

**Sexual Exploitation and Abuse by UN Peacekeepers: flaws and hopes of
policies from prevention to accountability of perpetrators**

Bruna Adamatti Machado

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Supervisor:

Associate Professor Helena Carreiras

ISCTE-Instituto Universitário de Lisboa



Maelbogue, by Gustave Doré



Hell is empty and all the devils are here.

William Shakespeare



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Abstract

Peacekeeping missions are complex scenarios that involve different actors, at times, with clashing ideals. The variable components contribute to develop the mission culture that makes each peacekeeping mission unique. However different, most peacekeeping operations have recorded incidence of sexual exploitation and abuse perpetrated by United Nations peacekeepers, since they started to be tracked in the 1990s.

Since then, the United Nations have been issuing resolutions and mandates, and adopting instances aimed at preventing and combatting sexual exploitation and abuse within its realm. Troop Contributing Countries have adhered to some of these policies in plain sight, but allegations of sexual misconduct keep arising from missions, which denotes a need of internal changes.

This work seeks to analyse these policies and how they apply on the field. A case study of MONUC/MONUSCO was selected to cross theory and reality and identify where policies went wrong and what can effectively be done to make a better use of available tools to tackle the problem of sexual exploitation and abuse by United Nations peacekeepers.

Keywords: United Nations; Peacekeepers; Sexual Exploitation; Sexual Abuse; SEA; Peacekeeping Missions.

Resumo

Missões de Paz são cenários complexos que envolvem diferentes atores, às vezes, com ideais conflitantes. Componentes variáveis contribuem para desenvolver a cultura da missão, o que torna cada missão de paz única. Ainda que diferentes, a maioria das operações de paz tem registrado incidência de exploração e abuso sexual perpetrado por soldados de paz das Nações Unidas, desde que começaram a ser rastreadas nos anos 1990.

Desde então, as Nações Unidas tem emitido resoluções e mandatos, e adotado posições com o escopo de prevenir e combater exploração e abuso sexual dentro de sua esfera. Mesmo países que contribuem com tropas tem explicitamente aderido a algumas dessas políticas, mas alegações de má conduta sexual continuam a surgir das missões, o que denota uma necessidade de mudanças internas.

Este trabalho busca analisar estas políticas e como elas se aplicam em campo. Um estudo de caso de MONUC/MONUSCO foi selecionado para cruzar teoria com realidade e identificar onde as políticas falharam e o que pode efetivamente ser feito para fazer melhor uso das ferramentas disponíveis para lidar com o problema de exploração e abuso sexual perpetrado por soldados da paz das Nações Unidas.

Palavras-chave: Nações Unidas; Soldados da Paz; Exploração Sexual; Abuso Sexual; Missões de Paz.

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Glossary of Acronyms

DPKO Department of Peacekeeping Operations

DRC Democratic Republic of Congo

FARDC Forces Armées de la République Démocratique du Congo

GA General Assembly

GBV Gender-based Violence

GLE Group of Legal Experts

HRW Human Rights Watch

ICC International Criminal Court

ICJ International Court of Justice

MDG Millennium Development Goal

MONUC United Nations Mission in the Democratic Republic of the Congo

MONUSCO United Nations Organization Stabilization Mission in the Democratic Republic of the Congo

OHCHR United Nations Office of the High Commissioner for Human Rights

OIOS Office of Internal Oversight Services

SG Secretary-general

SGB Secretary-general Bulletin

SANDF South African National Defence Force

SDG Sustainable Development Goal

SEA Sexual Exploitation and Abuse

SGBV Sexual and Gender-based Violence

TCC Troop Contributing Country

UN United Nations

UNDP United Nations Development Programme

UNHCR United Nations High Commissioner for Refugees

UNSC United Nations Security Council

UNSCR United Nations Security Council Resolution

WPS Women, Peace and Security

Introduction

In times of ongoing conflict and in the spirit of cooperation inherent to globalism, the United Nations play a vital role in the central stage of International Relations. Since 1948, the organization acts as a pacifier in troubled settings by deploying agents responsible for sustaining peace and promoting the rule of law: they are peacekeepers in all the meaning of the word.

Nonetheless, the complexity of the missions and the compound of challenges faced by these agents on field, associated with the clash of cultures from personnel of the Troop Contributing Countries (TCCs) and the host countries bore a major and unexpected concern properly designated as Sexual Exploitation and Abuse (SEA) perpetrated by peacekeepers.

Since 2002, allegations of sexual abuse by UN peacekeepers on local population of the host countries have been reported yearly, with slight fluctuations up and down between 2007 (127 allegations) and 2014 (52 allegations), having the first quarter of 2018 alone closed with 54 allegations.

In 2003, a Bulletin on Special Measures for Protection from Sexual Exploitation and Abuse (SGB 2003) released by then-UN Secretary-General, Kofi Annan, regarding measures for protection against SEA paved the way for his successors to address the issue as a priority and strengthen data collection and support of victims.

Since then, a series of recommendations, measures and policies have been issued by the United Nations on a regular basis in order to prevent SEA from happening and guaranteeing that perpetrators will be held accountable. However, that is clearly not enough to halt the misconduct of perpetrators who act under the UN's flag and bringing those agents to justice demands more than what has been done. Any vile act promoted by a peacekeeper undermines the core values of the United Nations, especially due to the nature of the job of humanitarian aiders. In this sense, it is the UN's duty to prevent and fight SEA in every possible way.

The scope of this dissertation is to identify the flaws on the resolutions and policies in force regarding Sexual Exploitation and Abuse in Peacekeeping Operations and argue reasons for their faultiness. Another focal point is to analyse how the cooperation of TCC's governments in holding perpetrators accountable can positively or negatively affect peacekeeper's performance when it comes to abide by the rules against SEA. The cross-information analysis of UN's data on allegations of SEA and the role that females play in TCCs where contingents are most plagued by perpetrators is crucial to define the best practices and ways to fight SEA.

Chapters 1 and 2 are mainly conceptual. Chapter 1 presents the gendered aspects of conflict, the role that women and girls have in war and peace, the imagery represented by the feminine within society and how masculinized militarization and gender normative violence are used to break down entire communities. Whereas Chapter 2 defines what characterizes peacekeeping missions and the different kinds of sexual exploitation and abuse that can arise in times of conflict.

Chapter 3 reveals the first time Sexual Exploitation and Abuse by United Nations peacekeepers was publicly exposed and the depths of the problem so far. Drastic situations require drastic solutions, presented in Chapter 4: The United Nations measures to prevent and tackle SEA, where we discuss Resolutions 1325 and 2272 and other initiatives to restrain SEA conduct.

Chapter 5 discusses the importance of the engagement of Troop Contributing Countries in preventing and fighting SEA, especially concerning accountability of perpetrators and due legal process. That chapter is the pillar that connects all previous and posterior chapters, because it lays foundation for the case study of Chapter 6, namely MONUC/MONUSCO, in the Democratic Republic of Congo, and serves as base for the conclusion.

Based on data collected from official sources and bibliography based on the state-of-the-art of the subject, this work intends to present possible solutions to the inefficiency of the current system of prevention and accountability provoked by SEA. An assortment of recommendations and amendments to existent policies can effectively tackle SEA by its roots and finally guarantee that those who were to serve as a safe-haven to vulnerable people don't become another reason of pain and anguish.

Methodology

Sexual Exploitation and Abuse perpetrated by United Nations peacekeepers is a relatively new and worrisome phenomenon. As allegations of sexual misconduct by peacekeepers started to spread in the post-Cold War paradigm, the UN saw itself cornered. Being the highest representative of peacekeeping in the globalized world, the organization started to work upon preventing and tackling SEA, collecting data on the field, releasing clarifying reports and issuing measures to address the origins of the problem, such as Millennium Development Goals and Sustainable Development Goals, as explained in Chapter 4. Through special resolutions by the Security Council, the UN also targeted the ostensive protection of women and girls, who are the main victims of conflict and sexual violence, and managed to try and engage all involved parties to hold perpetrators accountable, including Troop Contributing Countries.

Despite Steven Pinker's (2011) conclusion that mankind has never known greater peace, we live in a world ravaged by conflict, especially internal conflicts. Peacekeeping missions boomed from the year 2000 on, after the scandals of Peacekeeping Operations (PKOs) in Rwanda and former Yugoslavia. The impact that SEA has in the image of the United Nations is devastating, a) because it discredits the core principles that the organization demands its members to abide by; b) because regardless of the content of the mandate, to zeal for the host country's population well-being is an indivisible part of any peacekeeping mission.

In order to better understand the reasons that sexual exploitation and abuse in PKOs keep happening, the scope of this thesis is to identify flaws in current policies adopted by the UN and Troop Contributing Countries regarding prevention of SEA and accountability of perpetrators. Therefore, a case study was selected: UN Stabilization Mission in the Democratic Republic of the Congo (MONUSCO, 2010) with a glance at MONUC (1999). MONUSCO is the largest PKO in the world, mobilizing more than 17.000 UN personnel. Both MONUC and MONUSCO had a crucial role in recognizing and understanding SEA in peacekeeping context, having MONUC served as field research for the Zeid Report (addressed in Chapter 3). The empirical analysis focuses on a short timeframe that comprises the beginning of MONUC (1999) and adoption of resolutions 1325 and 2272, until 2019. Official information released by the UN, such as number of nationals of TCCs deployed in each analysed mission, number of SEA allegations and nationality of accused peacekeepers will be crossed with the actual stance their TCCs adopt towards sexual violations and women.

