

Supposed to Protect

Sexual Exploitation and Abuse Committed under the UN Flag and the UN's Fight to Prevent it

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A. Introduction

“We are the United Nations Peacekeepers. [...] We will never:

- Commit any act that could result in physical, sexual or psychological harm or suffering to members of the local population, especially women and children;
- Become involved in sexual liaisons which could affect our impartiality, or the well-being of others;
- Be abusive or uncivil to any member of the public.”¹

A promising statement—fitting for a Nobel Peace Prize-Winning force² that has been helping to create and keep peace in countries all over the world since 1948. Since then, tens of thousands of civilian, police and military personnel have worked as UN peacekeepers, sustaining peace and security; providing aid and protection to civilians; promoting and protecting their human rights; and assisting the country as it transitions from conflict to peace by supporting disarmament; demobilization and reintegration of former combatants; helping in the organization of elections; and assisting in restoring the rule of law. Currently there are 16 UN peacekeeping operations in even more countries on four continents.

But UN peacekeeping has a darker side as well. For years, allegations of sexual exploitation and abuse have been raised against the men and women dispatched to protect the people of their country of mission. But the alleged perpetrators are not only UN peacekeepers. UN entities other than the Department of Peacekeeping Operations (DPKO) also regularly face allegations of sexual exploitation and abuse.³

¹ United Nations Department for Peacekeeping Operations, Training Unit, “We are the United Nations Peacekeepers,” http://www.un.org/en/peacekeeping/documents/un_in.pdf (accessed 03 July 03 2017).

² The UN Peacekeeping Forces won the Nobel Peace Prize in 1988.

³ See for example UN General Assembly, “Special Measures for Protection from Sexual Exploitation and Sexual Abuse,” *Report of the Secretary-General, A/63/720* (17 February 2009), Annex II.

The UN, meanwhile, does not stand idly by. Since the first wave of allegations have arisen in the early 2000s, the organization has implemented an abundance of new policies; adopted countless resolutions; and created units and committees to investigate the allegation; support the victims on their road to recovery; and bring perpetrators to justice, as well as finding ways to prevent any wrongdoing by their personnel—especially sexual exploitation and abuse—in the future.

Yet the allegations linger, and they are not few and far between. A 2017 Associated Press investigation uncovered nearly 2,000 allegations of sexual abuse and exploitation by peacekeepers and other personnel around the world.⁴

This sad reality raises many questions. What possesses the men and women to commit these horrible crimes in the first place? How is it possible for them to operate in secrecy—or do their colleagues knowingly turn a blind eye? Why are so few of the perpetrators ever prosecuted? And why is the UN not more successful in its fight to prevent sexual exploitation and abuse under its own flag?

B. Sexual Exploitation and Abuse Committed Under the UN Flag: A History of Violence

Sexual exploitation and abuse is a vast field and includes many transgressions. To understand if the actions of a person are sexually exploitative or abusive, a consistent definition must first be introduced. In the scope of this work, all definitions are used as found in the UN Conduct and Discipline website glossary.⁵ After defining each crime, its history under the UN flag is summarized in section I.

To root out SEA and bring justice to the victims, it is vital that the perpetrators are brought to justice. This constitutes a new set of challenges, which are outlined in section II.

I. Crimes Constituting Sexual Exploitation and Abuse

1. Sexual Abuse

⁴ Dodds, Paisley, “AP Exclusive: UN child sex ring left victims but no arrests” (12 April 2017), <https://apnews.com/e6ebc331460345c5abd4f57d77f535c1> (accessed 09 June 2017).

⁵ United Nations, “Glossary,” <https://conduct.unmissions.org/glossary> (accessed 13 June 2017).

Sexual abuse is the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. The UN considers all sexual activity with a child (under 18 years of age) as sexual abuse, regardless of the age of consent in the country of mission.⁶

Women and children are especially targeted and a majority among the victims—not just after armed conflict. Sexual violence against women and girls is a sad part of almost every armed conflict. This so-called strategic rape is used as a tool of warfare, to serve a strategic aim related to the conflict.⁷ As Maj. Gen. Patrick Cammaert states, “*It is perhaps more dangerous to be a woman than a soldier in an armed conflict.*”⁸

Sadly this danger does not cease with the end of armed conflict. This horrific fact was impressively revealed in the 1996 Report of the expert of the Secretary-General on the Impact of armed conflict on children, Ms. Grac’a Machel.⁹ Ms. Machel had ascertained that often, children fell victim *after* peacekeeping forces moved in. In 6 out of 12 countries she investigated, the arrival of peacekeeping forces marked the beginning of a rapid rise in child prostitution. In her report Ms. Machel cites the case of the UN operation in Mozambique (ONUMOZ), where soldiers recruited 12 to 18-year-old girls into prostitution.¹⁰

In the same report, Ms. Machel addresses the trafficking of children from conflict situations to brothels in other countries, including a case of children being trafficked from Georgia to brothels in Turkey.¹¹ Whereas this was not related to UN peacekeeping forces or other UN personnel, it is nevertheless noteworthy in the context of this work as it involves Georgian children.

But forced prostitution is not the only risk people face after armed conflict, as a 2002 report commissioned by UNHCR and Save the Children UK (SC-UK) found out.¹² After talking to 1,500 refugee and internally displaced adults and children in Guinea, Liberia and Sierra Leone, the assessment team conveyed allegations against 67 persons working for different agencies—among those UN peacekeeping forces. These allegations were then thoroughly examined during an investigation conducted by the Investigations Division of the Office of Internal Oversight

⁶ UN Secretariat, “Special measures for protection from sexual exploitation and sexual abuse,” *Secretary-General’s Bulletin*, ST/SGB/2003/13 (Oct 9, 2003), sec. 3.2 (b).

⁷ Benshoof, Janet, “The Other Red Line: The Use of Rape as an Unlawful Tactic of Warfare,” *Global Policy* 5.2 (2014): 146-158.

⁸ Stop Rape Now, “Stop Rape Now PSA” (May 5, 2010), <https://www.youtube.com/watch?v=t1sbF6gx0cU> (accessed 13 June 2017).

⁹ UN General Assembly, “Impact of armed conflict on children,” *Note by the Secretary-General*, A/51/306 (26 August 1996).

¹⁰ loc. cit.: 98.

¹¹ loc. cit.: 96.

¹² UNHCR/SC-UK, “Sexual Violence & Exploitation: The Experience of Refugee Children in Guinea, Liberia and Sierra Leone,” *Note for Implementing and Operational Partners* (Feb 2002).

