the far side of conflict to reassemble the foundations of peace and provide the tools for building on those foundations something that is more than just the absence of war” (Doc A/55/305–S/2000/809, paragraph 13). Peacebuilding includes reintegrating former combatants, strengthening the rule of law, improving respect for human rights, providing technical assistance for democratic development, and promoting conflict resolution and reconciliation techniques.

All these elements embedded in peace operations are instruments for collective security. However, the terms “peace operation” or “peacekeeping operation” are not found in the United Nations Charter. The legal basis for these operations was located by Dag Hammarskjöld, the second UN Secretary General, in the “Chapter Six and Half”. Peacekeeping Operations are thus put inbetween traditional methods of peaceful dispute resolution such as negotiation and mediation under Chapter VI, and forceful action authorized by the Security Council under Chapter VII (Ndulo 2009, 128). The absence of a given regulation results in UN Operation being heterogeneous, flexible and adaptable.

I.II Principles

Such adaptability is also applicable to the principles governing peace operations. The first ones were exclusively guided by the principles established in the UN Charter. Nevertheless, other specific operational principles were set forth by the Panel on United Nations Peace Operations in the so-called Brahimi Report in 2000 (Doc A/55/305–S/2000/809). It should be remembered that some of these guidelines were already put forward in the political agreement reached in 1962 among Member States after the institutional crisis between the Security Council and the General Assembly; or they are also included in the UN Charter. The principle of consent of local parties, the principle of impartiality with regard to the warring parties, and the principle of use of force in self-defense were highlighted in order to overcome the

challenges Peacekeeping Operations were facing in Sierra Leone and in the Democratic Republic of the Congo in the 1990s.

Among the recommendations on politics, strategy, operational and organizational areas of need, the Brahimi Report clarifies several aspects on those three principles. First of all, the consent of local parties, understood as a commitment by the parties to a political process and their acceptance of a peacekeeping operation mandated to support that process, may be somehow manipulated. Namely, in post-conflict situations where there is no trust between the parties yet, consent can be uncertain and unreliable. Nonetheless, even if consent is necessary for deploying peace operations, the Security Council holds exclusive and unilaterally their creation. Furthermore, there are some exceptions to the general rule of consent. In stateless territories –because of institutional failures, armed conflicts, absence of effective authority–; or territories whose administration is directly controlled by the UN consent is not requested.

Secondly, the impartiality principle is questioned after the complete failure of peace operations in Rwanda and Srebrenica. Peacekeeping Operations must implement their mandate without favoring or prejudicing any party. Although impartiality is understood as adherence to the principles of the Charter –including those of fairness and justice–, it should not be mistaken for neutrality, which can result on a policy of appeasement. No distinction in treatment between victims from aggressors could be counterproductive:

(...) where one party to a peace agreement clearly and incontrovertibly is violating its terms, continued equal treatment of all parties by the United Nations can in the best case result in ineffectiveness and in the worst may amount to complicity with evil. (Doc A/55/305–S/2000/809)

It is known that when activities that may compromise the image of impartiality of the UN are carried out, peacekeeping stops being credible and legitimate. It would not be surprising if consent for its presence is then withdrawn. Hence, the involvement of peacekeepers in sexual exploitation and abuse in a host state could contravene the impartiality principle. On the one hand, it could bring advantageous political benefits to one of the warring parties. On the other hand, peacekeepers would be acting against UN Charter liberal ideals such as the respect and guarantee of human rights (Grady 2010, 223).

As a result of the shortcomings of the last principle mentioned, the third principle is therefore aimed at responding effectively in front of potential troubles. The so-called “Capstone doctrine” (2008) notices that UN military units are allowed to use force in order to defend themselves, other mission components, and the mission’s mandate. Although UN peacekeepers are not an enforcement tool, it is widely understood that they may use force at the tactical level. Therefore, peacekeepers should be presumed to be authorized to stop violence against civilians, as happened in Bosnia-Herzegovina (UNPROFOR), Somalia (ONUSOM) or MINUAR (Rwanda). Never again should peacekeepers be bystanders in front of a slaughter.

The principle of the use of force in self-defense for peacekeepers comes from an evolutionary interpretation of one of the three exceptions to the use of force established in the UN Charter. However, the principle is far from being coercive by itself. Instead, an approval from the Security Council is always required usually by the expression “use all necessary means”. Although it could seem similar, such authorization should not be confused with peace enforcement, as envisaged in the Chapter VII of the UN Charter. Finally, the “Capstone doctrine” points out that the objective of the use of force in “robust” peacekeeping missions is

to deter potential threats to peace; by no means is the seeking of a military defeat the ultimate aim.

I.III Evolution

Peacekeeping Operations arose at the beginning of the Cold War when the great powers blocked the Collective Security System through constantly using their veto power. An alternative solution was urgently required, considering the outbreak of conflicts as a consequence of proxy wars and the decolonisation process later on. As a result, the UN came up with an alternative measure to deal with international threats to peace. Peacekeeping evolved out of the need to stop these conflicts from developing into broader conflicts (Ndulo 2009, 128). Hence, technically, UN peacekeeping has its roots between 1946 and 1948 when the United Nations Truce Supervision Organization (UNTSO) was established. After Israel's independence declaration, the operation was aimed at supervising the Armistice Agreements between Israel and its Arab neighbours. Groups of observers were sent by each Member State separately with the objective of reassuring the parties. Likewise, in 1949 another group of military observers (UNMOGIP) was present in Jammu and Kashmir in order to monitor the ceasefire agreed between India and Pakistan. Both groups are still present in the respective territories, to the extent that some of the observers are eventually part of on-going Peacekeeping Operations in the area too.

A detailed historical evolution of Peacekeeping Operations has been put forward by Iglesias Velasco and complemented by Cardona Llorens. He splits up the evolution into five stages: birth, assertion, lethargy, resurgence and expansion (Casanovas and Rodrigo 2014, 433).

The assertion stage started in 1956 with the creation of the First United Nations Emergency Force (UNEF I) in order to deal with the Suez Crisis. This time the Security Council was blocked because two of the permanent members of the Security Council, France and the United Kingdom, were involved. Two years later, the United Nations Observation Group in Lebanon (UNOGIL) was asked to ensure that there was no illegal infiltration of personnel or supply of arms or other materiel across the Lebanese borders. ONUC was initially established in 1960 to control the withdrawal of Belgian forces from the Congolese territory. However, the function of ONUC was later on modified to include inter alia the territorial integrity and political independence of the Congo. Paramilitary and mercenaries, however, were preventing peacekeepers from fulfilling their mandate. That is why, for the first time in peace operations, the Security Council allowed "all necessary means" to secure the removal of rebels.

The period of lethargy lasted from 1967 until 1973 and it can be explained by tensions within the UN system, following of the bloc politics during the Cold War. Peacekeeping missions in this period were present in localized conflicts where none of the great powers were directly involved. The mandates were based on monitoring ceasefires, troop withdrawal and primarily observation. Peacekeeping was aimed at reassuring the parties so that they could come up with a solution. Basically, the UN froze the conflict and waited for peace to arrive. Some authors call these "first generation operations".

