

PEACEKEEPERS AS PERPETRATORS OF ABUSE

Examining the UN's plans to eliminate and address cases of sexual exploitation and abuse in peacekeeping operations

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I am afraid there is clear evidence that acts of gross misconduct have taken place. This is a shameful thing for the United Nations to have to say, and I am absolutely outraged by it.
– Kofi Annan, United Nations Secretary-General¹

Despite promulgating a comprehensive set of guidelines to deter UN personnel from committing acts of sexual misconduct, allegations of sexual exploitation and abuse have become widespread within United Nations peacekeeping missions. The policy of zero-tolerance for peacekeeper misconduct has not been matched by strong disciplinary measures, and crimes are often ignored and rarely punished: absentee fathers, rapists and murderers simply disappear back in their home countries. In countries where women and children rarely have the same economic resources, political rights and authority or control over their environment – or their bodies – they easily become prey for those in perceived positions of power and authority. By failing to hold those responsible to account, the UN may in fact be fuelling even greater discrimination and violence against women and children. In order to ensure those who are mandated to protect to do not become perpetrators of abuse, the UN must take a stronger stand against those who commit acts of sexual misconduct, and must ensure that victims see that their abuser is brought to justice and that reparation is offered. A recent report submitted by the Secretary-General's Special Envoy on Sexual Exploitation and Sexual Abuse makes a comprehensive set of recommendations to prevent, detect, and respond to these allegations. The aim of this essay is to highlight some of the main points of the Special Envoy's report, and to examine the practical challenges the UN and troop/police contributing countries will face when attempting to implement these recommendations.

Introduction

The dynamics of United Nations (UN) peacekeeping interventions changed in the post-Cold War period. The achievement of military objectives and the imposition of a secure environment was no longer a guarantee for the establishment of a self-sustaining peace. Rather,

the re-establishment of the rule of law, good governance, reconciliation, reconstruction and development programmes are considered prerequisites for peace and security. UN peacekeepers work side by side with other UN agencies, non-governmental organisations (NGOs) and civil society groups to achieve these objectives.

The respect shown to peacekeepers will be a direct consequence of their professional conduct and how they treat the parties and the local population. Through special agreements, peacekeepers enjoy certain immunities related to their duties. These notwithstanding, peacekeepers must still respect the laws and customs of the host nation and must be seen to be doing so. Thus, whether they are soldiers, police or civilians (including humanitarian workers), all peacekeepers are duty-bound to conduct themselves with professionalism and integrity. It is incumbent upon them to support international human rights standards, respect local populations and cultures, as well as enhance the credibility of the mission.

Despite clear codes of conduct and a zero-tolerance policy, allegations of sexual exploitation and abuse continue to be heard with increasing frequency and, as a result of limited remedial action, the abusers continue with impunity. The recent observation by the UN's internal investigatory body that there was a pattern of sexual exploitation and abuse by uniformed personnel involving women and girls in the UN mission in the Democratic Republic of the Congo (MONUC) is a source of major concern². The gravity of the allegations makes it difficult for the UN to convince the local population that it takes the issue of sexual exploitation and abuse seriously. Other allegations of abuse emanating from past and on-going missions in Bosnia, Cambodia, Mozambique, Kosovo, Burundi, Liberia and Haiti serve to prove the point: the UN must take drastic steps to regain the trust of those whom they are sent to protect and serve.

Conflict and displacement inevitably erode and weaken many of the social and political structures designed to protect and promote the human rights of the civilian population. The absence of functioning 'rule of law' systems means that the little protection afforded to civilians against sexual abuse is weakened and precarious. In addition, the lack of income-generating opportunities leaves women and girls particularly vulnerable to poverty, exploitation, violence and HIV/AIDS, and pulls them into a vicious cycle of poverty and disease. Moreover, in societies where a woman's status is determined by her relationship to a man, widowhood or separation can have dire economic and social consequences. Thus, without access to legitimate

work opportunities, women and children may resort to prostitution to survive. Some UN peacekeepers and aid workers reportedly abuse their position of power to gain sexual favours from these vulnerable groups. This type of abuse may be anything from a violent rape to coercive sex in exchange for money, goods or services. The vast disparity and inherent power differential between peacekeepers (who are themselves absent from home for long periods) and the local population is a significant factor in incidences of sexual exploitation and abuse.