There is an impressive amount of literature available, and despite analysing some data, this thesis is built on qualitative analysis of primary and secondary sources. As primary sources, we excavate into UN's documents and resolutions, UN data collection, reports and researches by credible sources such as World Health Organization and Save the Children UK, some jurisprudence and legal documents. As secondary sources, we thoroughly analyse experts' books and articles, including renowned authors like Muna Ndulo, Dyan Mazurana and Olsson&Tryggestad. Media report on news regarding SEA and recommendations on preventing and combating SEA issued by Human Rights organizations that work in the field (sometimes along

with the UN) to alleviate victims' suffering were also considered when writing this thesis, because they deal shoulder to shoulder with conflict struck societies.

About the qualitative method, Michael Bloor (1988 apud Silverman, 1998:223) says: "Qualitative research techniques, with their capacity for rich description, are favoured techniques for research focused on everyday work practices". He states that qualitative method has advantages of "influencing practitioners who are the researcher's research subjects" (Bloor, 1988 apud Silverman, 1998:236) and "influencing practitioners who are the wider audience for the research findings" (ibidem). To sum up, qualitative method both allows us to scrutinize situations that are somewhat far from our everyday reality, and at the same time, it provides detailed material for analysis and improving of practices, thus it was the best method for the purpose of this work. The use of a case study to support factual analysis is justified because it is considered a branch of qualitative research. Case studies are helpful when we need to "answer questions of 'how' and 'why'", "when the boundaries between the phenomenon and context are not clear" and when we need to cover contextual conditions (Reboli, 2013:42).

Also, following David Silverman's (2011:60-61) advice, it was important for the integrity of this thesis and even for my prime idea, to avoid early hypothesis and search for different perspectives before drawing sharp conclusions.

Finally, the analysis concentrates on the United Nations and Troop Contributing Countries relations, leaving the host state aside for understanding that it is the weakest of the institutional parties involved and usually lacks base in its own legal system framework and carries societal fractures. This work intends to identify the systematic flaws that hinder assessment and accountability of SEA perpetrators by the UN and TCCs and ultimately propose an integrative solution to improve SEA preventive and reprehensive measures.

1 – Gender Violence in Violent Conflict Context

The last decade of the 20th century was characterized by a geopolitical change that brought about internal conflicts constructed as ethnic strife. The post-Cold War landscape affected the way armed conflict unfolds and manifests. In the words of Goodhand and Hulme (1999:17), “in contemporary conflicts, ‘the community’ represents the nexus of conflict action”. That is to say that most of the physical violence inflicted occurs at a community level. Following that premise, dr. Maja Korac concludes that “forcible migration of particular groups or ‘ethnic cleansing’ of local communities has become a tool in establishing new ethnicised forms of statehood based on the politics of exclusion” (Korac, 2008:510). In her article, dr. Korac cites Duffield (1997) and Kaldor (1999), who understand that “one of the highest and the gravest costs of current conflicts is the destruction of social networks and communities caused by the divisive identity politics of new wars” (Korac, 2008:510).

In that sense, Mazurana, Raven-Roberts and Parpart (2005) attribute the increasingly use of gender-based and sexual violence as weapons of warfare to this change of paradigm. The authors state that “the targeting of women, girls, men and boys based on their gender roles within particular societies and cultures is systematic and thorough” (Mazurana et al., 2005:02). Professor Minhas Majeed Khan (2016) shares the same idea: “To grasp the intersection of women, peace and conflict in both war affected and peace setting, we have to understand the social, political and economic status of women in a society” (Khan, 2016:02). Khan goes on by saying that: “in many societies, cultural traditions, social practices, intensifying ideological religious and ethnic passion and low literacy have left women increasingly vulnerable” and says that a woman’s role in a community “can be determined by how she is perceived and accepted in a society” (ibidem).

Inevitably, a parallel can be traced between trends of violence in conflict and underdevelopment. In fact, many authors unveiled the complex relations among poverty, inequality, exploitation, violence and protracted crises, and they agree that the breakdown of systems even before the conflict is “in some cases deliberate cannibalization, by elites of functioning political institutions to govern political, economic and social life” (Mazurana, 2005 in Mazurana et al., 2005:31). It is widely recognized that women and girls are disproportionately impacted by armed conflict once that existing inequalities are magnified, and social structures collapse (UNSC/7908).

The “commodification of resources” (Mazurana et al., 2005:05) paves way for the advent of specific forms of economic and labor organization within a broken society. Women and adolescent girls are often used as sexual slaves for militia commanders and soldiers, they are forced to grow food, cook and clean for soldiers, they are used to carry supplies, serving as messengers between work gangs, they are made to work in mines, among other forced activities. Women and girls are important gears of the war economies, but even when serving their interests, they are terrorized by external groups seeking to depopulate resources-rich areas, and sexual violence is a certain mechanism to destabilize and disperse entire communities (UN S/RES/1820). That way, “the division of indentured servitude and other forms of forced labor evolve and are based on gender and generation lines” (Mazurana et al., 2005:05).

However, Mazurana et al. (2005:04) detect that gender-based and sexual violence are not exclusive of wary times, but they scale higher in war-torn zones. They add that, in order to understand the dynamics of gender violence during times of armed conflict, it is crucial to turn to gender relations in society and culture, thus the need to dig a little deeper onto the roots of conflicts and the correlation between the violence perpetrated and the role of women in given society. Professor Margaret Walker proposes that the reiterated and consistent coercion, domination, violence, and silencing of women and girls is a widespread phenomenon that turns aggressive behaviour towards women and girls into norm, thus she called it “gender normative violence” (Walker, 2009 in Rubio-Marin, 2009:25).

Mazurana et al. (2005) are keen on affirming that the forms of violence used and the means perpetrators carry out their acts – such as rape, mass rape, sexual slavery, enforced prostitution, enforced abortion, forced impregnation, mutilations and so on – depend on gender: the gender and sex of the victim, the gender of the perpetrator, it all lies on gender aspects (p. 04).

1.1 – Gender normative violence and its implications

Considering that gender normative violence is an aspect of social behaviour, Mazurana and Proctor (2013) identify the consequences that widely accepted male domination brings to scenarios of conflict, linking everyday violence to political perpetration. The authors state that, because some forms of violence against women and girls are naturalized in times of peace, violence and resulting harms in times of war are often overlooked and even nowadays aren't recognized as a major violation of humanitarian or human rights law (Mazurana & Proctor, 2013:03). They also state that the natural sense of male control over women's production and reproduction during times of peace can reverberate in times of conflict, by causing sexual violence to be deemed as a military strategy, a reward, a “right” or even a way of bonding with other males. In fact, most of the violence perpetrated is male-directed, and exerting control over females is an effective way of gaining power over their husbands, fathers and symbolically, the community (ibidem).

Gender is an important dimension of how both conflict and peacebuilding are conducted. It is, therefore, important to recognize that Khan's and Mazurana et al.'s conclusions regarding gender-based violence in context are key to preventing and addressing the issue. Despite not only being the victims of armed conflicts, women and girls also play a critical role in supporting and perpetuating violence, at the same time they are at the central stage in what concerns peace, security and development. Consequently, it was urgent for the largest international organism to conceptualize and intercede into gender issues, more specifically security related. Following the commitment of the United Nations in fomenting the plans discussed in the Fourth World Conference on Women (which culminated in the Beijing Declaration and the Platform for Action)¹, the UN declared that:

As a starting point, in United Nations usage, gender refers to the socially constructed roles played by women and men that are ascribed to them on the basis of their sex. Gender analysis is done in order to examine

¹ See Chapter 4.

similarities and differences in roles and responsibilities between women and men without direct reference to biology, but rather to the behaviour patterns expected from women and men and their cultural reinforcement. These roles are usually specific to a given area and time, that is, since gender roles are contingent on the social and economic context, they can vary according to the specific context and can change over time. (UN Doc A/51/322, September 3, 1996)

Recognizing the disparate impact that conflicts have on women and girls and considering the genesis of the disproportionate violence against them, the UN considered imperative to start working with a gender mainstream policy. In October 2000, the Security Council unanimously passed Resolution 1325 on Women, Peace and Security², following close the launching of the brand-new Millennium Development Goals (MDGs), which committed its 191 signatories to try and achieve the goals by 2015, among them, to promote gender equality and empower women (MDG 3). In 2015, the MDGs were replaced by the Sustainable Development Goals (SDGs) whose ambitions were expanded but kept Gender Equality and Empower all Women and Girls (SDG 5) in the 2030 Agenda. Undoubtedly, whereas women are not the only ones affected by violence in conflict context, the efforts to conquer a more egalitarian society translate into benefits for everyone, both in war and peace.

Theoretically, these generalized moves by the UN show an intrinsic pledge into fighting prejudice of all kinds, paradoxically, by gender mainstreaming. That happens not only by protecting women and girls and bringing them to action, but by tackling the ingrained causes of their utter misfortunes in conflict paradigm. However well intentioned, there are breaches in nature and content of these policies, and UN peacekeeper agents are often on the backstage of the very problem the United Nations seek to end: Sexual Exploitation and Abuse in Peacekeeping Operations.

² UN S/Res/1325 (Oct. 31, 2000) – See Chapter 4.1.

2 - Conceptualizing Peacekeeping and Sexual Exploitation and Abuse

In Chapter 1, we discussed the many ways sexual and gendered violence bloom in violent context. This Chapter analyses the nature of peacekeeping missions, the current definition of Sexual Exploitation and Abuse (SEA), and types of SEA recognized within Peacekeeping Operations (PKOs).

Peacekeeping was adopted during the Cold War to prevent the Permanent Members of the Security Council, namely the United States of America and Russia, from entering a dangerous brawl. According to Hill and Malik (1996), as peacekeeping developed, it became clear that “it did not refer to authoritative and forceful maintenance of peace” (Hill and Malik, 1996:14), but rather the help provided by the international community to minimise violence between disputing states.