As soon as the war ended, the Collective Security System recovered resulting in a rapid increase in the number of Peacekeeping Operations. The new consensus trend and the common sense of purpose encouraged the Security Council to authorize a total of 20 new operations between 1989 and 1994, raising the number of peacekeepers from 11 000 to 75

000. The change was not only quantitative; peacekeeping forces also began to operate in different kinds of conflict and their functions were expanded. Warring parties in intrastate conflicts are not only regular armies but also irregular armed groups which do not commit to international humanitarian law. As a consequence, the UN has established larger and increasingly complex peacekeeping missions in order to help countries torn by conflict create suitable conditions for sustainable peace and development. Peacekeeping currently extends to multiple tasks such as implementing confidence-building measures, cease-fire monitoring, disarmament of combatants, election monitoring, international administration of territories, and even humanitarian relief distribution (Nudlo 2009, 129). These are so-called “second generation operations”. One wonders whether a “third generation” of operations will be released soon in response to contemporary transnational terrorism. This assumption would require another full dissertation.

I.IV Personnel

There are currently more than 120 000 individuals serving in 16 Peacekeeping Operations. As the number of participants is considerable, we find a multi-category personnel structure. The categories of personnel shall be determined referring the so-called “Zeid Report” (Doc A/59/710), international practice, and the status-of-forces agreement (SOFA) between the UN and the host government. The SOFA covers the rights, privileges and immunities of the mission and its personnel and the mission’s obligations to the host government.

The five categories of personnel are as follows: 1. United Nations Staff, 2. United Nations civilian police and military observers, 3. Members of national military contingents and military officers, 4. United Nations Volunteers, and 5. Individual contractors. We should not forget the figure of the Special Representative of the Secretary General (SRSG) who serves as Head of Mission and is responsible for implementing the mission’s mandate. Finally, all members of a peacekeeping mission should be conceptualized as international actors serving the UN in a broad sense (Pons 2012, 54).

As Paul Higate points out, UN peacekeeping missions are unique and its personnel occupy a potential range of subject positions. Hence, they could see themselves as humanitarian workers, as members of a particular national military, or even as expatriates (2004, 11).

UN Peacekeeping Operations have definitely been successful in many countries such as Cambodia, El Salvador, Guatemala or Mozambique. Proof of this is winning the Nobel Peace Prize in 1988. Despite their achievements, they are sometimes criticised for having a contradicting nature: they are mostly comprised of soldiers trained in the art of war. These multidimensional operations, unlike war, require the sensitivity, empathy and respect of others that may have blurred as a result of military training. In this scenario there arises the problem of sexual exploitation and abuse by peacekeeping forces that will be discussed below.

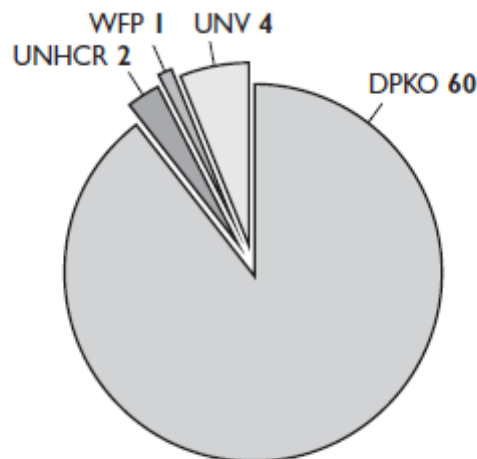
II. Sexual Exploitation and Abuse: The scope of the problem

II.I Overview

With the dramatic increase of UN peacekeeping missions, the problem of sexual exploitation and abuse committed by peacekeepers on local populations has inadvertently emerged. Cases of serious misconduct gradually surfaced through revelations in the media and human rights

NGOs (Kanetake 2010, 209). Peacekeepers have been accused of engaging in sex-trafficking, soliciting prostitutes, forcing children into prostitution, and having sex with minors (Ndulo 2009, 129).

Whereas other entities face similar concerns to a lesser extent, the charges made against peacekeeping troops are particularly shocking due to the unique nature of peacekeeping. As an example, the figure below represents the number of allegations of sex with minors reported against staff from the Department of Peacekeeping Operations (DPKO), the World Food Programme (WFP), United Nations High Commissioner for Refugees (UNHCR), and UNV (United Nations Volunteers) during 2005. Staff of the DPKO were found to be implicated in the vast majority of cases:



Source: United Nations annual reports of the UN Secretary-General's bulletin, *Special Measures for Protection from Sexual Exploitation and Sexual Abuse* A/59/782 (15 April 2005); A/60/861 (24 May 2006); and A/61/957 (15 June 2007)

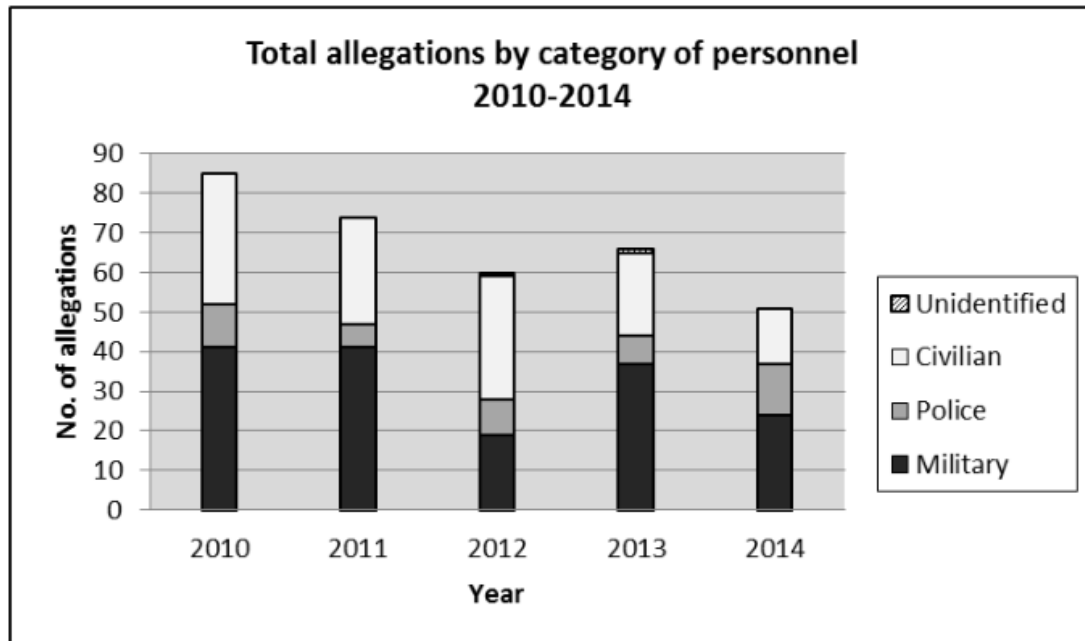
Peace operations are aimed at reaching a negative peace, and also sometimes a positive peace, which means ensuring the absence of war by restoring a sustainable peace. Military troops serving the UN are therefore deployed to protect vulnerable populations from the violence of the warring parties. Nevertheless, the very threat to victims is peacekeepers; they are more part of the problem than the solution.

The report of UNHCR and SCUK (2002) provides an approximate profile of perpetrators and victims which is confirmed by reports of other watchdog organisations such as Refugees International³ (2005) or Human Rights Watch⁴ (2014). According to them, the problem of sexual abuse and sexual exploitation is not only confined to peacekeepers from certain states. All nationalities are involved. The same point is made with military personnel from troop-contributing countries. Refugees International notes that while experts on the issue often focus mostly on military personnel, misconduct committed by civilian personnel may be much larger yet less visible (Martin 2008) as the figure below shows:

³ Titled "Must boys be boys? Ending Sexual Exploitation and Abuse in UN Peacekeeping Missions".