A recent letter from Prince Zeid Ra'ad Zeid Al-Hussein, the Secretary-General's special adviser on sexual exploitation and abuse, to the President of the General Assembly, notes that current efforts to address sexual exploitation and abuse are ad-hoc and inadequate to deal with the problem. Prince Hussein recommends that the organisation improve the prevention, identification and response mechanisms in place to address to these violations. A report entitled 'A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations' (A/59/710) identifies four main areas of concern, namely: the current rules on standards of conduct; the method of investigating allegations of abuse; the accountability of the UN as an organisation as well as its senior officers; and the financial and legal considerations.

The report also outlines the main challenges, and recommends measures to bridge the gaps in current mechanisms to prevent and respond to allegations of misconduct. These policy recommendations include increasing managerial accountability, enhancing the organisational capacity for prevention and response, and improving assistance to victims, amongst others. If implemented, the approach recommended in this report will go a long way towards stemming – though not completely stopping – the exploitation of women and children during peacekeeping missions. It is a comprehensive, holistic approach to the problem because it looks to strengthen both the preventive and responsive mechanisms. The report also identifies the very real challenges faced by peacekeepers during missions: to keep an uneasy peace, often with ambiguous mandates, under very difficult conditions, away from their families, with little

additional pay or recompense, and limited leave and recreational facilities.

Adequately addressing and implementing these recommendations will require resolve by the UN Secretariat and UN member states. It is incumbent upon all stakeholders to ensure that the very services intended to protect and benefit the local population do not become tools of exploitation.

This essay aims to highlight some of the main points of the report, and will examine the practical challenges the UN and troop/police-contributing countries will face when implementing these recommendations.

Background

Sexual violence against women and girls continues to be used as a weapon of war in most conflicts. In the absence of functioning 'rule of law' structures, such as police, judicial and penal systems, gender and sexual-based violence is largely unpunished. As violence levels increase during conflict, violence against women and girls becomes pervasive. Traditionally relegated to subordinate positions – second-class citizens – with no rights of their own, they are subjected to gender-based discrimination at home as well as in public. With little control over their own sexuality, many resort to trading sex for food, money, or shelter. Therefore, it should come as no surprise that women and girls often aggressively seek out peacekeeping and aid personnel in mission areas to barter their bodies for any form of remuneration. When women can be seduced with the promise of money, food or shelter, the UN is challenged by the reality that it is hard to keep soldiers and other police and civilian personnel chaste. However, preventing the victimisation of women and children is just one aspect of the problem. The other is the damage that sexual exploitation and abuse does to the mission's credibility, and the invitation this sends to those who would benefit from their misconduct, such as organised criminal groups who traffic women and children into mission areas to service the increased levels of demand posed by thousands of military and humanitarian personnel.

The fact that humanitarian aid workers and UN peacekeepers are the perpetrators of sexual exploitation and abuse is not a new concept.

One of the earliest reports of violence against local populations – including murder, torture, rape and other sexual violence – was recorded in Somalia in 1992. During the UN mission in Cambodia, civil society organisations recorded a four-fold increase in the number of prostitutes, many of them supplied from within the region, to meet the demand created by peacekeeping personnel.³ The 1995 United Nations High Commission for Refugees (UNHCR) guidelines⁴ on prevention and response make reference to the fact that refugee women and girls were being approached for sexual favours in exchange for goods during distribution. Graca Machel's 1996 study on the effect of conflict on children also noted that the arrival of peacekeeping troops was associated with a rapid rise in child prostitution.⁵ However, it wasn't until the 2002 Save the Children UK (SCUK) and the UNHCR report⁶ that global attention was drawn to the fact that peacekeepers and humanitarian workers were coercing young girls to have sex in exchange for food, money or shelter. More recently, allegations of widespread abuse emanating from MONUC, as well as other reports from Burundi, Haiti and Liberia, indicate that the UN has not enforced its zero tolerance policy. The UN has not properly investigated cases and has not repatriated the alleged perpetrators, thus sending the message that the UN is unwilling or unable to enforce its codes. For local populations, the impression is that the UN tacitly condones such activities. This crisis of perception can undermine the credibility of the UN, and adversely affect it by weakening the implementation of the mission mandate and compromising the collective achievements and individual efforts made by the organisation and its personnel.