Services (OIOS) lasting from February until July 2002.¹³ Whereas the investigation found some allegations unsubstantiated or hard to prove,¹⁴ they acknowledged that the mere fact so many stories were being told, by groups of unconnected people and spread across three countries, strongly suggested that SEA was taking place in these regions. The OIOS thus investigated the matter further. They were able to substantiate cases related to accusations against NGO aid workers; peacekeepers; and United Nations staff, including UNHCR, as well as uncover shocking new cases: An approximately 14-year-old boy who was raped by a peacekeeper, a then-15-year-old girl that was in a sexual relationship with an UN Volunteer in his 40s, and many more cases of women and children being sexually abused and exploited by local NGO workers, who were implementing partners of UNHCR in the region.¹⁵

However, these cases were not an exception; they were merely the first in a series of many allegations that outraged the public and concerned the United Nations, which commissioned follow-up reports; implemented a series of reforms; and vowed to end these atrocities under its own flag. And yet, until today, allegations of SEA follow UN peacekeeping missions around the globe. And some missions have gained notoriety over the past years, among them the United Nations Stabilization Mission in Haiti (MINUSTAH), the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), and the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA). Allegations range from the gang-rape of an 18-year-old woman by peacekeepers in Central Africa in late 2015;¹⁶ the sexual relationship of a peacekeeper with an underage girl that resulted in a pregnancy in the Democratic Republic of the Congo in 2017;¹⁷ to the gang-rape of an 18-year-old man by peacekeepers in Haiti in 2011.¹⁸ These are just three out of many cases illustrating that SEA under the UN flag is far from over.

¹³ UN General Assembly, “Investigation into sexual exploitation of refugees by aid workers in West Africa,” *Report of the Secretary-General on the activities of the Office of Internal Oversight Services*, A/57/465 (11 October 2002).

¹⁴ This was for a number of reasons, among them the most notably the mobility of the alleged victims (many of them IDP women or refugees), and the vague description of witnesses in the UNHCR/SC-UK report (e.g. “adolescent”, “community leader”), as well as the fact that some allegations were based on rumors or hearsay rather than facts.

¹⁵ UN General Assembly, “Investigation into sexual exploitation of refugees by aid workers in West Africa,” *Report of the Secretary-General on the activities of the Office of Internal Oversight Services*, A/57/465 (11 October 2002), p. 9 et seqq.

¹⁶ Human Rights Watch, “Central African Republic: Rape by Peacekeepers” (04 February 2016), <https://www.hrw.org/news/2016/02/04/central-african-republic-rape-peacekeepers> (accessed 16 June 2017).

¹⁷ BBC News, “DR Congo: UN peacekeepers face fresh sexual abuse claims” (28 April 2017), <http://www.bbc.com/news/world-africa-39745357> (accessed 16 June 2017).

¹⁸ Weisbrot, Mark, “Is this Minustah’s ‘Abu Ghraib moment’ in Haiti?” *The Guardian* (03 September 2011), <https://www.theguardian.com/commentisfree/cifamerica/2011/sep/03/minustah-un-haiti-abuse> (accessed 16 June 2017).

2. Sexual Exploitation

Sexual exploitation is any actual or attempted abuse of 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. This includes acts such as transactional sex, solicitation of transactional sex, and exploitative relationships.

This definition, however, leaves many loopholes, and the border between sexual abuse and sexual exploitation often cannot be determined clearly. For instance, some young girls in the Democratic Republic of the Congo have spoken of “rape disguised as prostitution.” UN personnel would rape them, they explained, and then give them money or food to make the act seem consensual.¹⁹ However, even consensual sex in exchange for money or food is a form of sexual exploitation, as it constitutes transactional sex.

Transactional sex is defined as the exchange of money, employment, goods or services for sex, including sexual favours, other forms of humiliating, degrading or exploitative behaviour. This includes any exchange of assistance that is due to beneficiaries of assistance.²⁰ “*In this community no one can access CSB (a soya nutrient), without having sex first. ... If you do not have a wife or a sister or a daughter to offer the NGO workers, it is hard to have access to aid,*” the 2002 UNHCR/SC-UK report quotes women and men in West Africa.²¹ Although these particular allegations could not be substantiated by the follow-up investigation,^{22,23} they put into words what has been and continues to be a sad reality elsewhere: As of 28 June 2017, 282 allegations of sexual exploitation have been reported since 2010.²⁴

3. Miscellaneous: Sexual harassment

¹⁹ UN General Assembly, “A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations,” *Comprehensive review of the whole question of peacekeeping operations in all their aspects*, A/59/710 (Mar 24, 2005): 6.

²⁰ United Nations, “Glossary,” <https://conduct.unmissions.org/glossary> (accessed 13 June 2017).

²¹ UNHCR/SC-UK, “Sexual Violence & Exploitation: The Experience of Refugee Children in Guinea, Liberia and Sierra Leone,” *Note for Implementing and Operational Partners* (Feb 2002):

²² UN General Assembly, “Investigation into sexual exploitation of refugees by aid workers in West Africa,” *Report of the Secretary-General on the activities of the Office of Internal Oversight Services*, A/57/465 (11 October 2002): 8.

²³ It is important to note that this does not necessarily mean the alleged offenses did not take place. As the follow-up investigation admits, in many cases it was simply not possible to contact the alleged victims or perpetrators as they had moved on (see above fn. 14).

²⁴ United Nations, “Sexual Exploitation and Abuse,” <https://conduct.unmissions.org/sea-overview> (accessed 28 June 2017).

Sexual harassment is not sexual exploitation and abuse. Sexual harassment refers to prohibited conduct in the work context and can be committed against UN staff and related personnel, which may also include nationals of the host state. It is defined for UN staff by ST/SGB/2008/5²⁵ and similar directives for uniformed personnel. Sexual harassment involves any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment.

The OIOS generally groups allegations into two categories. Category 1 includes, among other things, all cases of SEA. Sexual harassment and other prohibited conduct as per ST/SGB/2008/5, on the other hand, are grouped in Category 2.²⁶ Category 2 allegations are believed to present less of a risk to the organization. However, if sexual harassment is allegedly committed by a person P5 or above²⁷, it is classified as a Category 1 allegation²⁸ to reflect the graver damage it causes to the United Nation's reputation. As of 30 June 2017, 70 cases of sexual harassment, both Category 1 and 2 allegations, have been alleged.

These cases only refer to conduct *by* UN staff *against* UN staff, although this may include nationals of the host state. This begs the question how sexual harassment of nationals not working for the UN is rated, such as catcalling or other behavior of a sexual nature that might cause or actually causes offence. The main problem here is that sexual harassment in itself is not a crime per se. There is no general law against lingering looks or inappropriate "jokes." This can easily explain why the UN's definition of sexual harassment as per ST/SGB/2008/5 includes the condition "when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment." Sexual harassment in the workplace has more potential to harm, as in many cases the victim sees the perpetrator on a daily basis, knows him or her personally, and often is his or her subordinate, none of which is the case when an UN worker catcalls a seemingly random woman on the street.

Of course this does not mean that the UN is indifferent when it comes to sexual harassment of nationals not working for the UN. The UN's views on this subject have been expressed by the

²⁵ United Nations Secretariat, "Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority," *Secretary-General's Bulletin*, ST/SGB/2008/5 (11 February 2008).

²⁶ United Nations, "Complaints," <https://conduct.unmissions.org/enforcement-complaints>, (accessed 29 June 2017).

²⁷ These categories reflect a person's rank within the UN. P1-P3 are entry level professionals, P4 and P5 mid-career professionals. See United Nations, "Pay and Benefits," <https://careers.un.org/lbw/home.aspx?viewtype=SAL> (accessed 30 June 2017).

²⁸ United Nations, "Other Misconduct," <https://conduct.unmissions.org/other-misconduct-introduction> (accessed 30 June 2017).