⁴ Titled "Democratic Republic of the Congo. Ending Impunity for Sexual Violence: New Judicial Mechanism Needed to Bring Perpetrators to Justice".

Figure I



Source: Office of Internal Oversight Services.

Underrepresentation of civilian perpetrators is due to the fact that military personnel are easier to identify by victims because they wear uniforms, whereas civilian personnel do not. On the other hand, the command structures in place in the military are not so straightforward within civilian agencies. The multiplicity of the latter makes it difficult to investigate and punish abusive behaviour. Victims are usually young girls living under the poverty line, as young as 13 and up to 18 years, although the threshold may extend to include children and women. In addition, boys –albeit not so often– have also suffered from sexually abusive acts by UN workers. Save the Children UK identified several cases of sexual abuse of 13-year-old boys in focus groups held in Haiti in 2008 (Csáky 2008, 7)

II.II Definition

The Secretary General’s Bulletin “Special measures for protection from sexual exploitation and abuse” (Doc ST/SGB/2003/13) defines sexual exploitation and sexual abuse as two separate violations. On the one hand, *sexual exploitation* is “any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Similarly, on the other hand, he considers *sexual abuse* as “the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions”.

These two comprehensive definitions criminalize any form of sexual relations in the context of peacekeeping missions where one takes advantage of the victim, regardless of consent and the age of the victim. It is pointless to talk about consent since the perpetrators are there to protect the victim. Furthermore, the age of consent locally or ignorance of the age of the victim is no excuse to commit sexually abusive acts. Ultimately, SG’s definition prohibits not only child prostitution, but prostitution in general. This zero-tolerance policy does not prohibit

all sexual relations with local population, but considers most of them to be unequal and thus strongly discouraged (Stern 2015, 7).

Additionally, sexual exploitation and sexual abuse should be distinguished from sexual harassment. The latter is associated with the workplace. Not all sexual harassment involves an abuse of a position of vulnerability, differential power or trust, or the actual or threatened physical intrusion of a sexual nature. If it does, it also constitutes sexual exploitation or sexual abuse (PSEA).

II.III Contributing factors

Unfortunately, there are many factors contributing to the problem of sexual exploitation and abuse. I will go through some of them below by splitting them up into factors affecting victims and affecting perpetrators, but they could also be treated as a whole.

A common factor should be mentioned beforehand: to consider sexual violence as an inevitable consequence of war. The sexual exploitation and abuse of women is viewed as something tightly, naturally and inevitably linked to the breakdown of law in a conflict-ridden state. Moreover, it is well known that the systems, the infrastructure and the attitudes operating during a conflict are likely to continue in peacetime. Especially for women, harsh conditions get even worse in the aftermath of war. Far from being integrated, they are socially stigmatised and even rejected by their families for having being raped by the enemy. It is reasonable to bear in mind that sexual crimes are not natural or inevitable at all. Rather, they are conscious and evitable political acts deeply rooted in the political economy of war (Martin 2008).

Although the culture of regarding violation of women as spoils of war is still quite often used, approaches to sexual exploitation and abuse should change to reflect the fact that these kinds of crimes are primarily problems of abuse of power (and only secondarily problems of sexual behaviour). This last point will be tackled in depth later on.

Moreover, another common factor worth mentioning is the local context in each mission. Very often abuse is also perpetrated by several members of the local community such as teachers, the police, the military, and even within the family. It has been found that where abuse is prevalent in the local community, children are more likely to be abused by staff associated with international organisations, and vice versa (Csáky 2008, 9).

a) The victims: local population

Save the Children UK determines that among victims (children, young girls and women) orphans and children separated from their parents are most likely to be abused since parents are the main protectors for children (Csáky 2008, 7). Therefore not being part of a family could be the first contributing factor.

Secondly, victims are strongly influenced by their tough local conditions during and after the armed conflict. They live in abject poverty, so they have a lack of livelihood options and a consequent inability to meet basic survival needs. They are also exposed to a high unemployment rate. As a result, prostitution in such environments sometimes becomes the only source of income for girls and women (Ndulo 2009, 144). The report of UNHCR and SCUK confirms that in West Africa the involvement of children and women in sexually exploitative relationships has become a mechanism for survival for many refugee families (2002, 8). It goes without saying that this context –the economic conditions and the willing

participants– should not excuse peacekeepers from protecting locals from sexual misconduct, let alone perpetrating it.

Thirdly, local conditions are also disadvantaged in terms of formal institutions. As they are weak, biased or even inexistent they do not guarantee basic rights to individuals. Thus collapsed economies, along with weak judicial systems, corrupt and ineffective law enforcement agencies or dubious rule of law significantly increases the vulnerability of local population (Ndulo 2009, 130). Victims do not trust fragile state institutions, yet they are left unprotected against all kind of violations.

This last point could also fit in the next category because significant power differentials are a relative factor. There is a difference of power between locals and perpetrators: the latter have notable economic and social power in relation to the former. This situation is exploited by some peacekeepers who abuse their power to get what they want. The dire economic situation of locals results in the constant existence of an ample supply of girls offering sex in exchange for money to peacekeepers (Ndulo 2009, 145). When victims expect protection from peacekeepers, sometimes they find themselves being betrayed. This is due to the fact that perpetrators take advantage of their position of trust with regard to the local population. The abuse of power and trust leads to rejecting peacekeeping missions.

b) The Perpetrators: UN peacekeepers

Some peacekeepers do not have any deterrent to committing sexual abuse. The main contributing factor is their impunity resulting from their immunity. Most of the components of a Peacekeeping Operation are military personnel framed in national military contingents. They have absolute immunity in the host state which cannot be waived by the Secretary General (Pons 2012, 88). That is to say members of peacekeeping missions are subject to the exclusive jurisdiction of their contributing-country in respect of any criminal offences committed in the host state. In addition, as we pointed out earlier, because legal institutions of the host state are not strong enough they are unable to prosecute criminals anyway. Likewise not all troop-contributing states will necessarily have consolidated infrastructures, and sexual misconduct committed abroad could not be considered a crime. In Bangladesh, the first country in the ranking of military and police contributions to UN operations as of February 2015 (UNPK), prostitution is legal. Unfortunately, even democratic states are unlikely to act against their own nationals.

Another aggravating factor for sexual crimes is the hypermasculine peacekeeping culture. Masculinity is understood here as the set of attitudes and practices culturally deemed appropriate to men. We are aware of the fact that peacekeepers are predominantly composed of groups of soldiers who are enlisted and trained by their states. As the military has traditionally been a male-dominated occupation, it is not surprising that the great bulk of those serving on UN missions are men (Simic 2010, 192). Statistics show that as of September 2006 the military total in UN peacekeeping roughly comprised 2% of female soldiers. Almost ten years later, women only represent 3%⁵, not even close to reach a critical mass.

The “boys will be boys” culture goes hand in hand with the development of a tradition of silence, sometimes even a tradition of discrimination against women, and thus of tolerance for

⁵ In 2006, 1 325 were female soldiers out of 67 820 male, whereas in 2015 2 218 were women and 89 241 men (UNPK).

extreme behaviours. Men protect each other from sexual misconduct accusations either because exploitation and abuse occur on a comparatively widespread basis in conflict areas they do not see it as a serious matter, or because they fear being stigmatised or punished as “whistle-blowers” (Martin 2005, 5-6).