Peacekeepers, be they soldiers, police or civilian staff, are responsible for upholding the core values of the UN: professionalism, integrity and respect for diversity. These values are irrevocably compromised when peacekeepers commit acts such as those currently reported in MONUC, where the majority of the allegations relate to sex with people under the age of 18, and 13% of all cases involved rape.⁷ The UN and its peacekeepers also compromise their ability to legitimately advise on human rights standards and rule of law issues when their own personnel do not abide by the same standards.

Current roles and standards of conduct

UN personnel fall under one of five separate categories, namely: military members of national contingents, military observers, civilian police, UN volunteers, consultants and individual contractors. Each category is governed by a different set of rules, although all are obliged to respect the standards set under the UN Staff Rules and Regulations, reinforced by administrative instructions. These include the Secretary-General's bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13) as well as the principles enshrined in Ten Rules: Code of Personal Conduct for Blue Helmets and We are United Nations Peacekeepers. The basic policies clearly state that there is zero tolerance of sexual exploitation and abuse of any kind.

The UN is bound by a Status of Forces/Mission Agreement (Memorandum of Understanding) between the UN and countries contributing personnel to the peacekeeping operation. This agreement assumes that the troop contributing country (TCC) will meet its responsibility to exercise criminal jurisdiction over national personnel in return for immunity from local prosecution. However, experience has demonstrated that, because this is a tacit understanding, few countries often meet this requirement. Moreover, peacekeepers seem aware of the UN's limited jurisdiction over them: the Office for Internal Oversight Services (OIOS) report from the DRC notes:

...despite knowledge that the investigation was on-going, sexual activities between the military and the local population apparently continued...it was clear that the investigation did not act as a deterrent, perhaps because they had not been made aware of the severe penalties for engaging in such conduct, nor had any seen any evidence of negative impact on individual peacekeepers for such behaviour. Without strong reinforcement of the legal requirements and prompt sanctions for violations, they may well continue this behaviour.⁸

Thus, it is essential that all future agreements include a legal obligation for member states to take appropriate action, including punitive sanc-

tions, against those that commit acts of sexual exploitation and abuse. The Memorandum of Understanding should contain a clause indicating that if an investigation concludes that allegations are well-founded, and if there is a prima facie case of misconduct, the national contingent commander must forward the case to its national authorities. The mission should also forward the reports on such investigations to the TCC through the Permanent Mission in New York. While the decision on whether or not to prosecute is a national responsibility, the agreement to follow this procedure should be an essential condition for acceptance of an offer from a TCC to provide troops for UN peacekeeping operations. The Secretary-General must, therefore, receive formal assurances that TCCs will implement their legal obligation to exercise criminal jurisdiction over their troops in return for local immunity. It is incumbent on those who work under a system of privileges and immunities not to abuse a system never intended to protect them from crimes committed in the host state.

Military observers and civilian police hold the status of 'experts on mission', affording them immunity in their official functions. UN civilian staff are also afforded the privileges and immunities of officials⁹ and are further bound to observe the standards of conduct expected of international civil servants.¹⁰ All are required to live up to the highest standards of integrity, and are obliged to respect local laws and customs. In cases where personnel commit illegal acts in the host country that do not accord with their official functions, they should be subject to local civil and criminal jurisdiction.¹¹ However, because peacekeepers are usually deployed in areas that do not have functioning legal systems, initiating local prosecution will be extremely difficult.