Ethics Office. In a guide titled “Working Together—Putting Ethics to Work,” the Ethics Office addresses personal conduct. It says: “The United Nations does not seek to regulate our private conduct, unless certain forms of behaviour by staff members could bring the Organization into disrepute [...] However, we should be aware that our personal conduct may become the object of public scrutiny. [...] Fulfilling our private obligations [...] is a matter of personal integrity and honesty, and one of the basic duties of United Nations staff. Such obligations should be met in a manner that preserves and enhances public confidence in our own integrity and that of the Organization. [...] We should always avoid conduct which is, or could be seen as, an abuse of the privileges and immunities of the Organization. These serve to protect us, not for ourselves, but to ensure the proper discharge of the Organization’s mandates.”²⁹

The UN lists “Conduct that could bring the UN into disrepute” in its misconduct database.³⁰ Based on the guidelines in the Ethics Office’s guide, it is safe to assume that these include allegations of sexual harassment.

II. Criminal Accountability

1. Uncovering SEA

Every investigation begins with the allegation that SEA has been committed, and this proves the first hurdle. In patriarchal societies that often blame women for their own rape, it is very difficult for the victims to speak up and share their stories. Often they keep their exploitation and abuse a secret, so as not to bring shame upon them and their families. In other cases, the victims simply keep silent out of fear they will lose the supplies—food, medicine, or access to education—their perpetrators give them in exchange for sexual favors.³¹

And all the while victims are debating whether or not to come forward, they are racing against the clock: The chances of their perpetrator’s conviction are higher the more evidence can be gathered against him or her, as their guilt has to be proven in court beyond a reasonable doubt. First it has to be determined that sexual exploitation and abuse did indeed take place. This can easily be done with the help of a medical examination. If the victim has injuries consistent with

²⁹ UN Ethics Office, “Working Together—Putting Ethics to Work,”

³⁰ United Nations, “Other Misconduct,” <https://conduct.unmissions.org/other-misconduct-introduction> (accessed 30 June 2017).

³¹ Kalra, Gurvinder; Bhugra, Dinesh, “Sexual Violence against Women: Understanding Cross-Cultural Intersections,” *Indian Journal of Psychiatry* 55.3 (2013): 244–249, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3777345/> (accessed 04 July 2017).

the allegation, it is corroborative evidence.³² The problem with this, obviously, is that these injuries heal over time. This means that if a victim does not come forward with their allegation immediately after the alleged sexual abuse took place, the evidence will have disappeared, and it will be much more difficult to prove that sexual abuse took place.

This puts the victims under a lot of pressure. In addition to coming to terms with their abuse and learning how to cope with the physical, and, maybe more painfully, emotional wounds the abuse caused, and the conflicting question if they should risk their own and their family's reputation by bringing "shame" upon themselves (which is a hard choice in a patriarchal society), the victims are now faced with a ticking clock: If they do not accuse their offenders immediately and let themselves be examined to gather the evidence needed to convict their abusers (a frightening and potentially traumatizing experience), the chance of seeing their perpetrators being brought to justice becomes slimmer and slimmer. And with dwindling prospects of seeing their perpetrator being prosecuted, their victim's motivation to accuse them dwindles as well.

2. Investigating SEA

If an allegation has been voiced, it has to be investigated, and the perpetrator must be held accountable—regardless of any other circumstances. Sadly, this proves a little more complicated for persons employed by the UN. The reason for this is that UN personnel, broadly speaking, have immunity. This was determined in the 1946 Convention on the Privileges and Immunities of the United Nations.

This immunity certainly does not prevent every person employed by the UN from ever being prosecuted. First a distinction between non-military and military peacekeepers has to be made. Non-military peacekeepers are individuals appointed by the UN who work as Officials or so-called Experts on Mission. These people generally have functional immunity, which means immunity "from legal process in respect of words spoken or written and all acts performed by them in their official capacity."³³ Only Representatives of Member States to the UN and high-level UN officials are bestowed absolute immunity, which is interpreted as "immunity from every form of legal process."³⁴ Should a UN official or Expert on Mission commit a crime the Secretary-General has "the right and the duty to waive the immunity of any official in any case

³² UN General Assembly, "Investigation into sexual exploitation of refugees by aid workers in West Africa," *Report of the Secretary-General on the activities of the Office of Internal Oversight Services*, A/57/465 (11 October 2002), p. 9.

³³ United Nations, "Convention on the Privileges and Immunities of the United Nations," 1946, sec. 18 (a).

³⁴ *loc. cit.*: sec. 2.

where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interest of the United Nations.”³⁵

The situation for military personnel is different, albeit not less complex. These persons are contributed by their national governments and report to their own military commander. A functional immunity for them is specifically determined in the Status of Forces Agreement between the UN and the country of mission. In Memoranda of Understanding between the UN and the troop contributing countries it is furthermore determined that only the contributing country has the power to prosecute members of its contributed troops for crimes committed on mission.³⁶

Has an allegation arisen, the alleged perpetrator’s status also determines who launches an investigation. The UN investigates allegations against civilian, police, or military Experts on Mission, whereas the member state investigates military or police personnel.

The steps are detailed in an infographic published by DPKO.

³⁵ United Nations, “Convention on the Privileges and Immunities of the United Nations,” 1946, sec. 20, 23.

³⁶ Code Blue Campaign, “Fact Sheet: Privileges and Immunities of the United Nations” (May 13, 2015), <http://www.codebluecampaign.com/fact-sheets-materials/2015/5/13/immunity> (accessed Jul 03, 2017).

SEXUAL EXPLOITATION AND ABUSE

Management of Reports and Allegations Involving UN Personnel In Peacekeeping and Special Political Missions

VICTIM
WITNESS
COMMUNITY-BASED COMPLAINT MECHANISM

NGO
MISSION STAFF
MEDIA

SOURCES OF REPORTS INCLUDE

REPORT RECEIVED
Victim Assistance Initiated¹

FACT FINDING ASSESSMENT
EVIDENCE PRESERVATION

DECISION POINT

ALLEGATION RECORDED AS SEXUAL EXPLOITATION AND ABUSE

Information assessed as not being sexual exploitation and abuse
Possible investigations for other breaches of rules

UN⁴ investigates Civilian, Police, and Military Experts on Mission personnel, as well as Military personnel not investigated by Member State
Interim action, e.g., administrative leave without pay

UN to complete Investigation in 6 months, where possible⁵

UN completes Investigation

Member State has 10 days to notify UN whether it will investigate Military Personnel
Interim action, e.g., UN suspends payments

Member State Investigates²

Member State completes investigation

Substantiated Allegation

Unsubstantiated Allegation
Disciplinary action may still result for other breaches of rules

Member State does not respond or declines to investigate

UN CONCLUDES DISCIPLINARY CASE

ONGOING VICTIM ASSISTANCE¹

Unsubstantiated Allegation
Disciplinary action may still result for other breaches of rules

Substantiated Allegation
For Military/Police personnel issues UN reports to Member State

Member State reports to UN on conclusion and action taken
UN repatriates Military and Police personnel, barring them from future service

UN repatriates Military and Police personnel, barring them from future service
UN takes disciplinary action against civilians; UN may refer to Home State for criminal accountability
Member State reports to UN on action taken

Member State
United Nations



1. Victim assistance includes medical and psychosocial services, as well as legal services to assist with paternity cases
2. Secretary General requests Member States to adopt six month timeframes for investigations (A/70/725 para. 50)
3. Conduct and Discipline webpage
4. ODS and/or Missions
5. Six month timeframe for UN investigations for SEA will be shortened to three months when circumstances suggest the need for urgency (A/70/725 para. 81)

At first glance this infographic sparks hopes: Investigations take place, different units report back to each other to ensure transparency, and the perpetrators are barred from future service. More importantly, the UN may refer to home states for criminal accountability.