One last contributing factor for sexual exploitation and abuse is the predominance of a pessimistic view about the mission. Paul Higate makes a point in his report about the Democratic Republic of the Congo. He notes that a number of peacekeepers believe that their actions could not make the situation any worse in an already dire situation (2004, 13). This clear disincentive along with the culture of silence linked to the hypermasculinity of the mandates, and the impunity for perpetrators turns sexual exploitation and abuse into an everlasting problem.

IV. Discussing solutions implemented by United Nations

United Nations has a zero-tolerance policy towards sexual exploitation and abuse cases, understood as non-tolerance to the culture of impunity and complacency towards sexual exploitation and sexual abuse. Such policy is the starting point of the organisation’s determined response to sex scandals. Kanetake further specifies that zero tolerance embodies both zero complacency to fully investigate allegations on the one hand, and zero impunity if the allegations are found to have merit on the other hand (2010, 200). The UN’s strategy is thus triple. It establishes preventive, enforcement and remedial measures in order to put in practice its popular policy. However, the organisation faces several challenges in committing with zero-tolerance: its attempts to overcome criminal unaccountability have failed.

IV.I Preventive measures

Preventive measures are at the core of the UN strategy to deal with sexual exploitation and abuse by peacekeeping personnel since its main objective is to solve the problem as its root, before any abusive act takes place. On the one hand, the universal application of the codes of conduct makes sure all categories of personnel share minimum standards of behaviour. It is thus a general measure applicable to the whole UN staff. On the other hand, training and awareness-raising campaigns are specifically addressed and mandatory to civilian, military and police peacekeeping.

Universal application of the codes of conduct

The UN carries on with its obsession of enforcing the rule of law. It is not different when it comes to regain its good reputation. Its main argument is that uniform standards are useless if they are not equally applied to all the components of a Peacekeeping Mission.

General codes of conduct can be found in the UN Charter, the Secretary General Bulletins, the two publications created by the Department of Peacekeeping Operations in 1996 entitled “Ten Rules: Code of Personal Conduct for Blue Helmets” and “We Are United Nations Peacekeepers”, standards issued from the Security Council and the General Assembly, and mission-based administrative directives issued by the Special Representative of the Secretary General or a Force Commander. These administrative directives are worth mentioning since they are applicable to all peacekeeping personnel (Kanetake 2010, 204). For instance, the “Code of Conduct on Sexual Exploitation and Sexual Abuse” for MONUC (UN Mission in

the DRC) (PSEA) specifically collects the standards of and administrative instruction issued by the Under Secretary General for Administration and Management on “Revised disciplinary measures and procedures” in 1991 (Doc ST/AI/371), as well as codes of conducts established in the Secretary General Bulletins.

After the report on cases of sexual exploitation and abuse of refugees in West Africa published in 2002 by UNHCR and SCUK, the General Assembly submitted a resolution entitled “Investigation into sexual exploitation of refugees by aid workers in West Africa” (Doc A/RES/57/306). The resolution was based on previous research by the Office of Internal Oversight Services (Doc A/57/465). The UNCHR report was thus a turning point for the issue of sexual misconduct among peacekeepers. Its media coverage was big enough to make the UN take steps. In resolution 57/306 the Secretary General was asked to issue in short a bulletin on sexual exploitation and abuse. The Secretary General’s Bulletin was published at that time (Doc ST/SGB/2003/13) and it promulgated a set of rules applicable to all staff of the UN in order to govern disciplinary matters relating to sexual crimes in missions, as well as to provide sanctions for violations. The document is of particular relevance since its directives and practices are to be observed and implemented in all peacekeeping missions and are compulsory for all UN staff (although not for military personnel).

In its Bulletin, the Secretary General reminds that sexual exploitation and sexual abuse are prohibited to UN staff, as noted in the United Nations Staff Regulations and Rules. In addition, some standards of conduct are set out such as defining sexual exploitation and abuse as acts of serious misconduct thereby subject to criminal prosecution; prohibiting sexual activity with persons under the age of 18 (regardless of the age of consent locally); or prohibiting the exchange of money, employment, goods or services for sex (Pons 2012, 87). It is also said that the Head of Mission shall appoint an official to serve as a focal point for receiving reports on cases of allegations of sexual crimes (Doc ST/SGB/2003/13, paragraph 4.3). The Secretary General points out that this new mechanism has to be acknowledged by the staff of the mission as well as by the local population.

Although I am of the view that some figures such as the focal point are a step forward to creating an administrative structure responsible for addressing violations concerning sexually abusive acts, the Bulletin fails by not binding to some members of a UN peace mission. That is why other ways of implementing compulsory norms for every single member of a Peacekeeping Operation shall be exposed. Namely, through the status-of-forces agreement (SOFA) or the memorandum of understanding (MoU) the UN establishes conditionality with personnel and contingent-contributing countries (national military contingents and formed police units) respectively (Kanetake 2010, 203-4). In his report, Prince Zeid actually suggested to directly include the guidelines of the Secretary General’s Bulletin, as well as the standards in “Ten Rules: Code of Personal Conduct for Blue Helmets” and “We Are United Nations Peacekeepers” in the MoU making them binding to military:

It is recommended that the General Assembly decide that those standards should be incorporated into the model memorandums of understanding between the United Nations and troop-contributing countries and that the model memorandum of understanding should require that troop-contributing countries issue those standards in a form binding on their contingent members (Doc A/59/710, paragraph 25).

Training

Training shall be also universally applied. However, unlike standards, there is no document as such establishing a set of right attitudes towards sexual exploitation and sexual abuse. Different cultural attitudes and experiences make a hybrid outcome. For instance, the legality of prostitution, the age of consent or the age of marriageability vary from country to country. Peacekeepers come from nearly 120 different countries so the UN makes sure through training that their standards differ as little as possible from the organisation.

In Security Council Resolution 1820 (2008), the Secretary General in consultation with the Special Committee on Peacekeeping Operations and its Working Group and relevant states is requested to “develop and implement appropriate training programs for all peacekeeping and humanitarian personnel deployed by the UN in the context of missions to help them better prevent, recognize and respond to sexual violence and other forms of violence against civilians” (Doc S/Res/1820, paragraph 6). More specifically, Security Council urges troop-contributing countries to “take appropriate preventive action including pre-deployment and in-theater awareness training” (paragraph 7) for sexual exploitation and abuse cases while in peace mission.

In this regard, training provided to peacekeeping personnel is compulsory for all of them and is divided into pre-deployment and in-mission or in-field training.

Pre-deployment training is essential to ensure a good attitude towards local population even before settling down in the host state. Training for international civilian staff is conducted by the Integrated Training Service (ITS) based in Italy and part of the Department of Peacekeeping Operations, while troop-contributing countries are responsible for providing to military and police personnel. Other than the ITS, the Conduct and Discipline Unit at Headquarters also develops and provides training modules and advice.

In-mission training is equally useful, particularly because it is adapted to mission-specific conditions, thereby preparing peacekeeping personnel to the in-field reality. A full range of topics are covered such as the Code of Conduct and core values, definitions and types of misconduct, examples of sexual exploitation and abuse and its consequences, individual and management responsibilities, obligations to report misconduct, disciplinary and administrative procedures, and the rights and responsibilities of peacekeeping personnel (CDU).