Investigations

The procedures in place for the investigation of allegations of abuse include a preliminary investigation to establish the facts, followed by a Board of Inquiry if the evidence indicates that serious misconduct has occurred. The Board of Inquiry will review the incident and recommend appropriate administrative action. Focal points in missions are meant to receive reports, monitor incidents, and identify patterns. Focal points

participate in investigations and submit their recommendations to the Special Representative of the Secretary-General (SRSG). After sending the report to the Secretary-General, a decision will be made on whether or not to repatriate the alleged perpetrator. Often, however, investigations are criticised for not being thorough or for not following appropriate procedures to protect witnesses. Currently, many missions lack sufficient capacity to monitor personnel, and weak coordination between civilian and military police allows for incomplete reporting and follow-up. Thus, there is a need to implement transparent procedures to ensure accountability to victims, balanced with a fair judicial review to properly manage the investigation. This may require that the UN appoint investigators with specialised expertise to investigate and monitor cases pending before a Board of Inquiry, and ensure the proper process required to prepare a case is followed. As recommended in the report, the establishment of a permanent professional investigative mechanism to investigate cases of serious misconduct could provide capacity to undertake investigations, afford witness protection, and ensure due process is met. In addition, to ensure that procedures followed during investigations satisfy the requirements of national laws of the TCC, the report suggests that an expert in military law, such as a prosecutor, from the TCC concerned, participate in the investigation. Meeting national standards of evidence may propel the TCC to undertake further action, such as prosecution. The report also suggests that the UN consider allowing for in-mission court martials in order to gain access to witnesses, evidence, and demonstrate a transparent, accountable, and remedial procedure to the local population.

The recommendations of the report are applicable to the wider UN system. Thus, coordination between agencies becomes a key factor in sending a clear, unambiguous message that any form of sexual exploitation and abuse committed by any staff member of any agency will not be tolerated. Currently, however, allegations against UN agencies are dealt with on an ad-hoc basis, from agency to agency, which can limit the effectiveness of a common strategy. Thus, despite recommending that “accountability needs to be addressed at individual agency level and collec-

tively...to ensure a common approach to protecting against sexual exploitation and abuse and to foster a concept of collective responsibility”,¹² there exists no common system of accountability for the humanitarian community. In order to better respond to allegations of sexual exploitation and abuse, coordinate investigations, and streamline policies, the recommendation that all missions establish mission-specific measures is long overdue.

Another best practice currently being implemented in some missions is that of establishing country-specific Task Forces comprising the UN mission, UN Agencies, NGO representatives and national authorities. A Task Force is assigned to coordinate preventive and responsive mechanisms. The report suggests that heads of office be tasked to develop region-specific strategies to address sexual exploitation and abuse, focusing on prevention measures tailored to their area. Senior managers are to be updated daily regarding emerging sexual exploitation and abuse issues and mission responses. To be successful, however, heads of office (in the UN as well as its agencies) will have to identify responsible focal points, who are trained and tasked to implement policies and procedures within their own organisations, as well as coordinate information between organisations. The regular convening of focal points is an important first step towards the establishment of a clear, coherent, coordinated policy that takes into account best practices and lessons learned. The group could eventually move beyond coordination to create a list of gaps that remain to be addressed in areas such as education, empowerment, monitoring and investigation procedures and community reporting.

Imposing curfews, declaring certain areas off-limit, wearing uniforms at all times in the mission area, patrolling, roll calls and implementing stricter standards of behaviour are just a few of the additional mission-specific measures by which the UN can better monitor the conduct of its personnel. However, as the report also highlights, service in stressful environments with little or no opportunity for recreational breaks can contribute to bad behaviour. The report recommends that the UN provide for paid rest or family visits, make counsellors available, and establish recreational sites in-mission, including sports areas and internet facilities/telephone access. These could

go a long way towards enhancing the conditions of service, contributing to staff welfare, and reducing the risk of misconduct.

Finally, the report recommends that the UN provide some form of assistance to victims as an expense incidental to the organisation's general responsibility. Assistance could take the form of basic first-aid medical treatment, the provision of follow-on support from relief agencies, feedback to alleged victims on the action taken as a result of the complaint and the outcome of the investigation, and the establishment of a voluntary trust fund to provide assistance to victims of sexual exploitation and abuse.