But the reality tells a different story. The immunity granted perpetrators is still one of the main reasons most perpetrators are never prosecuted. “*The crisis begins and always circles back to UN immunity, an important mechanism that has been misapplied in a way that was never intended,*”³⁷ states the Code Blue Campaign, which was implemented by international advocacy organization aids-free world.

The campaign, which was launched in 2015, argues that the functional immunity bestowed upon UN personnel under the 1946 convention only applies to “all acts performed by them *in their official capacity.*” Committing SEA is never part of any official function, so why does UN immunity still apply in these cases, thus undeservedly protecting perpetrators from prosecution and conviction?

With this approach the campaign cleverly shifts focus from *immunity* to *impunity*: The problem is not that perpetrators *cannot* be prosecuted, the problem is that they *are not* prosecuted.

The reasons for this have changed over the years. In the early 2000s, as the first wave of allegations was brought up, there were no investigative offices already in place to follow up on the accusations, and the UNHCR/SC-UK assessment mission was not equipped to conduct an investigation themselves.³⁸ Although an investigation was immediately launched, by the time the OIOS arrived in West Africa many of the alleged victims had already moved on and it was hard to get their testimony or even identify the victims and alleged perpetrators.³⁹

Today the UN has investigative structures already in place—and yet SEA continues. The Code Blue Campaign names two reasons for this: The misapplication of UN immunity and the conflict of interest the UN faces in any investigation, as the UN is acting as both accuser *and* accused. This double challenge is currently met by the UN by appointing various positions: UN legal advisors are assisting both accused and accuser, UN investigators investigate, UN “prosecutors” have the power to assess, substantiate and dismiss evidence, and UN magistrates step in to render decisions.

³⁷ Code Blue Campaign, “The Problem,” <http://www.codebluecampaign.com/the-problem/> (accessed 03 July 2017)

³⁸ UNHCR/SC-UK, “Sexual Violence & Exploitation: The Experience of Refugee Children in Guinea, Liberia and Sierra Leone,” *Note for Implementing and Operational Partners* (Feb 2002), p. 2.

³⁹ UN General Assembly, “Investigation into sexual exploitation of refugees by aid workers in West Africa,” *Report of the Secretary-General on the activities of the Office of Internal Oversight Services*, A/57/465 (11 October 2002), p. 8.

This system, in its current state, is more than questionable. Firstly, it cannot be overstated that all these positions are appointed by the UN, which leads to a conflict of interest. Secondly, many of these positions are, at best, vaguely defined. This leads to the appointment of many very different, and differently qualified, persons to these positions: The Code Blue Campaign describes UN legal advisors as “paraprofessional” and laments that UN investigators are often unqualified. UN “prosecutors” have no legal authority or credentials, and the UN magistrate’s decisions are private and extrajudicial.⁴⁰

In short: The current system is based on UN personnel investigating UN personnel. This can easily lead to blurred lines in any investigation. This is, of course, not to say that the UN’s efforts are entirely useless. But there is a lot of room for improvement. Just as every constitutional democracy is based on checks and balances and a separation of power, a separated entity made up of experts in their respective fields has to be created to properly launch and conduct investigations, prosecute, and legally convict perpetrators.

3.A Proposed Solution

This, the campaign says, can best be done by an independent special courts mechanism. In a proposal titled “A Practical Plan to End Impunity for Peacekeeper Sexual Abuse,” the campaign first lines out the problem and then presents the special courts mechanism as a solution. The court would be completely independent from the UN, dedicated solely to investigating and prosecuting cases of SEA with the help of impartial, centrally appointed international and national police investigators, lawyers and judicial professionals.

As outlined above, allegations against non-military personnel are currently investigated by the UN itself, where they are handled as administrative matters, and not criminal offenses.⁴¹ The special courts mechanism would step in and qualified investigators would examine these cases independently, while referring military personnel to their troop contributing country’s judicial system. If these countries do not respond, the special courts mechanism would take on these cases as well. All this would ensure that all perpetrators are treated equally—regardless of their country’s laws and legal practices.

⁴⁰ Code Blue Campaign, “A Practical Plan to End Impunity for Peacekeeper Sexual Abuse.” p. 3.

⁴¹ loc. cit.: p. 2.

The Code Blue Campaign's proposal was worked out in cooperation with authorities on international law and human rights law; academics; past and current UN officials and staff; peacekeepers and police officers; diplomats and civil servants; human rights practitioners; victims' rights professionals; and sexual violence experts. It is clear that the campaign has thoroughly understood the underlying problem and found a potent solution to solve it. The past years have shown that the UN is unable to investigate and prosecute these cases itself. An independent external authority has to be created. Courts like the International Criminal Court or the International Criminal Tribunal for the Former Yugoslavia, among many others, have shown how effective international courts and tribunals can be, and their work is an important reminder that the international community is doing everything in their power not to let the atrocious crimes the courts are dealing with go unpunished.

Critics may say that the creation of the special courts mechanism would make clear that the UN has failed in its effort to root out SEA under its flag, and they would not be mistaken. But it does not need a special courts mechanism to point out this fact. The countless allegations over the years already serve as a reminder.

Others may fear a loss of the UN's credibility, should an external courts mechanism take over part of the organization's responsibilities. But again: The UN is already losing credibility because it is seemingly doing so little.

SEA under the UN flag is not just a problem of the UN. It concerns and shames the entire international community. The victims deserve justice, regardless of the authority that serves it. As the UN cannot eradicate SEA itself, an international entity has to be created to do this. Perpetrators can no longer go unpunished. Their prosecution is important and necessary for an abundance of reasons: to make clear the international community does not take these atrocities lightly; to punish the offenders; to discourage others from committing these crimes themselves; and to try to bring justice to the victims and their families. But a prosecution and conviction cannot heal the wounds the victim has to live with. It cannot undo what has been done. And it cannot cure the victim of their trauma. And thus the fact remains: The only truly effective way to support victims of SEA is to root out these crimes and make certain no one falls victim to it in the first place.

C. The UN's Fight Against Sexual Exploitation and Abuse

I. Secretary-General Kofi Annan (1997-2006): *A Policy of Zero Tolerance*

1. First Allegations Arise (1996, 2002)

Graça Machel's 1996 report on the Impact of armed conflict on children had first pointed out that SEA under the UN flag existed, but by then it was still unknown how widespread the problem truly was. The UN reacted with minor reforms, beginning to provide their peacekeeping personnel with pocket cards titled, "Ten Rules: Code of Personal Conduct for Blue Helmets" in 1998, and giving out training materials on Codes of Conduct to Member States for use in pre-deployment training of uniformed personnel from 2001 on.