First and foremost, it is important to identify the nature of Peacekeeping itself. Hill and Malik (1996:14) state that “as an activity, peacekeeping is essentially responsible for bridging the gap between the will for peace and its actual achievement”.

William Durch (1993) added substance to the concept of peacekeeping by stating that “peacekeeping supplements the self-help system of international politics with an element of disinterested outside assistance that can help the parties to a conflict disengage themselves from it” (Durch, 1993 apud Hill and Malik, 1996:16).

More recent studies on the matter corroborate with Durch’s view. Whereas Gizelis, Dorussen and Petrova (2016) agree that peacekeeping has changed from securing the interests of the major powers of the Security Council and national elites to focus on civilians caught up in conflict settings, they also have a broader understanding of peacekeeping. The authors argue that:

...the referent object of peacekeeping - what and whose peace is to be kept - has changed. The peace that is to be kept has evolved from a negative conception of peace to encompassing an increasingly positive understanding of peace (Galtung, 1964). Similarly, the object of the peace has shifted from the global to the national and ultimately the local. (Gizelis et al., 2016:02)

They go further by defending that effective peacekeeping missions should not only provide negative peace by passively sustaining post-agreement peace and accepting an environment free of conflict-led deaths, but also promote positive peace, which consists in the protection of civilians and vulnerable groups from residual violence, reform of the security sector, building state capacity and even supporting democratization and economic development (Gizelis et al. 2016:17).

An insightful perspective on the concept of peacekeeping is outlined by professor Allan James (1990), who bestows four essential elements to it: 1 – the personnel deployed in peacekeeping operations must be of a military nature; 2 – the PKO must be non-threatening, in spite of being military in nature; 3 – PKOs consist in impartial peacekeeping forces to be positioned in a way to be able to defuse tensions in areas of crisis and stabilize the situation; 4 – the characteristics of PKOs depend on the context in which they take place (James, 1990:01-05).

That, along with an integrated approach that is being adopted, is quickly changing the nature of UN peace operations. However, as peacekeeping is a regulatory system in its core, it is acknowledged that the success of its operations relies on both meeting the conditions for their very existence and setting clear and limited objectives for each mission (Hill and Malik, 1996:17).

Also, the training for peacekeeping must be different from conventional combat training, because:

...although the objectives of peacekeeping are likely to be defined militarily (control and cessation of violence, securing the environment, etc.), politically (the restoration of legitimate government), and economically (assisting efforts for development). In the end, on-the-ground peacekeeping operations are essentially a psychological process, requiring great sensitivity to and awareness of local perceptions and culture. (Hansen, Ramsbotham, & Woodhouse, 2004:08)

This changing nature has brought the United Nations closer to individuals, in a way that it urges to align peace and security with human rights development. In order to fulfil this goal, the UN has been adopting a series of initiatives such as the implementation of Resolution 1325 on women, peace and security in 2000 and the launching of the Sustainable Development Goals in 2015, as substitute for the Millennium Development Goals. The UN Secretariat is deeply involved in these moves, assuming an active role in what concerns protecting human rights.

In PKOs, the focus on civilians raised awareness of the UN and the world to a problem that had remained undercover until 1993, during the UN Transitional Authority in Cambodia (UNTAC), when the first scandal of Sexual Exploitation and Abuse was officially reported (Westendorf & Searle, 2017:366). Since then, reports of predatory behaviour on behalf of peacekeepers towards the host country's population have ceaselessly emerged. This sexual culture involves ominous practices "from peacekeepers coercing vulnerable individuals to provide sexual favours in exchange for food or meagre pay, to reported instances of rape at gunpoint" (Nordås & Rustad, 2013:512).

The engagement of UN peacekeepers in sexual exploitation and abuse, according to Dyan Mazurana (2005), has the opposite effect to the reason they were first sent to the field mission, for they foment economies that destabilize the region, perpetuate abuse of human rights and engrain systems of inequality and exploitation, which difficult a return to peace and stability (Mazurana, 2005 in Mazurana et al. 2005:34-35). It is a chain of events.

Dire situations required the organization to take a stance against perpetrators of sexual exploitation and abuse who act under the UN's flag, and the first step was to define the meaning of SEA to try and encompass most predatory behaviours. According to the United Nations Secretary-General's Bulletin ST/SGB/2003/13, Special Measures for Protection from Sexual Exploitation and Sexual Abuse:

For the purposes of the present bulletin, the term "sexual exploitation" means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Similarly, the term "sexual abuse" means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. (ST/SGB/2003/13)

These definitions are extended to all United Nations bodies, having the World Health Organization englobed “sexual relations with a child, in any context, defined as a human being below the age of 18 years”³ as part of SEA misconduct.

In addition to that, Westendorf and Searle (2017) untangle sexual exploitation and abuse into four categories: *1 – Opportunistic Sexual Abuse*: It is the Sexual Gender-Based Violence (SGBV) perpetuated by soldiers in conflict and post-conflict situations, which “is not ordered (even implicitly) or institutionalized, but is tolerated for a variety of reasons” (Wood, 2014 apud Westendorf & Searle, 2017:368), being constantly used as a weapon of war. Violent rape seems to revolve around peacekeepers rather than civilians and other aid workers. Opportunistic sexual abuse by interveners was seen in the Democratic Republic of Congo, Central African Republic, Haiti, Guinea and Sierra Leone in between 2015 and 2016 and reported by the UN Office of Internal Oversight Service (OIOS).

2 – Planned, sadistic abuse: This type of SEA is characterized by its sadistic, cruel nature, being the least common of SEAs. Perpetrators are driven by sadistic pleasure and the means involve both planning and coordination, they are not transactional nor opportunistic (Westendorf and Searle, 2017:370). In 2015, an UN report leaked, documenting regular anal and oral raping of starving boys aged 8 to 15 in operation MINUSCA by 26 peacekeepers from France, Chad and Equatorial Guinea. Behaviours such as tying up girls and obliging them to have sex with dogs, torture, raping and beating kids to death were also reported during peacekeeping history (ibidem).

3 – Transactional Sex: Transactional sex is the most common kind of abuse in conflict/disaster paradigm, also called “survival sex”. It consists in exchanging money, food or labour for sex, which, albeit inappropriate, is not necessarily criminal. It requires a level of agency and negotiation, meaning that it is always criminal when involves children (Westendorf & Searle, 2017:371). Researches in West Africa showed that some parents considered the involvement of their children in transactional sex as essential for the survival of the family. Peacekeepers who perpetrate had a similar view and excused their sexual transactions by assuming that the “donated” food, resources or money made local women more secure (Higate, 2007:100).

4 – Networked SEA: This kind of SEA involves connection with criminal networks: “interveners not only interact with intermediaries or criminal networks to gain access to women (as distinct from the more direct negotiations characterizing transactional sex) but may be directly engaged in profit-making themselves” (Westendorf and Searle, 2017:374). Networked SEA has links with organized crime and international trafficking agents.

The United Nations has a legitimate concern in assessing and tackling SEA, so it keeps records of allegations and works with a high level of transparency attested through online specific channels⁴. The Zero-Tolerance stance adopted by the Secretary-General is an important mark to the commitment of the UN into the fight against SEA. However, as Grady (2016) suggests in her work, the UN data is shady and not reliable:

³ World Health Organization Sexual Exploitation and Abuse: Prevention and Response. Pamphlet.

⁴ See UN Preventing Sexual Exploitation and Abuse on <https://www.un.org/preventing-sexual-exploitation-and-abuse> (checked on 06/06/2019).

“Despite the UN’s claims, there are significant limitations to the usefulness of its statistics because of problems with data collection, false allegations and underreporting” (Grady, 2016:942).

3 – Unveiling Sexual Exploitation and Abuse by UN Peacekeepers

Signs of Sexual Exploitation and Abuse first came to light in the 1990s, when the presence of UN peacekeepers in Cambodia coincided with a drastic increasing in human trafficking and prostitution in the country (Alexandra, 2011:369). Odello and Burke (2016:839) say that the problem of sexual abuse perpetrated by peacekeepers has been acknowledged by the United Nations since 1995. However, it wasn't until 2001 that the abuses perpetrated by peacekeepers were exposed to the world by a report released by UNHCR and Save the Children UK⁵, which unveiled the shocking fact that peacekeepers constantly engaged into sexual activities with children in exchange for food rations or basic goods⁶. Subsequent investigation by the United Nations was inconclusive regarding the specific allegations in the report, but it confirmed that SEA was real (Ndulo, 2009:141). Since then, even more vile aspects of sexual misconduct such as rape and paedophilia have been reported from almost all the areas in which the UN works, including Côte D'Ivoire, Democratic Republic of Congo, Haiti, Liberia, Somalia and South Sudan, according to denounces and investigation by Human Rights Organizations⁷.

That ominous scenario called for action on behalf of the United Nations and the General Assembly adopted Resolution 57/306, the “Investigation into Sexual Exploitation of Refugees by Aid Workers in West Africa”, and requested the Secretary-General to “*inter alia*, maintain and report on investigations into sexual exploitation and related offenses by humanitarian and peacekeeping personnel in peacekeeping operations and all relevant actions taken by the United Nations to address the violations” (Ndulo, 2009:141).

In the ambit of the Resolution 57/306, the allegations of SEA reported by the Secretary-General were 53 in 2003, contrasting with 121 in 2004; 340 in 2005 and 357 cases reported in 2006. In 2007, the cases plummeted to 159. Although the UN credited the decline of the reported cases to “progress being made in establishing a sustainable legal framework within which to address sexual exploitation and abuse, preventive measures implemented by the organization, and increased awareness in the communities peacekeepers operate” (Ndulo, 2009:142-143), Grady (2016:936) highlights the fact that the concept of “case” and “allegation” used in the reports weren't underpinned previously to 2007, when a footnote in the report gave an insight to the terms: “it should be noted that these numbers do not reflect the number of alleged perpetrators nor victims, as multiple allegations could correspond to one alleged perpetrator” (UN Doc A/61/957, footnote 1).