Organisational, managerial and command accountability

Organisational measures, such as education, providing outreach to local communities, creating a system for collecting data and tracking investigations, and establishing full-time positions in headquarters as well as the field to coordinate mission actions are a welcome effort to prevent cases of sexual exploitation and abuse from occurring in the first place. However, these policies cannot succeed without support from senior management. Often, many fail to draw the line and establish clear standards of behaviour. Managers play an important role in creating an environment that discourages sexual exploitation and abuse by taking action against alleged perpetrators and serving as role models. Thus, managers must be at the forefront of efforts to combat all forms of sexual exploitation and abuse, and be held accountable for discharging that role. To ensure compliance, the report recommends that senior staff (including national contingent commanders and senior managers) be evaluated, for example as part of their performance goals, on the basis of implementing measures aimed at eliminating sexual exploitation and abuse. In order to ensure managers are effectively prepared to take on this role and set benchmarks for their performance, the organisation should generate policy recommendations that establish a common level of understanding among members of senior management as to what constitutes sexual exploitation and abuse, inform them of their individual responsibilities in the mission area,

and create a stronger support environment for dealing with cases of abuse.¹³

The report suggests that for military personnel, contingent commanders and senior military staff should be tasked by the force commander to be aware of the policies and be assessed on the basis of how they implement and uphold them. The report further recommends that commanders who undertake their responsibilities be awarded a special commendation. While the implementation of these measures may not prevent violations from taking place, the report notes that the essential factor is that all contingents must take action against perpetrators and cooperate with investigations. As noted above, these tasks should be made very clear in the agreement made between the TCC and the UN. The establishment of a reporting procedure requiring the TCC to report to the Secretary-General on the actions taken in response to cases referred to it could ensure this agreement is upheld. Should the TCC repeatedly fail to comply with reporting obligations under the new Memoranda of Understanding, the Secretary-General will be permitted to name the TCC and the details of the alleged conduct (while protecting the rights of the accused) in his annual report to the Special Committee on Peacekeeping Operations.

Individual disciplinary, financial and criminal accountability

Local civilians may have the perception that peacekeeping personnel can commit crimes of sexual abuse and exploitation (SEA) without fear of punishment. Sadly, this view is not far from the truth. Whether preliminary investigations did not provide sufficient evidence to suggest serious misconduct occurred, or whether victims were reluctant to come forward for fear of intimidation or shame, it remains true that very few peacekeepers are repatriated, disciplined or prosecuted for crimes committed in mission areas. To ensure that those found guilty of misconduct are held responsible for their acts, the report makes several recommendations about disciplinary, financial and criminal accountability. For example, to emphasise its policy of zero tolerance, the implementation of strict disciplinary accountability and the introduction of expedited procedures to deal with cases of serious misconduct

are suggested, including the possibility of suspension without pay. The recommendations that could prove difficult to implement are those with financial implications, such as: imposing fines on staff members guilty of misconduct and holding the perpetrator financially accountable for any harm caused to the victim (the funds to go to the Trust Fund for Victims). Peacekeeping operations are also remembered for the children conceived and left behind. The UN estimates that in Liberia, for example, 1,500 babies will be conceived by UN peacekeepers by the end of 2006.¹⁴ These so-called 'peacekeeping babies' and their mothers are left without support or provision and, as a result, the report recommends that the UN be authorised to conduct DNA-type tests to establish paternity to ensure personnel can be obliged to provide child support for 'peacekeeping babies'. This would require that costs be recovered by troop contributing countries from absentee fathers future salaries. In the case of UN civilian members, the cost could be deducted from salaries in paternity-suit cases, or from final emoluments in the case of dismissal.