In 2002 the Inter-Agency Standing Committee (IASC) established a Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises. Many UN agencies and other NGOs, established six core principles relating to SEA, calling it "gross misconduct" and therefore "grounds for termination of employment." These principles prohibit or otherwise strongly discouraged relationships or sexual activity between UN personnel and locals.⁴²

2. The Secretary General's Bulletin (2003)

One year later the UN finally acknowledged the problem publicly for the first time.⁴³ In the Secretary-General's Bulletin on Special measures for protection from sexual exploitation and sexual abuse (ST/SBG/2003/13), SEA was addressed and explicitly prohibited, and measures to prevent it as well as investigate allegations were formulated: From now on, the Head of each Department, Office or Mission was responsible "for creating and maintaining an environment that prevents sexual exploitation and sexual abuse"⁴⁴ and, in cases where there was reason to believe SEA may have taken place, "for taking appropriate action."⁴⁵ These measures were enforced system-wide.⁴⁶

⁴² Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises, "Report of the Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises" (13 June 2002), sec. 10.

⁴³ Chun, Suk, "Sexual Exploitation and Abuse by UN Peacekeepers," *International Peace Research Institute, Oslo (PRIO) Policy Brief* 10/2009.

⁴⁴ UN Secretariat, "Special measures for protection from sexual exploitation and sexual abuse," *Secretary-General's Bulletin*, ST/SGB/2003/13 (09 October 2003), sec. 4.1.

⁴⁵ *loc. cit.*: sec. 4.2.

⁴⁶ Chun, Suk, "Sexual Exploitation and Abuse by UN Peacekeepers," *International Peace Research Institute, Oslo (PRIO) Policy Brief* 10/2009.

3. Prince Zeid Ra'ad Zeid Al-Hussein's Report on A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations (2005)

In reaction to the horrible allegations of SEA under the UN Flag, particularly those that arose in 2004 in the Democratic Republic of the Congo, then-Secretary-General Kofi Annan began a process of review to determine the nature and extent of the problem and resolve it, deeming the current measures to deal with SEA “manifestly inadequate.”⁴⁷ He named Prince Zeid Ra'ad Zeid Al-Hussein Advisor to the Secretary-General on Sexual Exploitation and Abuse in UN Peacekeeping, who was then permanent representative of Jordan to the United Nations. Valuing Prince Zeid's experience as a former civilian peacekeeper, Annan commissioned him to issue a comprehensive report with recommendations on sexual exploitation and abuse by United Nations peacekeeping personnel. This report, which was titled “A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations,” became known as the Zeid Report. In it, Prince Zeid examined the current state of the problem under four main themes: The current rules of the organization; the investigative process; organizational, managerial and command accountability; and individual disciplinary, financial and criminal accountability. The report also contained suggestions how to deal with the problem of SEA under the UN flag to successfully bring the perpetrators to justice and root out the problem effectively.

Prince Zeid concluded that the complexity of the problem was mainly due to the fact that peacekeeping operations consist of up to five categories of personnel, all of whom adhere to a different set of rules. He suggested implementing the rules set in the Secretary-General's Bulletin on Special measures for protection from sexual exploitation and sexual abuse (ST/SBG/2003/13) for all types of peacekeeping personnel, regardless of their status or their country of origin, and to make those rules accessible to every member of a peacekeeping mission by handing them out in card form (*Rules of the Organization*).⁴⁸

Prince Zeid also recommended establishing a permanent professional investigative mechanism to better react to allegations of SEA, and include an expert in military law, preferably a prosecutor,

⁴⁷ UN General Assembly, “Letter dated 24 March 2005 from the Secretary-General to the President of the General Assembly,” *Comprehensive review of the whole question of peacekeeping operations in all their aspects*, A/59/710 (24 March 2005).

⁴⁸ *loc. cit.*, sec. 14 et seqq.

from the troop-contributing country concerned in each investigation (*Investigations of the Organization*).⁴⁹

Prince Zeid followed this with a thorough examination of the accountability of the organization, suggesting various measures to combat SEA more effectively on an organizational level, such as trainings, community outreach programs, or the implementation of a database to track each allegation and the subsequent investigation (*Organizational, managerial and command accountability*).⁵⁰

Lastly, the report contained a look at the individual's accountability. Prince Zeid distinguished between disciplinary, financial, and criminal accountability, and conclude that it was the UN's responsibility to make sure perpetrators are held accountable in all three aspects. He, too, addressed the UN's immunity and stated that it was not intended as a shield from national criminal prosecution for crimes committed in a state hosting a United Nations operation (*Individual disciplinary, financial and criminal accountability*).⁵¹

Aside from its thorough examination of the problem and the impressive suggestions to deal with it, the Zeid report is renown today because it introduced the UN's zero-tolerance policy, a policy that has become interwoven with the UN's fight against SEA ever since.⁵²

4. Addressing sexual exploitation and abuse in the Democratic Republic of the Congo

The United Nations dispatched peacekeepers to the Democratic Republic of the Congo in 2000 in reacting to the war that had been raging there since 1998. Sadly, the mission titled United Nations Organisation Mission in the Democratic Republic of Congo (MONUC) soon gained notoriety due to the many allegations of SEA committed by UN peacekeepers.⁵³ In reaction to these allegations, the Office to Address Sexual Exploitation and Abuse was established. It served as a focal point for all matters related to SEA in the Congo, coordinated investigations, assisted MONUC leaders on policy development and gaps, and facilitated coordinated efforts with other UN entities.

⁴⁹ loc. cit., sec. 28 et seqq.

⁵⁰ loc. cit., sec. 37 et seqq.

⁵¹ loc. cit., sec. 66 et seqq.

⁵² Chun, Suk, "Sexual Exploitation and Abuse by UN Peacekeepers," *International Peace Research Institute, Oslo (PRIO) Policy Brief* 10/2009.

⁵³ Van Woudenberg, Anneke, "MONUC: A Case for Peacekeeping Reform," *Testimony before the U.S. House Committee on International Relations, Subcommittee on Africa, Global Human Rights and International Operations* (01 March 2004).

This office became the Conduct and Discipline Team in 2005, which was followed by the establishment of the UN Conduct and Discipline Unit (CDU) in 2007. The CDU is still active today and overlooks all peacekeeping operations and special political missions.⁵⁴

In 2010, MONUC was renamed United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).

II. Secretary General Ban Ki-moon (2007-2016)

1.A Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse (2008)

Ban Ki-moon became Secretary-General after Kofi Annan, and he took over his predecessor's fight against SEA under the UN flag. Almost one year after he took office, the General Assembly adopted the Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse.⁵⁵ The strategy was designed to better help victims of SEA receive appropriate assistance. Its purpose was explicitly not to diminish or replace the perpetrator's individual responsibility,⁵⁶ but to provide assistance and support to the complainant arising from the allegation of SEA, comprised 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.⁵⁷

2.Security Council Resolution 1820 (2008)

The United Nations Security Council adopted its first resolution on Women, Peace and Security in 2000, the renowned Resolution 1325. It was the first time the UN addressed women specifically in a resolution, noting their special needs in armed conflict, but also their unique talent to force lasting peace.

In their following resolution in Women, Peace and Security, Resolution 1820, the Security Council mentioned SEA under the UN flag. The council requested "the Secretary-General to continue and strengthen efforts to implement the policy of zero tolerance of sexual exploitation

⁵⁴ United Nations, "Who is Involved," <https://conduct.unmissions.org/who-is-involved> (accessed 10 July 2017).

⁵⁵ UN General Assembly, "United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitations and Abuse by United Nations Staff and Related Personnel," *Resolution adopted by the General Assembly on 21 December 2007, A/Res/62/214* (07 March 2008).