⁵ UNHCR and Save The Children-UK, “Sexual Violence and Exploitation: The Experience of Refugee Children in Guinea, Liberia and Sierra Leone”, <https://www.alnap.org/help-library/sexual-violence-and-exploitation-the-experience-of-refugee-children-in-guinea-liberia>, checked on 08/06/2019.

⁶ “Sexual exploitation was defined by children as: ‘when them big man go loving with small girl for money. Them big men can go loving to small girls, they can call girl when she walking along the road, and then the girl go and they go in house and lock the door. And when the big man has done his business he will give the small girl money or gift’”, (ibidem, p. 03).

⁷ See UNHCR's Investigation into Sexual Exploitation of Refugees by Aid Workers in West Africa, 11 October 2002, A/57/465; Human Rights Watch, “The Power These Men Have Over Us: Sexual Exploitation and Abuse by African Union Forces in Somali”. <http://www.hrw.org/report/2014/09/08/power-these-men-have-over-us/sexual-exploitation-and-abuse-african-union-forces>, checked on 08/06/2019.

Following professor Ndulo's train of thought⁸, Grady identifies a series of flaws in the way the United Nations assesses allegations of SEA:

It seems therefore that the number of allegations is a reflection of neither the number of victims nor the number of perpetrators. Instead, the UN is measuring the number of communications it receives about incidents of sexual exploitation and abuse. The obvious (although unmentioned) risk is that, since one allegation may represent more than one victim and/or more than one perpetrator, the data under-reports the scale of the phenomenon.

(...)

Here, there is a different form of underreporting: allegations are made known to the UN, but the method the UN uses to count those communications means that incidents involving multiple victims or multiple perpetrators are masked since they are treated as only one allegation. By contrast, it is presumably possible that some incidents of sexual exploitation and abuse are reported to UN bodies more than once. (Grady, 2016: 936-937)

The first substantial response to SEA problem followed media reports in 2004, which denounced SEA committed by peacekeepers in the Democratic Republic of Congo (Odello, 2010:350). Law professor and author Cassandra Mudgway (2017) explains that "A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations" released by then-Secretary-General's personal adviser, Jordanian Prince Zeid Ra'ad Al-Hussein, confirmed a "culture of sexual exploitation in UN peacekeeping" (Mudgway, 2017:1454). The "Zeid Report", as it came to be known, shed a light into the frolic misconduct of peacekeepers. In a comprehensive review on the matter, Prince Zeid said:

During my visit to the Democratic Republic of the Congo, women's organizations brought to my attention a number of factors that they believed contributed to the sexual exploitation and abuse of women and children. They include factors external to the Mission, such as the erosion of the social fabric because of the conflict, which results in a high number of children with little or no family support; a high level of extreme poverty; lack of income-generation possibilities; a high incidence of sexual violence against women and children during the civil conflict coupled with discrimination against women and girls, leading to a degree of local acceptance of violent and/or exploitative behaviour against them; and the lack of a well-functioning legal and judicial system, which creates an environment of de facto impunity. (A/59/710, March 24, 2005, par. 13)

In this context, Prince Zeid noted that personnel within MONUC had the perception that nothing was being done to tackle the problem, that whistle-blowers would not be protected in case of denouncing the abuses, and the environment provided by the UN was not adequate for the circumstances (A/59/710).

Corroborating with Prince Zeid's overview, Canning (2010) says that sexual violence in conflict situation is intrinsically connected to "the exclusionary practices that can result from hierarchical developments of human rights policies, practices and legislation" (Canning, 2010:849). The author believes that by systematically reproducing gender power binaries, patriarchal structures tend to exclude or marginalize issues that affect mainly women, such as sexual violence. Kylie Alexandra (2011:373) also attests that relations of power between peacekeepers and the host population are one of the main factors that contribute to SEA. She evokes Higate (2007), who understands that missions in remote regions as DRC develop a subculture of impunity, in which sexual intercourse between male peacekeepers and local women are stimulated by mission's leadership in order to enhance their performance. Therefore, this construction of masculinity that

⁸ "The United Nations is under no illusion that the problem is under control." - Ndulo, 2009, p.143.

privileges sexual needs is an offspring of leaders who refuse to control the sexual behaviour of their soldiers (Alexandra, 2011:373). In addition, the nature of peacekeeping itself tends to shake male confidence as soldiers often see their masculinity being “subdued” by the duties of humanitarian aid⁹.

More than a decade after the Zeid Report, it is still praised for capitalizing all the main problems and flaws of the United Nations policies while dealing with SEA. Captain Keith J. Allred (2006) called these foibles the “weak underbelly” of the United Nations: its inability to control its troops while in the field (Allred, 2006:06).

Conclusions drawn are that Sexual Exploitation and Abuse is not odd to the UN mechanism. The Zeid Report represented a turning point in the way the UN assesses and addresses the problem of sexual depredation. Although SEA is not the result of faulty legislation alone, having a clear and practical legal framework is indispensable to the well-functioning of the engines of Peacekeeping Operations.

⁹ See Higate and Henry, 2004.

4 – The United Nations measures to prevent and tackle SEA

The previous Chapters shaped the concepts of gender-based violence, peacekeeping and SEA, and uncovered the dimension of the problem. Indicatives of systematic SEA by peacekeepers prompted an active response from the UN, that translated its commitment to tackle SEA in a handful of measures and policies. This Chapter is commanded to discuss the most projecting measures that can have relevant impact in PKOs, directly or indirectly.

Although the United Nations was aware of the sexual misconduct of its peacekeepers on the field since the 1990s, it was not until the publication of the Zeid Report in 2005 that it started to adopt a series of measures and policies to specifically address the problem of SEA. One of the spawns of prince Zeid’s report was the institution of Conduct and Discipline Teams (CDTs) in August 2005, to assess misconduct allegations, handle complaints and manage data, and develop and offer trainings for peacekeeping personnel on UN rules and conduct. CDTs do not carry on investigations, but they provide information to UN personnel and host population on how to report misconduct, in particular, of SEA.

That was a cautious step by the United Nations, however, years earlier, the UN had already acknowledged the blatant need of tackling sexual abuse especially in times of war and conflict, and through wider resolutions, it started to englobe sexual violence as a vile crime.

In this sense, Carey (2001) reminds us of the creation of *ad hoc* Tribunals for the former Yugoslavia and Rwanda by the UN Security Council, that established criminal precedents against sexual violence. He also says that “women and girls are disproportionately the main civilian victims and survivors of war, and men are disproportionately represented in decision-making and implementation” (Carey, 2001:50).

After the Beijing Women’s Platform for Action (1995) and the 1998 statute of the International Criminal Court establishment of female balance on their boards, the Security Council concluded that “peace is inextricably linked with equality between women and men” (SC/6816). In the year 2000, the Lessons Learned Unit of the UN Department of PKOs adopted the “Windhoek Declaration” and the “Namibian Plan of Action on Mainstreaming a Gender Perspective in Multidimensional Peace Support Operations” (UN A/55/138-S/2000/693). Another lesson learned was that peacekeeping missions in Namibia and South Africa had been more successful because of the high percentage of female personnel (Carey, 2001:53-54).

In order to respond to the still imbalanced aspect of gender participation in missions and decision-making, non-governmental organizations, governments (e.g. Namibia) and UN agencies lobbied for gender mainstreaming norms in international law, treaties and UN policies, and the outcome of this strife was the Resolution 1325 (31 October 2000)¹⁰, also known as “the founding document of Women, Peace and Security (WPS) Agenda” (Kirby and Shepherd, 2016:373), passed by unanimity of the Security Council votes.

¹⁰ Annex A.

4.1 – Importance and nature of Resolution 1325

The WPS Agenda was consonant to the UN Millennium Development Goals (prior to the UN Sustainable Development Goals, 2016) and represented a flagship in the inclusion of women in decision-making and informative roles. It was the first time that the Security Council formally decided on a gender issue. Resolution 1325 reiterates the crucial role of women in preventing and solving conflicts and stresses the importance of their participation and involvement in matters of humanitarian response to conflicts and peace-building. The Resolution was a true landmark and urged all actors to increase the participation of women and to incorporate policies of integration and gender perspective in all United Nations peace and security activities. Also, recognizing the depths of the issue of SEA in situation of armed conflict, the Resolution called on all the parties to take special actions to protect women and girls from gender-based violence¹¹.

In order to successfully implement Resolution 1325, the Interagency Taskforce on Women, Peace and Security was established to ensure collaboration and engagement of all United Nations System. Since 2004, the Taskforce includes representatives from DAW/DESA, DDA, DPA, DPKO, DPI, ESCWA, ILO, OCHA, OHCHR, OHRM, OSAGI, SRSB/CAC, UNDP, UNFPA, UNHCR, UN-HABITAT, UNICEF, UNIFEM, UNU, WFP. Observers: IOM and the NGO Working Group on Women, Peace and Security (Hague Appeal for Peace, International Alert, International Women's Tribune Centre, Women's Caucus for Gender Justice, Women's Committee on Refugee Women and Children, Women's International League for Peace and Freedom).

Olsson and Tryggestad (2001) understand that the Agenda recognized the “urgent need to mainstream gender perspectives into peacekeeping operations, the importance of specialized gender training and the need to understand the impact of armed conflict on women and girls” (p. 01). Considering that more women are deployed in peacekeeping missions, along with the commitment marked by resolution 1325, every aspect of the operation would benefit from the female presence. According to the authors, the sole presence of female peacekeepers tends to reduce the level of sexual harassment and violence against local women (Olsson & Tryggestad, 2001:02). In addition, Olivera Simić (2010) observes that male peacekeepers are more disciplined when working with their female counterparts and women peacekeepers serve ultimately as a role model to local women (Simić, 2010:189), who feel more comfortable and confident in their presence.