Conclusion

Post-conflict environments offer the opportunity to address economic, political and social marginalisation by ensuring institutions and legislations are re-constructed in a non-discriminatory manner. However, there is a time lag between implementing the agenda and reaping the rewards of that progress. People remain vulnerable until the rule of law is re-established and institutions are in place to assist and support them. Thus, the reality of prostitution in mission areas is undeniable. The absence of mainstream economic opportunities for women and girls, compounded by unequal power dynamics, pervasive gender inequality and the likelihood of previous exposure to violence and/or rape all amount to the same thing: starvation and deprivation encourage women to use their sexual favours for material gain. [the 'aphrodisiac' comment is misguided and I have tried to reword the general idea.]

The UN has an opportunity to shape the environment in which it works. The UN will need to do this if it hopes to accomplish its intended goals of restoring peace and security; alleviating human suffering; supporting the pursuit of

sustainable economic and social development; reconstructing shattered infrastructure; and promoting justice, the rule of law and reconciliation. But the UN will also have to ensure justice is served among its own personnel. The sad reality, however, is that it will probably prove virtually impossible to monitor and bring to justice all cases of exploitation and abuse committed in mission areas. The goal, therefore, must be to improve the mechanisms – preventive and responsive – at the UN's disposal to make peacekeepers accountable for their actions. Moreover, if lessons are to be integrated into the daily actions of peacekeepers, support should be provided to the UN and local populations to encourage and strengthen the capacities to promote an environment that discourages acts of exploitation and abuse, and educate local populations about their rights. The UN should also be empowered to identify patterns of abuse, record and report incidents, and ensure justice is served. The misconduct of the few should not undermine the contributions of many. However, only once accountable and transparent response strategies are in place to prevent and protect local populations from sexual exploitation and abuse, will the UN send a message that it does not tolerate or condone such behaviour.

Notes

- 1 United Nations Press Release, Sexual abuse in peacekeeping report 'hard and unvarnished look' at serious problem, reforms must be quickly implemented, says Secretary-General (SG/SM/9778), 24 March 2005, <www.un.org/News/> (30 April 2005).
- 2 United Nations Office of Internal Oversight Services (OIOS), Investigation by the Office of Internal Oversight Services into allegations of sexual exploitation and abuse in the United Nations Organisation Mission in the Democratic Republic of the Cong (A/59/661), 5 January 2005, www.un.org (18 April 2005).
- 3 Women In Cambodian Society, <www.seasite.niu.edu/khmer/Ledgerwood/women.htm> (30 April 2005). Also see Child Prostitution, Trafficking and Sex Workers in Cambodia, <www.ngoforum.org.kh/Development/Docs/child_prostitution.htm>, (2 May 2005).
- 4 United Nations High Commissioner for Refugees, Guidelines for Prevention and Response: Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons, 1995.
- 5 United Nations and UNICEF, Report of Graca Machel on the Impact of Armed Conflict on

- Children, UNICEF, 26 August 1996, www.unicef.org/graca/, (30 April 2005).
- 6 UNHCR and Save the Children-UK on Sexual Violence & Exploitation: The Experience of Refugee Children in Guinea, Liberia and Sierra Leone based on Initial Findings and Recommendations from Assessment Mission 22 October – 30 November 2001, <www.unhcr.ch>, (30 April 2005).
 - 7 OIOS report, op cit.
 - 8 OIOS report, op cit.
 - 9 United Nations Convention on Privileges and Immunities of the United Nations, 13 February 1946.
 - 10 United Nations, Status, Basic Rights and Duties of United Nations Staff Members, (ST/SGB/2002/13), 1 November 2002.
 - 11 United Nations, Directives for Disciplinary Matters Involving Civilian Police Officers and Military Observers, DPKO/DDCPO/2003/001.
 - 12 Inter-Agency Standing Committee (IASC), Report of the Task Force on protection from sexual exploitation and abuse in humanitarian crisis, 13 June 2003, p 5.
 - 13 United Nations, Letter dated 9 February 2005 from the Secretary-General addressed to the President of the Security Council, 9 February 2005 (S/2005/79).
 - 14 The Economist, Daddy Wore A Blue Helmet, 23-29 April 2005, <www.economist.com>, (2 May 2005).