⁵⁶ loc.cit., annex, sec. 3.

⁵⁷ loc. cit., annex, sec. 6.

and abuse in United Nations peacekeeping operations,”⁵⁸ thus validating the problem’s severity and urging the Secretary-General to find a solution.

3.Strengthening Measures for Protection from Sexual Exploitation and Abuse (2012-2015)

As the allegations grew, it became apparent that the question *Why?* needed to be answered. Why was SEA taking place, and why did most allegations come from four missions – MONUSCO (Democratic Republic of the Congo), MINUSTAH (Haiti), UNMIL (Liberia) and UNMISS (Republic of South Sudan)?

To find out more about the issue, the Secretary-General appointed a team of experts in accordance with his enhanced measures for the implementation of the zero tolerance policy towards acts of sexual exploitation and abuse in 2012.⁵⁹ These experts, “comprising a former high-ranking military officer, a scholar and a high-ranking United Nations official,”⁶⁰ investigated how those four missions dealt with allegations of SEA. Then they put forth recommendations based on their findings, which were later reviewed by an interdepartmental and inter-agency working group,⁶¹ who then developed new suggestions to address the problem and ensure accountability. The Secretary-General addressed this in his 2015 report on Special measures for protection from sexual exploitation and sexual abuse, and included his own proposals. These proposals covered the areas of preventing SEA; enforcing the prohibition against SEA; remedial action in response to SEA; and some other measures.⁶²

One immediate result of this was the 2015 establishment of a community based mechanism for reporting misconduct by United Nations personnel in missions.⁶³ The UN emphasized the community based approach to reporting misconduct, as it is important to have confidential, safe, accessible, effective, and transparent avenues for reporting in host populations.

⁵⁸ UN Security Council, “Resolution 1820 (2008),” *Adopted by the Security Council at its 5916th meeting, on 19 June 2008, S/RES/1820 (2008)*, sec. 7.

⁵⁹ UN General Assembly, “Special measures for protection from sexual exploitation and sexual abuse,” *Report of the Secretary-General, A/67/766 (28 February 2013)*, sec. 27.

⁶⁰ UN General Assembly, “Special measures for protection from sexual exploitation and sexual abuse,” *Report of the Secretary-General, A/68/756 (14 February 2014)*, sec. 36.

⁶¹ *loc. cit.*: sec. 42.

⁶² UN General Assembly, “Special measures for protection from sexual exploitation and sexual abuse,” *Report of the Secretary-General, A/69/779 (13 February 2015)*, sec. 31 et seq..

⁶³ United Nations, “Addressing,” <https://conduct.unmissions.org/addressing> (accessed 19 July 2017).

This new mechanism replaced the previous means for reporting misconduct in missions and was worked out in cooperation between field missions, UN partners in the mission area, international and national NGOs, community leaders and other partners within local communities.

The same year, an additional new policy on accountability for conduct and discipline in field missions was introduced. Approved by and applying to the Department of Political Affairs, the Department of Peacekeeping Operations, and the Department of Field Support, its aim is to ensure accountability for all personnel in peacekeeping and special political missions by setting forth “the roles and responsibilities of, and interactions amongst, each component assigned with responsibilities regarding the conduct and discipline of all personnel in field missions, both in those field missions and at Headquarters.”⁶⁴

The policy emphasizes the importance of accountability for personnel, regardless of their status or the legal system of their home country. It stresses the responsibility of Heads of Mission and senior managers and commanders to ensure the perpetrators’ accountability.

Also in 2015, the Secretary-General ousted the UN’s top official in the Central African Republic after repeated accusations of SEA by UN personnel. Babacar Gaye, until then special representative of the secretary general in the Central African Republic, resigned at Ban’s request—an unprecedented occurrence in the UN’s history.⁶⁵

4. Secretary-General’s Meeting (2015)

In order to better understand the complex hierarchy and structures between the UN and its bodies and troop and police contributing countries, and the challenges this poses, the Secretary-General met with representatives of these countries on September 17, 2015, at the United Nations Headquarters in New York. This meeting not only strengthened the cooperation between the entities, but addressed new proposals and initiatives to combat the problem.

“One terrible act can wipe out a thousand noble sacrifices,” Ban noted during the meeting.⁶⁶ “I know you share my anguish, anger and shame. This is a violation of everything the United

⁶⁴ UN DPA, UN DPKO, UN DFS, “Policy on Accountability for Conduct and Discipline in Field Missions,” sec. 1.

⁶⁵ Sengupta, Somini, “U.N. Official Resigns Amid Accusations of Sex Abuse by Peacekeepers,” *The New York Times* (12 August 2015), <https://www.nytimes.com/2015/08/13/world/africa/united-nations-central-african-republic-sexual-abuse.html>.

⁶⁶ Ban Ki-moon, “Secretary-General’s Remarks at Meeting with Permanent Representatives of Troop and Police Contributing Countries on Sexual Exploitation and Abuse” (17 September 2015),

Nations stands for, and the culture of accountability we are trying to promote. [...] Much more needs to be done to stamp out sexual exploitation and abuse in our missions. I cannot do it alone. This is also a core responsibility for Member States.”

The attendees discussed expanding vetting military contingents and formed police units for prior misconduct while in the service of a United Nations field mission; establishing a six-month timeline for completing investigations into allegations of sexual exploitation and abuse; including the nationality of uniformed personnel in its reporting on credible allegations of sexual exploitation and abuse; establishing a trust fund to assist victims of sexual exploitation and abuse by United Nations personnel; and suspending reimbursement payments to personnel alleged to have engaged in sexual exploitation and abuse.⁶⁷

5. Report of the Secretary-General on Special measures for the protection from sexual exploitation and abuse (A/70/729)

In his 2016 report on special measures for the prevention from sexual exploitation and abuse, the Secretary-General introduced a series of initiatives designed to strengthen prevention, enforcement and assistance to victims of SEA.

As usual, the Secretary-General’s annual report provided information on the nature of the allegations reported in the previous year, 2015. For the first time, this included the nationality of the alleged perpetrators. The report also gave information on the status of the investigations into the allegations, underlining the plea for transparency voiced in the report,⁶⁸ and provided updates in the status of implementing the enhanced program of action and its over 40 measures aimed at strengthening the response of the United Nations to allegations of SEA outlined in the Secretary-General’s previous report.⁶⁹

To further meet the desired level of transparency, the website of the Conduct and Discipline Unit was upgraded parallel to the launch of the Secretary-General’s report. It now included a table of allegations of SEA, which is updated in near real-time with information on new allegations and

<https://www.un.org/sg/en/content/sg/statement/2015-09-17/secretary-generals-remarks-meeting-permanent-representatives-troop> (accessed 19 July 2017).

⁶⁷ United Nations, “Timeline on Conduct and Discipline,” <https://conduct.unmissions.org/timeline>, (accessed 19 July 2017).

⁶⁸ UN General Assembly, “Special measures for protection from sexual exploitation and sexual abuse,” *Report of the Secretary-General, A/70/729* (16 February 2016), sec. 37 et seq..

⁶⁹ see above, C.II.3, “Strengthening Measures for Protection from Sexual Exploitation and Abuse (2012-2015).”

updates on the status of already recorded allegations.⁷⁰ The website is an important stepping stone in the UN's pursuit of transparency and a much needed reminder of the UN's zero-tolerance policy.