In contrast, researcher Kathleen Jennings at the Fafo Institute for Applied International Studies in Norway, considers the arguments for increasing participation of women in PKOs as essentially instrumentalist and inflated. In her report (Jennings, 2011) based on available evidence and underlying assumptions regarding the participation of women positively affecting the operational effectiveness of PKOs, Jennings concludes that the deterrence argument that women have a “civilizing” effect on male peacekeepers is flawed (Jennings, 2011:06). She points to the fact that women peacekeepers tend to adapt their behaviour to that of the majority group, thus not risking their chance of advancing to more prestigious positions. The report discloses that “In order to be accepted by their male colleagues, they become ‘one of the boys’ – at least tolerating, if not actively

¹¹ See Chapter 1.

participating in, crude banter and highly-sexualised behaviour” (ibidem). Some women adopt a self-segregating approach, abstaining from activities that might imply misbehaviour, however, but not actively doing anything to foil them. Although she agrees that further research is needed, the findings of Jennings’ report debunk the premise that the sole presence of women can change the course of field missions.

Professor Kwadwo Appiagyei-Atua (2011:02) defends that Resolution 1325 has a legally binding nature. He bases his conclusions on the guidelines of the International Court of Justice (ICJ) to approach a Security Council’s decision, especially stationed in the Namibia Case¹², which originated jurisprudence on the binding effects of resolutions passed under Chapter VI. In Öberg’s (2005 apud Appiagyei-Atua, 2011:02) analysis, the ICJ established factors to be considered when detecting the intended binding effect of a determined resolution, and these are: a) the language used, b) prior references exulting the importance of the matter through discussions or documents, c) the charter provisions invoked, d) reference to or reliance of the resolution on international treaties, jus cogens norms, customary law and other sources of international law.

Appiagyei-Atua (2011) cites the references to which Resolution 1325 was built upon and considers that the resolution “is the product of multiple forums from which the importance of the legal status of women and girls in post-conflict situations can be clearly demonstrated” (p. 05). Another aspect is the preamble, which does not particularly address any UN Charter, but holds the principles of the UN Charter, as well as the priority of the Security Council’s duties as keeper of international peace and security (Appiagyei-Atua, 2011:05). He follows through citing all the main international treaties and commitments regarding protection and promotion of civilians’ rights in war-torn zones, for example, the Geneva Conventions (1949), the UN Refugee Convention (1951), the Convention on the Elimination of All Forms of Discrimination against Women (1979), the UN Convention on the Rights of the Child (1989), and the Rome Statute of the International Criminal Court, among others (ibidem). At last, professor Appiagyei-Atua (2011:04) says that “the language used in Resolution 1325 has both strong and weak elements”. Considering all the given aspects, the resolution “is binding because it authorizes acts that are *intra vires* the UN Charter and other international laws” (Appiagyei-Atua, 2011:06).

Even though Resolution 1325 was an indirect mean of tackling SEA, Carey (2001:53) and Karlsrud, Rupesinghe and Stamnes (2019) identify the document lacks substance, for it omitted some acute United States recommendations that had the scope to create a mandated group of experts to report on mechanisms ensuring equal participation of women in PKOs. This organizational flaw, argue Karlsrud et al., is “part of the reason why the implementation of Resolution 1325 in general has been uneven and slow” (Karlsrud et al., 2019 in Davies and True, 2019: 208).

¹² Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970).

4.2 – Beyond Resolution 1325

After the institution of the WPS Agenda and before the Zeid Report, UN Secretary-General Kofi Annan released in 2003 a special Bulletin (ST/SGB/2003/13) which started a policy of zero-tolerance for SEA in PKOs. The Bulletin wielded that zero tolerance is the explicit prohibition of civilian-peacekeeper relations, specifically, sexual relations between UN staff and beneficiaries of assistance; exchange of money, employment, goods or services for sex; and sexual relations with people less than 18 years of age. It also stated that “United Nations staff are obliged to create and maintain an environment that prevents sexual exploitation and sexual abuse” (ST/SGB/2003/13, section 3, paragraph “f”). Nonetheless, many years later, United Nations Under-Secretary-General and Executive Director of UN Women, Phumzile Mlambo-Ngcuka, concluded in the UN Women Global Study that there is a “crippling gap” between the ambition of the UN commitments and actual political and financial support (Coomaraswamy 2015:05).

Machiko Kanetake (2012) casts light on the *raison d’être* of the Zero Tolerance policy. She recalls that SEA by peacekeepers is deeply connected to the banner of the United Nations rather than the image of Troop Contributing Countries, because the political boundaries engulf broader conduct and tasks within the UN, while the legal boundary “externalises not only the conduct of sexual exploitation and abuse (in a sense that it is not attributable to the UN as an organisation), but also many of the tasks necessary for the realisation of the Zero Tolerance policy against SEA” (Kanetake, 2012:54). The author considers the Zero Tolerance policy as an “institutional attempt to resolve the discordance between politics and law” (Kanetake, 2012:60) and says it is “to substantially remedy such ‘discordance’ between politics and law, by aligning the policies of externalities with those of the UN” (*idem*:51).

In 2017, researcher Sarah Smith argued that while “trying to enforce zero tolerance may reduce the frequency of occurrences in some instances”, effective measures will not be achieved unless there is a “cultivation of a value of gender equality” among all peacekeepers (Smith, 2017:406). She also states that not all peacekeepers will commit SEA and not every mission is set on a masculine, militarised context, but the “institutional and cultural context within which perpetrators do commit SEA is, at the least, permissive” (Smith, 2017:407). She ultimately blames the compliance of technical responses to institutional norms for the ongoing lack of accountability that still permeates SEA issue.

In 2007, Dianne Otto had already argued that zero tolerance is more a response concerning the UN institutional survival than a measure consistent with women’s rights and gender equity. It has a reactive core and seeks to remove dissident elements, without considering the extent to which institutional structures may contribute to the shadowy and silencing culture that surrounds SEA (Otto, 2007:02). Besides, the SGB 2003 is only legally binding on UN staff, so it became clear that to effectively prevent, assess and account perpetrators of SEA, the DPKOs would need to join forces with contingent-contributor countries.

Following the release of the Global Study for the implementation of Resolution 1325 in 2015 and acknowledging that there is not only a gap between the UN’s ambitions and the financial/political support, but also in their authority to enforce behavioural guidelines in the countries of mission and in order to improve

response in individual's countries, the UN Security Council adopted its first resolution aimed at preventing SEA under the UN's flag – resolution 2272 (S/RES/2272 March 11, 2016).

Resolution 2272 was an attempt to fight SEA from its roots by endorsing the role of TCCs in upholding standards of conduct and discipline and urging them to take appropriate steps to address allegations or confirmed cases of SEA by their personnel (Kovatch, 2016:161). By the occasion, the Security Council requested the Secretary-General to “replace all military or police units from any TCC that had failed to hold perpetrators accountable” (ibidem) or “inform the Secretary-General of progress in investigations” (Westendorf & Searle, 2017:381). In addition, measures to strengthen prevention included “a Secretariat-wide communications strategy, a new e-learning programme for all mission personnel and a request that TCCs certify that personnel have not previously engaged in misconduct in UNPKOs” (Westendorf & Searle, 2017:381).

However sharp and praised, Resolution 2272 sparked resistance from Egypt and Russia, which saw the policy as exerting “collective punishment”. That was an indicator of another fundamental problem with existing responses to SEA: they consider that all actors will perceive SEA as opposing to their goals in PKOs, when in fact, there is a multitude of factors that make a country engage in deploying personnel into PKOs, and not all of them are aligned with the protection of civilians and embodiment of UN principles (Westendorf & Searle, 2017:381).

Also, the mechanisms instituted to improve the involvement of TCCs, including repatriation, have the potential “to compound a sense of injustice, especially as it fails to delineate any further accountability measures, particularly within the UN” (Smith, 2017:407). Such mechanisms cause a sense of powerlessness and the removal of perpetrators from the site, without further known measures, contribute to the perception that impunity is on the lead.

Undoubtedly, Resolution 2272 reinforces the commitment of the Secretary-General in identifying perpetrators and removing them from peacekeeping operations, as well as it reaffirms the role of member states in prosecuting perpetrators. While the adoption of resolution 2272 sets new apparatuses to enhance accountability for SEA, it also has some limitations, like the lack of clear terminology (e.g. the particular criteria of “systemic and widespread” and “credible allegations”) and the lack of reference to repatriating measures concerning non-uniformed personnel (Neudorfer, 2016 apud Smith, 2017:417). The possibility of repatriation of entire units as one of the new duties of the Secretary-General, although seems a pragmatic response to SEA, especially when the nationality of perpetrators is showcased, requires caution and sensibility because the reputation of countries is at stake. In general, “the resolution does not represent marked progress in terms of formal justice for survivors, even when and if repatriation does occur” (Smith, 2017:417).