Although some argue for computer-based training (Stern 2015, 13), I would strongly encourage face-to-face preparation. Even if it is harder to track, site training allows ad hoc explanations about sensitive and deep-rooted issues which otherwise are not internalized. We want training to be effective and personalised, yet computer-based training would turn into another bureaucratic process.

Awareness-raising campaigns

Mission-based awareness-raising initiatives form a significant part of the strategy to prevent sexual exploitation and abuse. The campaigns seek to raise awareness by reaching out to host populations, including local government officials, relevant civil society organizations, international organizations and non-government organizations. That is why I would recommend taking advantage of strategic community-based elements and grassroots organisations such as radio stations (besides local singers) and religious entities to frame awareness-raising among local population.

IV.II Enforcement measures

When sexually abusive acts are presumably being committed, enforcement measures seek to take action against perpetrators if the allegation is found to have merit. The process consists of two parts: allegations and investigations on the one hand, and disciplinary measures on the other.

Allegations and investigations

In resolution 57/306 (2003), as well as requesting the Secretary General to issue a Bulletin, the General Assembly wanted the Secretary General to maintain data and report on investigations into sexual exploitation and related offences by humanitarian and peacekeeping personnel in Peacekeeping Operations and all relevant actions taken by the UN to address the violations (Doc A/RES/57/306, paragraph 10). Moreover, one year later, in 2004, the Secretary General invited Prince Zeid Ra'ad Al-Hussein, the Permanent Representative of Jordan to the UN, to act as his Adviser on Sexual Exploitation and Abuse by UN peacekeeping personnel. Prince Zeid travelled subsequently to eastern Congo and wrote "A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations Peacekeeping Operations" (Doc A/59/710, 2005) as requested.

For the first time, bold recommendations were directed at both the Secretariat and Member States. His report is split into four main areas of concern: 1. The current rules and standards of conduct; 2. The investigative process; 3. Organizational, managerial and command responsibility; 4. Individual disciplinary, financial and criminal accountability. The second section is of special interest here since he calls for the establishment of a permanent professional investigative mechanism to investigate complex cases of serious misconduct (paragraph 32).

As a result of these two important documents, the UN framed a double mechanism so that victims could report allegations through a complaint system, and proper investigations could be consequently carried out by experts. Whereas the Conduct and Discipline Unit takes record of all allegations brought against UN personnel (Pons 2012, 85), the Investigations Division of the Office of Internal Oversight Services deals with investigations on serious misconduct, including sexual exploitation and abuse. In this sense, the UN defines allegation as an unproven report of alleged misconduct, which may not necessarily need an investigation if insufficient information is provided. On the other hand, a completed investigation is an investigation report that details evidence, which either substantiates or does not substantiate allegations against a number of individuals (CDU).

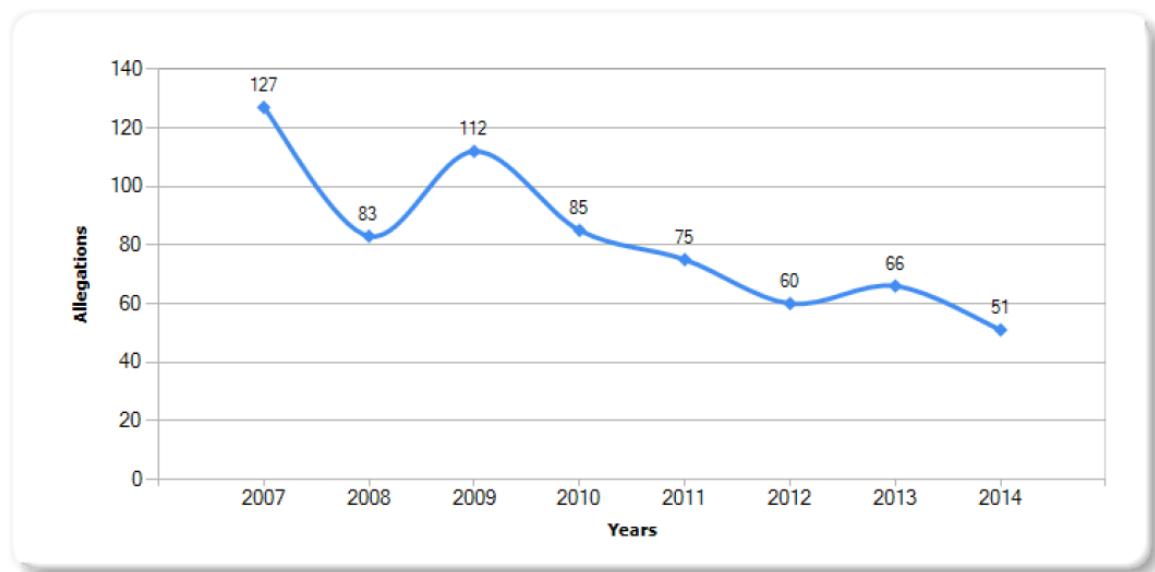
Allegations

The Conduct and Discipline Unit (CDU) was established in the Department of Field Support in 2007 following the creation of a Conduct and Discipline Team in November 2005 within the Department of Peacekeeping Operations. The CDU was launched in order to commit with the Secretary General's suggestion of maintaining data on allegations, thereby substituting the Code of Conduct Officers and Sexual Exploitation and Abuse Focal Points, as part of a package of reforms in United Nations peacekeeping designed to strengthen accountability within the organisation and uphold the highest standards of conduct. The CDU oversees

Conduct and Discipline Teams (CDTs) on the ground through quality assurance and guidance. The Teams are the first receiving allegations of sexual exploitation and abuse in the field. Although they do not conduct investigations, they make recommendations to OIOS as to whether an investigation is necessary or not. In addition, in 2008, the Department of Field Support launched a global database and confidential tracking system for allegations of misconduct: the Misconduct Tracking System (MTS).

In order to handle allegations of sexual misconduct, the Unit provides data about the number of allegations for all categories of UN personnel every year, as the graphic below dated up until 28 February 2015 shows:

Allegations for All Categories of Personnel Per Year (Sexual Exploitation and Abuse)

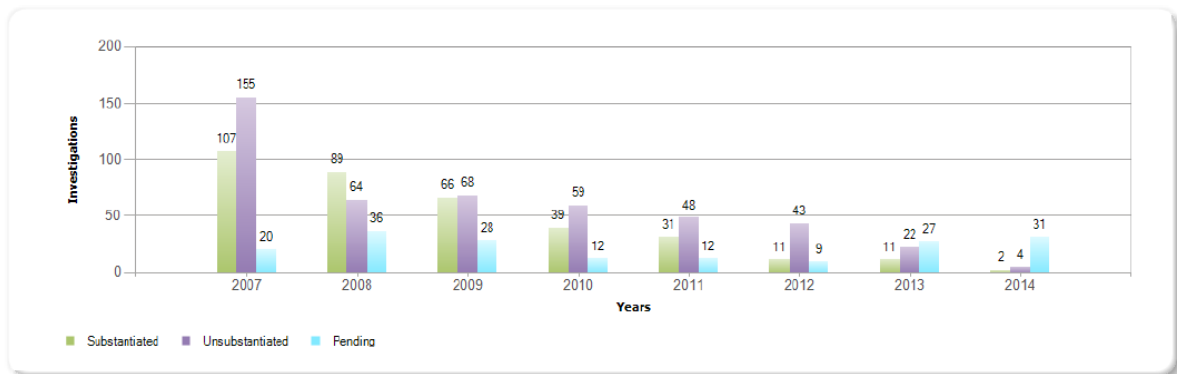


Source: Conduct and Discipline Unit

Apparently allegations have decreased in the past years: from 127 cases in 2007 to 51 in 2014. Unfortunately this general downward trend is not so straightforward since cases could be underreported. We shall identify three of these problems as unsubstantiated allegations, fear of victims and hidden information.