6. Report of an Independent Review on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic and Jane Holl Lute's Appointment as Special Coordinator on Improving United Nations Response to Sexual Exploitation and Abuse (2016)

A report titled "Taking Action on Sexual Exploitation and Abuse by Peacekeepers" was released on 17 December 2015, prepared by the External Independent Review Panel on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic. The Panel had examined the UN's structures critically and investigated what factors could be aiding perpetrators. This had come in response to a series of allegations of SEA in the Central African Republic.

The extensive report detailed how the Panel had investigated allegations of SEA in the Central African Republic, what they had uncovered in the process, and the conclusions the Panel had drawn from this. The report also included the Panel's recommended steps and measures to address the systemic issues that led to a culture of de-facto immunity for many perpetrators of SEA.⁷¹

One of these recommendations was the appointment of a Special Coordinator on improving the United Nations response to sexual exploitation and abuse. Following this recommendation, Ban appointed Jane Holl Lute to this post. Her mandate includes organizing, unifying and prioritizing the United Nations system-wide measures for prevention and response to allegations of sexual exploitation and abuse.⁷²

Lute, who had previously served as Deputy Secretary of the United States Department of Homeland Security and Assistant Secretary-General for Peacekeeping responsible for comprehensive on-the-ground support to all United Nations peace operations worldwide, took on

⁷⁰ see <https://conduct.unmissions.org/>.

⁷¹ Deschamps, Marie (Chair); Jallow, Hassan B., Sooka, Yasmin, "Taking Action on Sexual Exploitation and Abuse by Peacekeepers," Report of an Independent Review on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic (17 December 2015), sec. IV.

⁷² United Nations, "Secretary-General Appoints Jane Holl Lute of United States as Special Coordinator on Improving United Nations Response to Sexual Exploitation and Abuse," *Biographical Note* (8 February 2016), <https://www.un.org/press/en/2016/sga1634.doc.htm> (accessed 20 July 2017).

the task of building and expanding a network of Member States, internal stakeholders, regional organizations and outside experts for consultations, and to work towards ensuring coherence and harmonization among offices, departments and UN entities.

7.UN Security Council Resolution 2272 (2016)

Resolution 2272 (2016) was adopted by the Security Council in March 2016 to express the Security Council's deepest concern over the ongoing allegations and the seemingly inefficient measures taken by the UN. Focusing mostly on military and police personnel serving in peacekeeping missions, the Security Council stressed the responsibility of the troop- and police contributing countries to investigate every allegation and take all steps necessary to ensure the perpetrators are held accountable. The Security Council suggested repatriating military or police units as soon as credible evidence of widespread or systemic SEA by that unit has come to light. Should a country fail to investigate an allegation against of the their contributed personnel, hold a perpetrator accountable, or fails to inform the Secretary-General of the progress of their investigation and prosecution, the Security Council asks the Secretary-General to replace all units of this country to express that the UN does not tolerate impunity for perpetrators, and force the countries to take actions.

8.Report of the Secretary-General on Combating Sexual Exploitation and Abuse (A/71/97)

The appointment of Jane Holl Lute as Special Coordinator on improving the United Nations response to sexual exploitation and abuse was not the only measure advised by the External Independent Review Panel on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic and heeded by the Secretary-General.

To give an update on the progress made on the implementation of various other measures and initiatives recommended by the panel, the Secretary-General released a report on combating sexual exploitation and abuse (A/71/79). He counted on the active involvement of the member states, especially the troop contributing countries, and their recognition of their responsibilities,⁷³

⁷³ UN General Assembly, "Combating sexual exploitation and abuse," *Report of the Secretary-General, A/71/97* (23 June 2016), sec. 16.

as well as their suggestions on the matter.⁷⁴ The Secretary-General also noted that the UN need to work on a unified approach to address allegations of SEA,⁷⁵ considering extending Jane Holl Lute’s initial 11 month term to ensure this.⁷⁶

The report included a detailed account of the preventive strategy, which was made up of four main areas: Increasing awareness; reaching out to host communities and community-based reporting mechanisms; training; and screening and vetting to help to prevent SEA.⁷⁷ Another closer look was given to the victim centered response to allegations and its main areas: the immediate coordination of victim assistance; establishing a trust fund to support victim services; and the protection of victims.⁷⁸

To ensure an enhanced response, the Secretary-General addressed the UN’s system of strengthening reporting; strengthening and coordinating investigations; criminal accountability; and public transparency.⁷⁹

9. Sixth Progress Report of the Secretary-General on the Accountability System in the United Nations Secretariat (A/71/729)

Over the course of several months, Ban took a closer look at the UN’s own accountability for SEA by its staff. During an extensive examination of the UN’s areas related to internal controls, he found and strengthened several critical components ensuring accountability, among them conduct and discipline in peacekeeping and special political missions. Calling it a “high priority,”⁸⁰ Ban promised new initiatives aimed at strengthening accountability at the individual, managerial/command and leadership levels, and referred to the Secretary-General’s next report on special measures for protection from sexual exploitation and sexual abuse for a full update—a report that would be launched by his successor, Antonio Guterres.

⁷⁴ loc. cit.: sec. 25.

⁷⁵ loc. cit.: sec. 26.

⁷⁶ loc. cit.: sec. 30.

⁷⁷ loc. cit.: sec. 34 et seq.

⁷⁸ loc. cit.: sec. 58 et seq.

⁷⁹ loc. cit.: sec. 64 et seq.

⁸⁰ UN General Assembly, “Sixth progress report on the accountability system in the United Nations Secretariat,” *Report of the Secretary-General, A/71/729* (21 December 2016), sec. 43.

III. Secretary General Antonio Guterres (2017-): *A New Approach*

1. Report of the Secretary-General on Special measures for protection from sexual exploitation and abuse: a new approach (A/71/818)

Antonio Guterres became Secretary-General in 2017 and immediately vowed to stamp out SEA under the UN Flag. He introduced his strategy, titled “A new approach,” as part of his report on Special measures for protection from sexual exploitation and abuse: a new approach (A/71/818). Again, the Secretary-General stressed the importance of a victim centered approach.

The strategy focuses on four main areas of action: putting victims first; ending impunity; engaging civil society and external partners; and improving strategic communications for education and transparency.

To focus on the victims is especially important, so the Secretary-General in his report, because it expresses empathy towards them and reestablishes personal connections. In his report the Secretary-General promised to meet victims personally to give them a platform the world can no longer ignore. He then introduced two measures to put the victim’s rights as well as their needs in the center of the UN’s fight against SEA: the appointment of a victim’s rights advocate to protect and assist the victims of SEA, and the endorsement of a special protocol on preventing SEA by mandating bodies of operations with heightened risk. He suggested the protocol could include “strict guidelines regarding non-fraternization”⁸¹ or “prohibitions on the consumption of alcohol,”⁸² among other proposals.

In regards to ending impunity, the Secretary-General introduced five measures: Better reporting, “ensuring that all parts of the United Nations system gather the same information and present it in the same way;”⁸³ strengthening investigative capacities to better respond to allegations;⁸⁴ improving follow-up and accountability by developing a program of unannounced visits to relevant field operations;⁸⁵ closely working together with member states and aiding them in their

⁸¹ UN General Assembly, “Special measures for protection from sexual exploitation and sexual abuse,” *Report of the Secretary-General*, A/71/818 (28 February 2017), sec. 36.