Continuing the legacy of Kofi Annan's zero-tolerance, in February 2017, UN Secretary-General António Guterres laid out a comprehensive strategy¹³ to transform the way the United Nations approaches SEA. The summary of the report states that “the strategy focuses on four main areas of action: putting victims first; ending impunity; engaging civil society and external partners; and improving strategic communications

¹³ Special measures for protection from sexual exploitation and abuse: a new approach. A/71/818.

for education and transparency”. The SG englobed invariable aspects of SEA, such as putting the well-being of the victims as a priority (A/71/818 Section III, par. 20), and compromised himself to meeting personally with the victims and hearing their experiences directly (A/71/818 Section III, par. 21). In his strategy, the SG evokes the most human side of international cooperation and transcends the organization’s conspicuous gene of diversity, appealing to a higher sentiment of brotherhood:

Over the years, and in response to the innumerable tragedies that have plagued the world, the international community has developed extremely sophisticated ways to confront and respond to suffering. However, in doing so, and in dealing with the magnitude of pain and deprivation around the world on a daily basis, we have perhaps also inoculated ourselves against its worst effects. We must seek to restore our personal connections with and empathy towards victims of these heinous crimes in meaningful ways and give visibility to those who have suffered the most. (A/71/818 Section III, par. 20)

After other homonymous measures released from 2005 and on, SG António Guterres issued the Special Measures for Protection from Sexual Exploitation and Abuse A/72/751 in February 2018. The main scope of the report was to provide information on measures to strengthen the system-wide response to SEA and to expose the outcomes of the implementation of the zero-tolerance policy under his tenure and the progress brought about by the Secretary-General’s new approach strategy. It was also the embodiment of all the facets of earlier regulations regarding addressing and prevention of SEA. In the report, SG Guterres fiercely criticizes perpetrators, openly calling them “scourge” (A/72/751, Section I, par. 3) and recognizes the damage that each allegation of SEA causes to the organization, undermining the values inherent to the United Nations (A/72/751, Section I, par. 2).

The document also establishes measures for protection of “whistler-blowers” (A/72/751, Section II, par. 9), and underscores senior-level accountability by convening quarterly meetings of the High-level Steering Group, supported by a bimonthly working group chaired by the Office of the Special Coordinator for prevention of SEA and additional areas such as the risks of sexual exploitation and abuse by United Nations implementing partners, and linkages among gender and sexual exploitation and abuse (Section II, par. 10-11). In fact, SG Guterres said that 34 entities “have provided plans that include measures for risk mitigation, community engagement and the reporting of complaints, as well as for outreach to, and the protection of victims, witnesses and family members” (A/72/751, Section II, par. 11). Zero-tolerance has acquired new relevance in the UN agenda, and this specific report vehemently responds to problems brought about two decades earlier.

Between A/71/818 and A/72/751, SG Guterres launched the Voluntary Compact on Preventing and Addressing Sexual Exploitation and Abuse (2017)¹⁴, in order to project the message of commitment on behalf of the UN and TCCs in tackling the issue. The Compact compels its signatories to grant accountability and provide meaningful support for the victims, based on shared values. It conveys such a strong pledge that is referred to as “Compact on Elimination of SEA”¹⁵ and counted with 101 Member States as of January 2019¹⁶.

¹⁴ Annex B.

¹⁵ Note to Correspondents on Voluntary Compact on Preventing and Addressing Sexual Exploitation and Abuse (September 29, 2017). Available at: <https://www.un.org/sg/en/content/sg/note-correspondents/2017-09-29/note-correspondents-voluntary-compact-preventing-and>, checked on 10/08/2019.

¹⁶ Annex C.

Apart from the supra mentioned documents, the United Nations responded to sexual predatory behaviour by peacekeepers launching a series of minor regulations and codes of conduct, as follows: - *UNSCR 1820 (2008)*: the first resolution of the Security Council to acknowledge sexual violence in conflict context as an issue related to international peace and security; - *UNSCR 1888 (2009)*: reinforces the implementation of resolution 1820 through leadership and effective mechanisms of support; - *UNSCR 1889 (2009)*: approaches the obstacles to the participation of women in peacekeeping processes and asks for the secretary-general to submit to the Security Council a set of indicators for global use in monitoring the implementation of WPS Agenda; - *UNSCR 1960 (2010)*: delivers a system of accountability to cope with sexual violence within conflicts; - *UNSCR 2106 (2013)*: reinforces the need to monitor and prevent SEA, adding operational details to previous resolutions and underpins the necessity of bringing all actors together in this scheme; - *UNSCR 2122 (2013)*: creates a comprehensive guideline of the implementation of the WPS Agenda, proposing sturdy measures to increase the participation of women in peacekeeping and conflict resolution; - *UNSCR 2242 (2015)*: the widest resolution ever approved in 15 years of the WPS Agenda, it focuses on iteration, impact of extremism, consultation with civil society, the need of specific training of mediators in peacekeeping processes and disposes about allocation of resources; - *Handbook for Peacekeeping Operations*: general set of rules to be followed by peacekeepers while serving under the UN's flag.

Westendorf and Searle (2017) claim that it is extensively understood that the emphasis of the UN on SEA after 2002 was a propaganda-like move, which represented an attempt to deal with the stricken credibility of the organization after a conglomerate of shameful episodes like the scandal of the “oil for food” programme, the repercussion of the movie “Hotel Rwanda” and the publishing of the book “Emergency sex and other desperate measures” depicting the failure of UN staff in PKOs (p. 381). The authors say that the results of all the policies and measures “remain ineffective: SEA continues to occur across all PKOs, perpetrators are rarely held accountable, and actual rates of SEA are probably much higher than reported owing to flaws in the UN's data collection and investigation processes” (Westendorf & Searle, 2017: 381).

5 – The role of Troop Contributing Countries in tackling SEA

Chapter 4 was dedicated to the normative responses the United Nations has been giving to Sexual Exploitation and Abuse in Peacekeeping Missions. But the responsibility of the UN is not exhaustive, and the response of contingent-contributor countries is of paramount importance. This Chapter highlights the role that Troop Contributing Countries have in preventing SEA and granting accountability of their nationals.

Although steps have been taken by the United Nations to prevent SEA, as exposed in the previous chapter, the lack of authority of the organization over disciplinary and criminal matters takes its toll on effectively combating the problem. Confusion starts in the UN Charter, which does not properly classify all kinds of orders passed by the Security Council. Instead, the word “decision” connotes a binding premise, while “recommendation” serves as non-binding, without referring to revolving spectrums, such as resolutions.

Article 25 embedded in Chapter V of the UN Charter promulgates “The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter”, and that comprises UN Security Council Resolution 2106 of 24 June 2013, that requests the SG “to continue and strengthen efforts to implement the policy of zero tolerance on sexual exploitation and abuse by UN personnel and urges concerned Member States to ensure full accountability, including prosecutions, in cases of such conduct involving their nationals” (S/RES/2106, par. 15).

Defying all series of recommendations and comprehensive strategies released by the UN since early 2000s, sexual abuse by UN peacekeepers continue to arise and accountability remains an exception to the rule, spreading a culture of impunity among perpetrators. This impunity contributes to the stained image of the United Nations before the world and the victims of SEA (Kanetake, 2012:54). In the meetings that followed the adoption of Resolution 2272, many countries, including China, the UK, Uruguay and Malaysia, manifested the problems of legitimacy brought by SEA cases within the UN. New Zealand pointed that “the reputation and effectiveness of the Organization are being damaged. These allegations...represent a systemic failure that all of us - the Secretariat, contributing countries and Council members - have a responsibility to fix”¹⁷.

New Zealand’s deduction consubstantiates Ferstman’s (2013) paradox conclusion, regarding the (in)action of the UN when it comes to accountability. In her report, Ferstman (2013:02) reminds us that, in 2011, the UN Secretary-General assumed a “human rights due diligence policy” aimed at the consonance between the UN’s virtuous principles and the conditions on its collaboration with local government troops¹⁸. Nonetheless, in 2013, allegations of mass rape perpetrated by government troops in the Democratic Republic of Congo made the UN review its security sector support in the country, at the same time that allegations of SEA charged against UN troops in the DRC remained without an answer and unpunished since the early 2000s (Ferstman, 2013:02). That huge dealignment shakes the UN credibility, for how can it impose conditions that itself isn’t ready to fulfil?

¹⁷ Over the course of the meetings on March 10 and 11, 2016 in Whalan, 2017, p. 07

¹⁸ It required “all security sector support provided by the UN to be consistent with its obligations to respect, promote, and encourage respect for international humanitarian, human rights, and refugee law” - Ferstman, 2013, p.02.

According to Ferstman:

The successful prosecution of sexual exploitation and abuse allegations (...) requires particular expertise in working with witnesses who have a history of marginalization, have experienced significant trauma, face severe cultural taboos when coming forward to give evidence, or fear reprisals. Such expertise is available within the UN system from the ad hoc international criminal tribunals, though not always available among domestic military prosecutors, whether these come from a troop-contributing country or a host state. (Ferstman, 2013:04)

Given all the above, it is imperative that the United Nations and Troop Contributing Countries find ways to work together, amending their inner flaws. The United Nations has indeed tried to enhance the *de facto* participation of TCCs in preventing, investigating and prosecuting SEA allegations against their nationals, as exposed in the next sub-chapter.

5.1 – Granting accountability of TCCs nationals

Back in 2005, responding to the urges of the Zeid report, a Group of Legal Experts (GLE) provided a report titled “Ensuring the Accountability of United Nations Staff and Experts on Mission with Respect to Criminal Acts Committed in Peacekeeping Operations” (UN Doc A/60/980), released in 2006. In October of that same year, a new GLE (SG/A/1023, PKO/148) discussed the binding effects of the 2003 SG Bulletin and the applicability of the UN norms to all contingent and came to the following conclusions: a) contingent members are not bound by the Bulletin until the Troop Contributing Country has signed and concluded a Memorandum of Understanding (MoU) or other equivalent agreement; b) since UN PKOs may include a variety of personnel (civilian, military and police), the UN should adopt more consistent rules of conduct to peacekeepers, which should include clear obligations to Troop Contributing Countries about exercising their jurisdiction (Odello, 2010:353).