Firstly, some of the allegations for which investigations have been completed are unsubstantiated: “Of all allegations for which investigations were completed between 2008 and 2012, 51 per cent were substantiated” (Doc A/67/766). The figure below containing data dated up to 2015 displays a clear trend: from 2007 until 2014 there were more unsubstantiated than substantiated investigations.

Status of Investigations (Sexual Exploitation and Abuse)



Source: Misconduct Tracking System, Unit and Discipline Unit

Contrary to what one might think, unsubstantiated allegations are not necessarily false or made in bad faith. Factors such as the lack of forensic evidence, the impossibility of identifying alleged perpetrators or the lack of corroborating witnesses can play an important role in making allegations unsubstantiated.

This is pretty often the fate of allegations involving paternity claims on so-called “peacekeepers babies”. Member States hinder investigations for many reasons. For instance, they request that a paternity claim has to be filed before a national court directly by the alleged mother. National courts are located on a different country from the one where the claimants and their children reside, which prevents the process from continuing.

Secondly, many allegations do not come to light because victims fear from stigmatisation in their communities. They also fear retaliation by the perpetrator or are afraid of losing their only source of income in cases involving prostitution. Victims are sometimes even pressured by their families to keep quiet (Martin 2005, 21). Further, Muna Ndulo states:

While acknowledging the progress made in addressing the problem and the decrease in the number of cases in 2007, the figures continue to reveal a serious problem of sexual exploitation and abuse. Given the widely acknowledged fact that sexual abuse is often not reported by victims who feel powerless and are frightened and intimidated at the prospect of being confronted by investigators, the figures could very well be an under-reporting of the problem. (2009, 143)

Mistrust in the system is an additional disincentive to report misconduct. Power structures are biased, that is why general mistrust of a corrupt and ineffective authority is clearly widespread in the contexts where sexually abusive acts by peacekeepers are committed. As a consequence, victims feel their reporting would be pointless. The same mindset applies when victims believe the perpetrator’s word is worth more.

Thirdly, while general information about personnel accused such as the category or the mission concerned can be found in the statistics offered by the Conduct and Discipline Unit or the Office of Internal Oversight Services, specific information can be difficult to obtain. The UN refrains from publically identifying the nationality of those accused of sexual misconduct due to the political weight of troop-contributing countries in providing military and police personnel to missions (Grady 2010, 219). According to the Department of Peacekeeping Operations (DPKO), as of October 2014, almost 104 000 individuals (military and police) were made available by contributing countries to the UN for up to 16 peacekeeping missions.

Such underreporting mainly due to these three factors exacerbates the culture of silence mentioned earlier. Once victims are brave enough and manage to leave aside any fears, they too often find themselves surrounded by bureaucratic obstacles. The length of the process as well as other constraints make victims backing down, thereby subtracting an allegation to the data and discouraging other victims from denouncing.

Investigations

The Office of Internal Oversight Services (OIOS) is the internal oversight body of the UN and was created in 1994 by the General Assembly. It provides audits, investigations, inspections and evaluation services which assist the Secretary General in fulfilling his oversight responsibilities. The Investigations Division is especially relevant for us since it investigates reports of possible misconduct (OIOS). Once an allegation is received through the Unit, the Investigations Division carries out an administrative investigation⁶. While the Office of Internal Oversight is the sole body of the UN system responsible for such investigations, it may refer to other investigative authorities if the denounce is out of its purview. Namely, OIOS exclusively bears the responsibility of Category 1 allegations, which are related to sexual exploitation and abuse, rape and other sexual transactions. Category 2 includes denouncement of discrimination, harassment, sexual harassment and abuse of authority and may be investigated by the Special Investigation Unit, Military Police, UN Police or other ad hoc groups.

Moreover, the Investigations Division does not have any power over Category 1 allegations on cases involving members of military contingents. They remain under the exclusive jurisdiction of their national government. The UN may eventually repatriate the individuals concerned and ban them from serving in future Peacekeeping Operations, but only troop-contributing states are responsible for disciplinary sanctions or any other judicial actions. Although the revised MoU 2007 only requires Member States to keep the UN updated upon any open investigation, “the UN only assumes modest roles, such as the provision of administrative and logistic support and the assistance to obtain cooperation from host state authorities” (Kanetake 2010, 205).

The measures undertaken to deal with allegations and investigations on sexually abusive acts by UN peacekeepers have obvious shortcomings as set forth. For instance, although the Misconduct Tracking System is essential to vet potential peacekeepers applying to work in field missions, the lack of screening by military contingent and police personnel undermines its usefulness –especially considering that members from troop-contributing countries are more likely to go unpunished.

However, despite their limitation, both the Conduct and Discipline Unit and the Investigations Division of the Office of Internal Oversight Services hold an important role in trying to reduce sexual misconduct. This double mechanism is complemented by other measures such as the publication of an annual report providing data on allegations of sexual exploitation and abuse in the UN system, pursuant to resolution 57/306 (2003). The last report was submitted by the Secretary General a few months ago, on 13 February 2015.

⁶ Its mandate does not include criminal investigations.

Disciplinary actions

When allegations on sexually abusive acts by peacekeepers are found to have merit, the UN sticks to its zero-tolerance policy over impunity for perpetrators. Nevertheless, the organisation finds itself restricted by troop-contributing countries once again. The UN keeps disciplinary authority over all UN staff, but its command authority (the Secretary General in this case) does not encompass disciplinary power for members of national military contingents.

The revised MoU 2007 (Doc A/61/19 Part III) provides as follows:

[1] Military members and any civilian members subject to national military law of the national contingent provided by the Government are subject to the Government's exclusive jurisdiction in respect of any crimes or offences that might be committed by them while they are assigned to the military component of [United Nations peacekeeping mission]. [2] The Government assures the United Nations that it shall exercise such jurisdiction with respect to such crimes or offences (Annex, paragraph 3, article 7 quinquies 1)

First of all, national military are immune to the criminal jurisdiction of the host state (through SOFA); they are exclusively subject to their respective national legislations. Despite the fact that Peacekeeping Operations have a main military component –it could even be argued that they are a kind of military subsidiary organisation–, disciplinary measures are conspicuous by their absence. Surprisingly, the most severe sanction the UN can conceive is repatriation of the perpetrator (Martin 2005, 15). Even this action is considered an “administrative measure” instead of a “disciplinary sanction” (Doc A/59/710, paragraph A.35). A precise example is offered by Simic when he mentions the 108 Sri Lankan peacekeepers expelled from the mission in Haiti by 2007. It is said to be “the largest single withdrawal of soldiers from a UN peacekeeping mission and the first for acts of sexual abuse” (2010, 191).