⁸² loc. cit., sec. 37.

⁸³ loc. cit., sec. 40.

⁸⁴ loc. cit., sec. 45.

⁸⁵ loc. cit., sec. 49.

endeavor to hold perpetrators accountable;⁸⁶ and monitoring the conduct of non-UN forces to ensure compliance in all units operating under the UN flag or related to UN operations.⁸⁷

The Secretary-General also promised to engage the civil society to draw on the wisdom and guidance of the affected.⁸⁸

His vision for improving strategic communications for education and transparency included building trust to raise awareness about SEA.⁸⁹

In his report the Secretary-General also promised to personally stay engaged in the matter and asks the General Assembly to join him in taking action.⁹⁰

2. The High-Level Task Force to Improve United Nations Approach for Preventing and Addressing Sexual Abuse

To move his efforts further, the Secretary-General assembled a high-level task force to improve the UN's approach for preventing and addressing SEA. One of its members, as well as the person to convene the task force, was Jane Holl Lute, the Special Coordinator on improving the United Nations response to sexual exploitation and abuse.

The task force presented elements of the Secretary-General's "new approach" strategy, and was therefore asked to coordinate communications with member states, across the UN system, and with other relevant organizations.⁹¹

If Guterres new approach will lead to success remains to be seen. As of 25 July 2017, more than 30 allegations of SEA have arisen since Guterres took office in January 2017.

D. Conclusions

⁸⁶ loc. cit., sec. 55.

⁸⁷ loc. cit., sec. 60.

⁸⁸ loc. cit., sec. 64 et seqq.

⁸⁹ loc. cit., sec. 67.

⁹⁰ loc. cit., sec. 75.

⁹¹ United Nations, "Secretary-General Creates High-Level Task Force to Improve United Nations Approach for Preventing, Addressing Sexual Abuse," *United Nations Press Release* (6 January 2017), <https://www.un.org/press/en/2106/sga1697.doc.htm> (accessed 25 July, 2017).

Sexual exploitation and abuse under the UN Flag is one of the darkest chapters in the UN's history—a chapter that, despite countless efforts to end it, is still ongoing.

Since the first allegations arose in the 1990s three Secretary-Generals have shown themselves appalled at the atrocities committed by men and women representing the organization across the world, men and women dispatched to protect the people they are preying upon, to reinstate order in corrupt societies, and to keep and stabilize the fragile peace that follows gruesome wars and armed conflicts, natural catastrophes, and bloody riots and uprisings. Yet the Secretary-Generals' achievements were little, and few and far between. And the longer the UN seems unable to end the vicious scourge, the more it tarnishes its already shaking reputation. Donald Trump, despite his questionable personality, seemingly incompetent leadership style, and chaotic administration, is, after all, a world leader who is often lauded by his supporters for “telling it like it is.”⁹² (Another questionable claim, yet none that deserves scrutiny in the scope of this research.)⁹³ In a tweet, he criticized the UN: “*The United Nations has such great potential but right now it is just a club for people to get together, talk and have a good time. So sad!*”⁹⁴

Unfortunately, he is not alone with this view, unfounded as it may be. The United Nations has great potential, and its achievements over the past decades are numerous, prosperous, and triumphant. But the actions of the few—as acts of SEA undoubtedly are—oust these achievements and usurp the international media's focus. After years of ongoing SEA, with new allegations arising monthly, it is easy to assume the extraordinary people working for the UN do, in fact, nothing but “get together, talk and have a good time.”

This neglects the countless efforts and measures taken to end SEA under the UN flag. Over the years the UN has taken important steps in this regard, launched investigations, introduced new policies, assembled task forces and panels and appointed a Special Coordinator on improving the United Nations response to sexual exploitation and abuse. The Secretary-General's plea for transparency was met in the form of the Conduct and Discipline website, where the UN provides information on the topic and details allegations in near real-time.

⁹² The Washington Post, “Pence Says Trump Tells it like it is” (7 October 2016), https://www.washingtonpost.com/video/politics/pence-says-trump-tells-it-like-it-is/2016/10/07/f1e6ca12-8ce4-11e6-8cdc-4fbb1973b506_video.html (accessed 25 July 2017).

⁹³ For a closer inspection of this, see Macbratney, Leon, “Think Trump “tells it like it is?” Think again...” *Daily Kos* (23 May 2016), <https://www.dailykos.com/stories/2016/5/23/1529748/-Think-Trump-tells-it-like-it-is-Think-again-InfoGraphic> (accessed 25 July, 2017); or Boehlert, Eric, “He's no better than Alex Jones: Donald Trump tells it like it is — if you're a tinfoil hat-wearing loon,” *Salon* (26 May 2016), http://www.salon.com/2016/05/26/hes_no_better_than_alex_jones_donald_trump_speaks_for_americas_tinfoil_hat_wearing_loons_partner/ (accessed 25 July 2017).

⁹⁴ Trump, Donald, tweet (26 December 2016), <https://twitter.com/realdonaldtrump/status/813500123053490176?lang=en> (accessed 25 July, 2016).

At the same time, however, the UN plays some cards close to its chest. Various e-mail inquiries by Nina Tsikhistavi-Khutishvili, Director at ICCN, and myself were denied, left unanswered or simply referred to information that was already public. After inquiring again, our e-mails were forwarded to the organization's ethics office and the office of human resources—two telling addresses in themselves. However, UNDP office of human resources employee Ms. Jaqueline Carleson, who works for the Staff Safety, Health and Wellbeing Engagement Unit, eventually kindly asked two long-time investigators on our behalf, who both did not recall any cases in Georgia.⁹⁵ Nevertheless it is noteworthy how many inquiries it took, and how many people got involved in the process.

Over more than twenty years, the United Nations has not been successful in rooting out SEA and truly ensuring a solely positive outcome of their peacebuilding operations and special political missions. It is time the UN acknowledges that this problem is something they cannot solve themselves, and reach out to other organizations—not just for guidance, as the UN already does, but for action. It is time the UN stands aside and lets others take over, who are much more unbiased, much more focused, and much more willing to tackle the problem at any costs. The Code Blue Campaign has been advocating to revolutionize how the problem of SEA is addressed since its inception. They are well-equipped, with a groundbreaking new approach to the problem. They have thoroughly investigated the cause and effect of SEA under the UN flag and have developed a new and promising solution.

All the United Nations has to do now is to reach out and admit they cannot solve the problem themselves. It would be the realistic, reasonable next step on a road that has been very long and hard and still has not lead to a solution. It is time for the UN to take action, by asking Code Blue to step in. Carrying on the same way, proposing new measures, proclaiming outrage, and yet doing little to effectively root out the problem, is not only casting a bad light on the organization. Above all, it is irresponsible and cruel towards the victims of SEA—those abused, raped, and exploited women, men and children that once looked to the UN for protection and found their hopes shattered. They should no longer have to wait for the UN to adopt yet another resolution, hoping that this time it will bring the change they are so desperately waiting for. Their voices need to be heard. Their stories need to be told. Their rights need to be fought for. The time is now.

⁹⁵ e-mail attachment from 14 June 2017.