In 2008, the General Assembly (GA) called out on the Member States to take urgent measures regarding investigation and due legal process in case of their nationals allegedly commit crimes under the UN’s flag. Short-term measures were provided in two resolutions (UNGA Res 62/63, 08 January 2008; and Res 63/119, 15 January 2009) and comprised:

- (i) extension of the criminal jurisdiction of Member States for crimes committed outside their territory by their nationals, officials and experts from the UN peace missions,
- (ii) cooperation among UN Member States and between them and the UN to pursue the perpetrators of relevant crimes,
- (iii) judicial assistance in legal proceedings, criminal prosecution and extradition for the aforementioned crimes,
- (iv) cooperation, pursuant to the national legislation of Member States, in exchange of information and transmission of evidence gathered by the UN in the territory of the Member States which have begun a procedure of prosecution,
- (v) granting, in accordance with national legislation, effective protection against crimes committed by officials abroad, and
- (vi) granting of technical assistance to the State which welcomes the peace mission and on whose territory the crime was committed. (Odello, 2010:355)

More recently, Resolution 2272 envisaged aspects of all previous UN resolutions and recommendations by reinforcing the Secretary-General's prerogative of repatriating entire national contingents if there is enough evidence of patterns of SEA by members of that unit. Also, the resolution target points inaccessible by the Secretariat so far, by commanding member states to investigate, report and hold perpetrators accountable in allegations of SEA, as well as keeping the Secretary-General informed about the investigations and actions taken under the risk of the SG repatriating and replacing the entire contingent. Furthermore, it has a victim-centric approach and gives the SG the right to accept or refuse contingents, according to the accountability record of the TCC. Whalan (2017:09) says that for some, the resolution goes too far and somehow unfairly demonizes TCCs and their peacekeepers for the crimes of a few ill-intentioned people. On the other hand, Ferstman (2013:05) understands that "naming and shaming" particular countries is an incentive to comply with anti-impunity norms.

It is important to understand the context of accountability in UN peacekeeping. Whalan (2017:15) recognizes that "collective repatriation is a measure that responds to the legal framework and political reality that gives a police or troop-contributing country full jurisdiction over its personnel, and thus primary responsibility for holding perpetrators to account".

Therefore, obligations imposed on Troop Contributing Countries bring the UN closer to TCCs and extend the aegis of UN's administrative nature to a more pragmatic application. To sum up, the model Memorandum of Understanding, which is the regulating link between the UN and TCCs, provides assurance of TCC's exercise of jurisdiction with respect to crimes and offences; it demands the TCC to share information related to investigation and due process regarding their nationals' misconduct while serving the UN. The memorandum also allows the UN to carry out preliminary investigation of devious misconduct when the TCC won't conduct its own. Furthermore, the UN's Investigative Department of OIOS is authorized to start an administrative investigation, in case the TCC isn't able or willing to do so. Troop Contributing Countries must also scrutinize candidates for national armies or security forces "to ensure the exclusion of those associated with serious violations of international humanitarian and human rights law, including sexual violence" (S/RES/1888, par. 3).

As PKOs usually take place in conflict or post-conflict scenarios, host states lack foundation to handle and prosecute SEA allegations, even though they might be of good use to preserve collected evidence and kickstart investigations. However, the extent to which evidence gathered by a host state will be admitted in other prosecuting state depends on domestic laws of that outer state. Ferstman (2013:07) recalls the situation of Canada, that indicated that using evidence from foreign sources, such as the UN fact-finding, would be difficult without the direct involvement of the victims in the process. In fact, the Zeid Report had already issued a recommendation in this sense:

...an expert in military law, preferably a prosecutor, from the troop-contributing country concerned should participate as a member of any investigation of members of its contingent. That will ensure that the investigation gathers evidence in a manner that satisfies the requirements of national law so that further action can be taken if it is concluded that misconduct has occurred. (A/59/710, par. 33)

Again, the Troop Contributing Countries pose as elementary for tackling misconduct of their agents under UN's service, thus the need of minimum adequacy of their law to the UN principles. Nevertheless, TCCs' legal systems are often result of their societies' values, which are not always in conformity with the UN's view of a crime or offence. As a result, some typical forms of SEA are not reflected in international humanitarian law treaties because there is no universal coverage of those conducts in domestic criminal laws. Ferstman gives some examples:

For instance, not all troop-contributing countries will have either the same minimum age of consent for sexual relations or the same approach to prostitution. Sexual exploitation of women and young persons is not uniformly recognized as a crime by troop-contributing countries.

(...)

The criminal codes of troop-contributing countries and host states vary in terms of what constitutes a criminal offense under domestic law, the breadth of the criminal offenses that can be prosecuted when they take place outside the territory of the troop-contributing country (extraterritorially), and the seriousness attributed to such offenses and the applicable punishments. (Ferstman, 2013:09)

Disparities emerging from the sovereign nature of statehood (from all involved parties) plus the fragility of the host state contribute to aggravate the situation. For example, some TCCs only prosecute if the alleged conduct is a comparable crime in the host state, which can be particularly hard to assess since the host state's legal system is fragile and recovering from conflict (Ferstman, 2013:10). The opposite situation can also happen: in Somalia, prosecutions for torture failed because relevant criminal offenses were not predicted in the laws of Troop Contributing Countries.

Another component often dismissed is the impact that the status of women in the Troop Contributing Countries can have on the field. As discussed in Chapter I, gender relations and societal structure are important aspects to understand how conflict and weapons of warfare evolve in a determined area¹⁹. Nordås and Rustad (2013) analysed literature on rape, SEA by peacekeepers and psychology in order to develop a framework to explain the recurring number of reported SEA cases. They corroborate with Mazurana et al.'s assertion that sexual predation varies based on "differing ideals of masculinity and gender relations" (Nordås and Rustad, 2013:520). The regard men hold towards women within the background they were raised highly influences their behaviour when dealing with females in PKOs. Males from Troop Contributing Countries that do not grant women equal rights or do not spare them from unwanted sexual advances are most likely to perpetrate SEA, also because of impunity in their deploying country (Kent, 2007 apud Nordås and Rustad, 2013:521).

It is relatively important that contributing countries abide by general human rights principles and women's specific laws of protection. For example, although Egypt was one of the countries that initially criticized the secretary-general's power to repatriate entire contingents based on the actions of a few troublemakers (Whalan, 2017:15), in November 2018, Egyptian government held the High-Level Regional Conference "Enhancing the Performance of Peacekeeping Operations: From Mandate to Exit"²⁰, which

¹⁹ See Mazurana et al., 2005:04-05.

²⁰ Cairo International Center for Conflict Resolution, Peacekeeping and Peacebuilding. High-Level Regional Conference Enhancing the Performance of Peacekeeping Operations: From Mandate to Exit. Chairman's Summary. 18-19 November 2018.

reunited contributing countries from Africa and the Arab world. The conference aimed at discussing best practices in PKOs, including the meaningful participation and recruitment of women in military/police and leadership roles. The conference called on the underlying factors that hinder women participation in PKOs: on the one hand, the difficulty in incorporating women into national police and armed forces²¹; on the other hand, once incorporated, the UN's requirements of force generation for each mission "are connected to the particular requirements set out in each force's career (...) which are regulated by their respective career laws" (Donadio, 2019:04).

Conclusions drawn are that, to both adequate to UN's requirements and boost the effective number of women in PKOs, as demanded by SC resolutions, TCCs have to design domestic gender policies that facilitate participation of female personnel in contingent troops rather than more staff and police personnel (See image 5.1.1).

The level of engagement of TCCs in enhancing practices in PKOs from the stem policies to the field is also critical to increase the possibilities of success of the mandate. Bilateral and multilateral cooperation are keys to accomplishing this feat. Considering that premise, Canada launched the Elsie Initiative for Women in Peace Operations, in 2017. The Elsie Initiative is a pilot project that works shoulder to shoulder with the governments of Ghana and Zambia, as they have had significant success in the area of gender equality in PKOs. The objective of this initiative is to develop, test and apply approaches to bring down the barriers to women participation in peace operations through political advocacy, a global fund and research, monitoring and evaluation of cases²². The initiative is supported by a group of like-minded countries composed by: Argentina, France, The Netherlands, Norway, Senegal, South Africa, South Korea, Sweden, the UK and Uruguay (all these countries also being relevant TCCs).

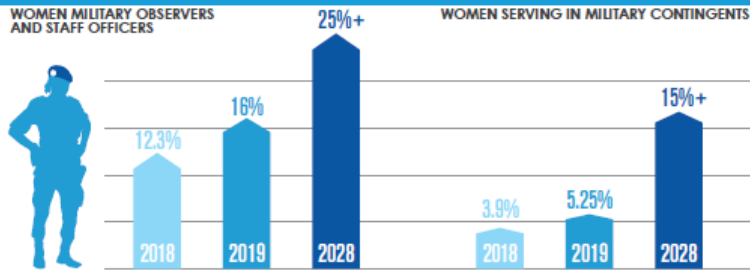
²¹ See Mazurana, Dyan. (2013). "Women, Girls and Non-State Armed Groups", Karim&Beardsley. (2016). "Explaining sexual exploitation and abuse in peacekeeping missions: The role of female peacekeepers and gender equality in contributing countries." and Turshen, Meredith, and Clotilde Twagiramariya. (1998). "What women do in wartime: gender and conflict in Africa". London: Zed Books.

²² Elsie Initiative. Available at: https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/gender_equality-egalite_des_genres/elsie_initiative-initiative_elsie.aspx?lang=eng, checked on 17/08/2019.