Secondly, Member States shall hold national military accountable for alleged crimes. However, not all contributing-states have the capacity or are willing to exercise their disciplinary or criminal jurisdiction. States require, on the one hand, laws covering the crimes of sexual exploitation and abuse (and eventually any other crimes committed by their nationals abroad). On the other, these laws need to be applicable extra-territorially, which does not happen often since some states do not have such regulations enacted. Moreover, even if states manage to hold military accountable, it is not easy for victims to follow-up the process. They may eventually think the perpetrator goes unpunished, and feeling that their accusation was worthless.

IV.III Criminal accountability

As mentioned, United Nations can only carry out administrative investigations and cooperate with states afterwards. However, due to the fact that it is an international organisation, it does not assert criminal jurisdiction. Only states and international courts can exercise criminal jurisdiction over peacekeepers.

However, states are unlikely to hold criminal accountability over accused UN peacekeeping personnel. The matter is thus of concern to the international community. So it is for Prince

Zeid who, already in 2005, recommended to the Secretary General the creation of an international convention on criminal accountability of peacekeeping personnel:

(...) It is therefore recommended that the General Assembly ask the Secretary-General to appoint a group of experts to provide advice on the best way to proceed so as to ensure that the original intent of the Charter can be achieved, namely, that United Nations staff and experts on mission would never effectively be exempt from the consequences of criminal acts that they committed at their duty station. (...) (Doc A/59/710, paragraph 90)

Following Prince Zeid's instructions, in 2006, the Secretary General established a group of five legal experts to consider the issue. The Draft Convention on the Criminal Accountability of UN Officials and Experts on Mission (hereafter Draft Convention) was added in the Annex III. The Draft Convention is of special importance as it ensures binding obligations on signatory states to extradite or prosecute criminals; addresses other issues allowing effective exercise of jurisdiction by states; highlights gender-sensitiveness for sexually abusive crimes; and reveals the concern of the international community on the matter. There are, however, potential issues. One should bear in mind that the process of the treaty being created, ratified and coming into force may be lengthy. In addition, an international convention only binds state parties.

The Draft Convention starting point is that UN officials and experts on mission enjoy privileges and immunities set out in the Convention on the Privileges and Immunities of United Nations of 1996 (Doc A/45/594, Annex, Section III) in the interests of the United Nations. Such privileges and immunities are not for the personal benefit of the individual though. They are set up in order to make Peacekeeping Operations successful. Immunities covering only acts committed in an official capacity are called "functional immunities".

The competent organ of the UN (Secretary General) can waive such immunity anytime when it impedes the course of justice. This is likely to happen when the host State has a functioning legal system which has the capacity to properly investigate and prosecute in accordance with laws, practices and procedures considered democratic. The problem appears in the absence of a proper legal system. In this case, the jurisdiction is left to the state of which the perpetrator is national. However, the state has no legal obligation to prosecute. The Draft Convention is aimed at filling this legal loophole. It should be reminded though, that the Convention does not affect the immunity from legal processes in the host state or the waiver of the immunity of UN officials and experts on mission.

Among the weaknesses of the Draft Convention, we highlight its *ratione personae* and *ratione materiae* jurisdictions tackled in the articles 2 and 3 respectively.

The *ratione personae* jurisdiction is restricted to UN officials and experts on mission. UN officials are comprised of UN staff and UN volunteers while experts on mission are composed of UN police, military observers, military advisers, military liaison officers and consultants. The Draft does not apply to military personnel of national contingents and to other persons who are under the provisions of the SOFA and the MoU subject to the exclusive jurisdiction of a state other than the host state. Nevertheless, an international convention on criminal accountability for peacekeeping personnel should not exclude any members of the mission;

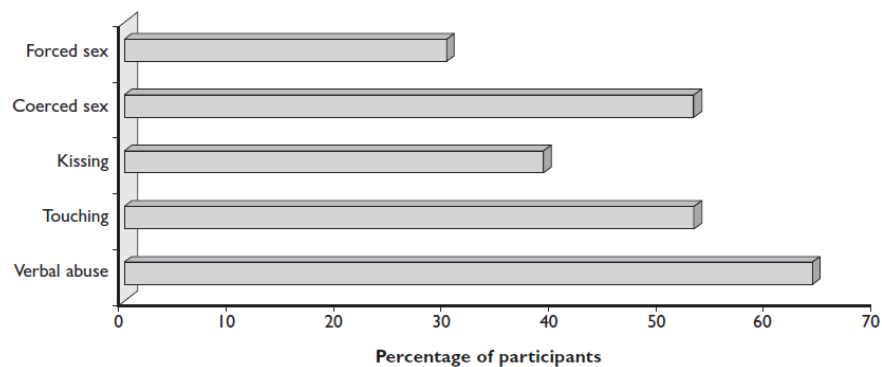
especially if these are the ones who receive the majority of sexual exploitation and abuse accusations.

The *ratione materiae* jurisdiction is set in article 3.2; its deficiencies shall be addressed.

First, it sticks to few types of crimes such as murder, wilfully causing serious injury to body or health, rape and acts of sexual violence, or sexual offences involving children. The first two types of crimes should be complemented by other defined misconduct such as torture, trafficking of humans, trafficking of drugs, fraud, involved in organised crime etc. that otherwise not prosecuted.

Secondly, both “acts of sexual violence” and “sexual offences” are broad concepts. While this can lead to a higher number of signatory states, their leeway would likely turn into impunity for the perpetrator. It is a loophole for states as they could argue that they have complied with their Convention responsibilities even though they have not done so. In order to prevent this from happening, I would recommend adding specific definitions. For instance, “sexual offences” can include inter alia sexual exploitation and abuse, prostitution, sexual slavery, forced pregnancy and verbal abuse. Save the Children UK showed in a report in 2008 that verbal abuse was the most commonly identified abuse by children in Southern Sudan, Côte d’Ivoire and Haiti (Csáky 2008, 6):

Fig.I: Types of abuse most commonly identified



Source: 38 focus group discussions across Southern Sudan, Côte d’Ivoire and Haiti

In addition, instead of “rape and acts of sexual violence” one could think in similar terms as for the International Criminal Court Statute catch-all statement used in article 7.1 (g): “rape or any other form of sexual offences/violence of comparable gravity”. The concept of “comparable gravity” allows including other categories of crimes at least as serious as rape.

Third, article 3.2 establishes that an attempt to commit these crimes or participating in any capacity, such as an accomplice, assistant or instigator also involve criminal accountability. The point “participating in any capacity” is particularly important for commanders who knew crimes were being committed but failed to stop them or to take steps to punish perpetrators. The introduction of this last kind of crime is thus an achievement for the group of legal experts.

Within the next articles, the Draft Convention calls each State party to take measures to establish its jurisdiction when the alleged crime is committed in the territory of that state, by one of its nationals, against one of them or by a stateless person who habitually resides in that

state (Doc A/45/594, Annex III, article 4). I agree that effectively exercising jurisdiction over nationals is essential for peacekeepers who have committed crimes abroad.

Finally, the Draft urges the State party executing jurisdiction over prosecutors to communicate the final outcome of the proceeding to the Secretary General so that he can transmit it to the host state and allow victims to properly follow up (article 17). This could be an achievement since so far state parties are not obliged to report to the Secretary General, they are simply “strongly encouraged”.

Despite of the efforts of the group of experts and the Secretary General, the UN has not managed to make such an important measure binding to Member States, not even to potential signatories. Even if the Draft Convention would have been ratified by few states, it would have been the ultimate way of eliminating impunity for peacekeepers. However, as long as absolute immunity exists for some categories of personnel and exclusive national jurisdiction is exerted upon military contingents, no international treaty will be enforceable enough to act as deterrent to abusive behaviours.

As a result, the UN sticks to enforcement and preventive measures as put forward earlier and sets out remedial actions which palliate the problem rather than fixing it.

IV.IV Remedial action

Assistance and support to victims

Victims play a pivotal role in ensuring the policy’s effective implementation. Their reporting can be the only way to bring misconduct to light. Further, their cooperation is often determinative in substantiating allegations of sexual exploitation (Kanetake 2010, 209). That is why complainants should be protected after denouncing the misconduct and basic assistance and support shall be given to victims of sexually abusive acts.

This issue was officially assumed throughout General Assembly resolution 62/214 entitled “United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel” (“the Strategy”) dating from December 2007, pursuant to the Statement of Commitment on Eliminating Sexual Exploitation and Abuse by UN and Non-UN Personnel (2006). The outcome of this resolution was the implementation of the Strategy by the Secretary General through an initial 2-year mandate to help victims access to services they may need as a result of sexual exploitation and abuse.

The mandate consists of establishing a Sexual Exploitation and Abuse Victim Assistance Mechanism (SEA/VAM) in every country in which the UN operates, so victim’s support can be provided regardless of the agency associated with the perpetrator. Each country develops its own SEA/VAM, adapted to the national context, to facilitate access to locally existing services (UN CDU). Although the UN states that the people who should get this kind of support are complainants, victims and children born as a result of sexual exploitation and abuse, I strongly believe that it should be expanded to family members and other persons close to the victim who have indirectly suffered from sexual misconduct. I am thinking especially of young girls being ostracised by their families as a consequence of her stigmatisation among the community. In such cases, besides support provided to take her back

to school, psychological care should be offered to family members so they can set prejudices aside and welcome her back home.

The purpose of the Strategy is to supply appropriate assistance and support to sexual exploitation and abuse victims in a timely manner in cooperation with non-governmental and inter-governmental organizations. However, it is emphasised that it “is not intended as means for [economic] compensation” (Doc A/Res/62/214 Annex, paragraph 3). The assistance and support comprises of “medical care, legal services, support to deal with the psychological and social effects of the experience and immediate material care, such as food, clothing, emergency and safe shelter, as necessary” (paragraph 6). Besides it is pointed out that such aid should be provided in a way that does not increase the trauma suffered, further stigmatise victims or discriminate against other victims of sexual exploitation and abuse.

The UN should identify implementing partners in the country concerned to provide these services, as well as coupling every person qualified for assistance with a Victim Support Facilitator, who acts as a case worker to help him/her through the system. Nevertheless, further details about the funding are not provided. Additionally, not enough emphasis is put on the need for a coordinated action with civil society.

As a result, criticisms have recently emerged in the General Assembly document 69/779 from February 2015, pursuant to General Assembly resolution 57/306 (2003) on investigation into sexual exploitation of refugees by aid workers in West Africa. The former gathers data on allegations of sexual exploitation and abuse for the period from 1 January to 31 December 2014 and gives information on measures implemented in order to strengthen a zero-tolerance policy.

According to the document, assistance to victims has not been fully provided, mainly because using existing services and programmes is insufficient. That is why the creation of a common funding instrument, the so-called “trust fund”, should be considered (Doc A/69/779, paragraph 65). Moreover, inter-agency cooperation to deliver a strong collective response should be encouraged, and it “must include the active involvement of local communities to ensure that their concerns are reflected in that response” (paragraph 68).

Whereas pre-existing local services could be a good way to undertake remedial actions for victims, one shall not place blind hopes on them. Pre-existing service organisations enjoy legitimacy and are the closest an organisation can be to mission’s reality, but assistance should not be completely dependent on these community networks. In some countries people may be living in the aftermath of a conflict where both formal and informal institutions have been weakened, even disappeared. Furthermore, grassroots organisations and movements are likely to be banned under an undemocratic regime. Moreover, even if local services still exist, the lack of coordination among local entities, the lack of material resources, and the lack of expertise used to deal with victims support are some of the shortcomings of remedial actions implemented by the UN. Additionally, since 2013 CDTs are updating the mapping of services and assistance available to victims. This is a notably difficult and time-consuming task for geographical and security reasons in the territories where the Teams operate.

I therefore agree with what was put forward in document 69/779; ad hoc funding should be provided by Member States in order to allow potential community-based partners to provide victim’s assistance at the same time as they coordinate with CDTs. The latter could recover the figure of the independent Sexual Exploitation and Abuse Focal Point –which was

substituted along with the Code of Conduct Officers in 2005 by the CDU– so coordination gets strengthened.

Conclusion

This essay has sought to argue that the United Nations, while having taken steps forward since cases of sexual exploitation and abuse by peacekeepers came officially to light in 2003, has shortcomings that need to be addressed so that the implemented solutions can be more effective.

Contemporary multidimensional and multi-category personnel operations involved in sexual misconduct violate at least two of their three core principles, namely consent of local parties and impartiality. Hence, sexual exploitation and abuse committed within Peacekeeping Operations, understood as operations established in accordance with the UN Charter and conducted under UN authority and control for the purpose of maintaining or restoring international peace and security, not only increases the suffering of an already vulnerable population, but it also undermines the credibility and the mission's ability to achieve its mandate.

The commission of sexually abusive acts are not to be blamed on victims. Under “consented” acts, the decision to engage in sex with peacekeepers for money or goods is not a valid choice, especially if we bear in mind power differentials. Children, young girls and women conceive sex with UN workers as their way to survival. Other than the abuse of power by perpetrators, some contributing factors to sexual misconduct such as thinking of sexual violence as an inevitable consequence of war, poverty, impunity for criminals, the peacekeeping hypermasculine culture triggering discrimination against women, and other local perceptions of women have been highlighted.

UN's response to the problem has been one of zero-tolerance. On the one hand, the Secretary General had no complacency in investigating allegations as a result of the creation of the Code and Discipline Unit and the upgrade of the Office of Internal Oversight Services, following Prince's Zeid recommendations in 2005 verbatim. On the other hand, zero impunity to perpetrators has been sought through preventive measures: universally applying regulations such as 2003 Secretary General's Bulletin, training and awareness-raising campaigns. However, we find that such guidelines need to be enforced and binding to all UN peacekeeper members and their home countries. That is why the ultimate measure to end impunity is the creation of an international treaty, similar yet modified to the Draft Convention written by the group of experts in 2006. Nevertheless, setting up this remedy is not straightforward at all due to the differences among national criminal systems and states scepticism to UN's interference. Finally, the last point of UN's strategy, remedial actions consisting of provision of support and assistance to victims, need to be urgently improved. Further funding by donors is also needed as a first step to achieve a successful partnership with local communities, which are the important actors in providing a suitable protection for sexual exploitation and abuse victims.

Whereas preventive, enforcement measures and remedial actions can be notably improved, I am of the view that the UN should prioritise putting an end to armed conflicts and to their underlying causes over post-facto strategies. Furthermore, once peace is finally restored, efforts should be made to make it sustainable thus leaving behind former unequal power structures. That is why the UN should work along with the host state and aim at long-term

solutions, for example strengthening key pillars such as public health and education, including gender sensitisation and empowerment of women.

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