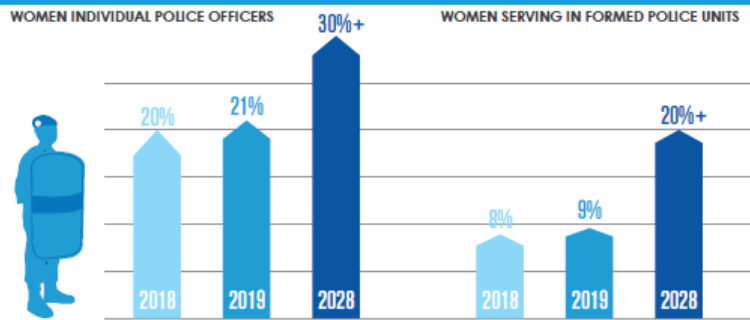
TARGETS FOR UNIFORMED WOMEN IN PEACE OPERATIONS

The UN Security Council (2242) called for doubling the number of women in uniformed components of peace operations. Currently, only around 5% of all uniformed military, police, and justice and corrections personnel in the field are women. More efforts are needed to reach our targets for 2019, 2028, and beyond.

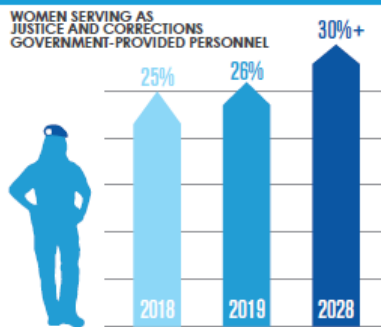
MILITARY



POLICE



JUSTICE AND CORRECTIONS



As part of the Action for Peacekeeping initiative, the UN Secretariat and Member States collectively committed to increase the number of civilian and uniformed women in peacekeeping at all levels and in key positions

ACTION FOR PEACEKEEPING



January 2019

Image 5.1.1. Retrieved from <https://peacekeeping.un.org/en/file/uniformed-gender-parity-strategy-2018-2018-infographicjpg-0>, on 10 August 2019.

6 - Case Study: The Democratic Republic of Congo (MONUC/MONUSCO)

Chapter 4 and Chapter 5 were designed to display the theoretical role of the United Nations and Troop Contributing Countries in preventing and dealing with allegations of Sexual Exploitation and Abuse. In practice, their responsibility is not split, but conjoint. This case study will help us clarify the boundaries of accountancy and outline the ways in which UN's and TCC's policies mingle, flaws in mission and lessons we can learn from the mission in the Democratic Republic of Congo.

6.1 – The mandate

In 1994, about 1.2 million Rwandese Hutus fled Kagame's new established government in Rwanda, in the aftermath of the genocide that had happened. Some of these elements had even taken part in the massacre, and settled down in neighbouring Kivu region, formerly Zaire, inhabited by ethnic Tutsis and others. In 1996, a rebellion broke out between forces led by Laurent Désiré Kabila and the national army of president Mobutu Sese Seko.

In 1997, aided by Rwanda and Uganda, Kabila's forces took over the capital Kinshasa and renamed the country the Democratic Republic of the Congo (DRC). One year later, a rebellion against Kabila started in the Kivu region and in a couple of weeks, rebels had seized large areas of the country. Angola, Chad, Namibia and Zimbabwe promised to support Kabila, while Rwanda and Uganda took the rebels side (the Congolese Rally for Democracy – RCD). The Security Council stepped on and called for a ceasefire and withdrawal of foreign forces. The plea was heard, and in 1999, the Lusaka Ceasefire Agreement was signed. With the intent to observe the ceasefire and keep the commitment of all parties to it, the UN Security Council established the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) by Resolution 1279 of 30 November 1999. Later on, the mandate was expanded to implement multiple political, military, rule of law and capacity-building tasks²³.

In July 2010, MONUC was renamed MONUSCO (United Nations Organization Stabilization Mission in the Democratic Republic of the Congo), according to the UN “to reflect the new phase reached in the country”²⁴, referring to the free and fair elections held in 2006. However, Kovach (2016) disagrees. The author is keen on affirming that the mission needed a “rebrand” because it “suffered such a profound loss of credibility not only due to widespread accusations of sexual abuse, but also for its general inability to protect civilians” (Kovach, 2016:158). Recalling the findings of the Zeid Report²⁵, MONUC was indeed the mission that drew attention of the entire world to sexual exploitation and abuse by UN peacekeepers (Loconte, 2005), in a time when the UN's reputation was already sinking due to SEA related accusations. In 2004, out of seventy-two

²³ MONUC Background. Available at: <https://peacekeeping.un.org/mission/past/monuc/background.shtml>, checked on 17/08/2019.

²⁴ Ibidem.

²⁵ See Chapter 3.

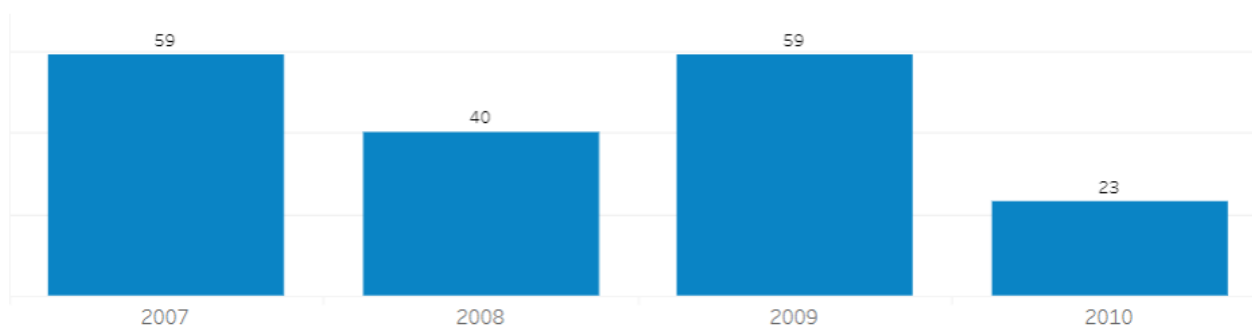
SEA cases denounced in MONUC, only twenty were considered and six were confirmed. The military personnel were denounced to their national authorities and repatriated, but the OIOS account did not mention their nationalities to avoid TCCs' discomfort (Odello, 2010:350; more details in Chapter 6.3).

Kovach (2016) says that attributing the mission a stabilizing aspect represented a slight decrease in the number of troops, although the mission basically remained the same. It is important to notice that MONUSCO faced less allegations of sexual misconduct by peacekeepers. According to official data by the UN, from 2010 to 2017, 162 cases were reported in MONUSCO against 181 reported in MONUC from 2007 to 2010 (see graphs 6.1.1 and 6.1.2).

Mission: MONUC | Category of personnel: (All) | Nationality: N/A

SEXUAL EXPLOITATION AND ABUSE OVER TIME

This graph provides information on the total number of allegations reported by year.

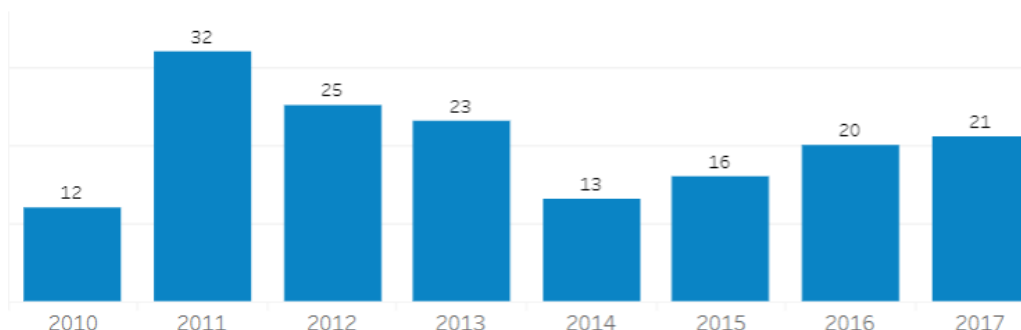


Graph 6.1.1. Retrieved from <https://conduct.unmissions.org/sea-overview>, on 17/08/2019.

Mission: MONUSCO | Category of personnel: (All) | Nationality: (All)

SEXUAL EXPLOITATION AND ABUSE OVER TIME

This graph provides information on the total number of allegations reported by year.



Graph 6.1.2. Retrieved from <https://conduct.unmissions.org/sea-overview>, on 17/08/2019.

One could say that the UN's claim of "reaching a new phase" in the DRC was making justice, but that would be a narrow view. If we consider Grady's theories on underreporting²⁶ and the reasons that cause it, based on meticulous analysis of the discrepancy between UN's official numbers of allegation of SEA and researches carried out by OIOS and independent researchers, it is understandable that numbers have dropped once the contingent was reduced.

MONUSCO is, so far, the largest ongoing UN peacekeeping mission, with a troop ceiling of 16,215 military personnel, 660 military observers and staff officers, 391 police personnel, and 1,050 personnel of formed police units as of 31 March 2017²⁷. By July 2019, MONUSCO counted with 15,115 UN contingent troops, 1,197 UN police officers and 263 staff officers²⁸, representing a slight decrease when compared to the previous semester²⁹.

Nordås and Rustad (2013) explain that the number of allegations is bound to follow the size of mission. They affirm that "the larger the missions in terms of troop size, the higher the likelihood of reports of SEA" (p. 521), but also, the larger the mission, the presence of more NGOs can ensure more report on misconducts. The authors believe that the less monitoring agents have, more likely they are to act driven by personal desires. So, the larger the troop, the harder it is for the principals to exert surveillance. This evidence also validates Allred's conclusion that the UN has a "weak underbelly" and is unable to control its personnel on the field (Allred, 2006:06).

Considering that systems of monitoring and reporting are assumed to prevent misbehaviour under conditional of leaders willing to assure compliance with UN's principles and SG's zero-tolerance policy, and considering that studies have shown that many times the heads of mission are the ones to stimulate sexual misconduct, we are before two colluding problems: 1) if troops are too large, they may not have enough leaders to monitor agents; 2) if the leaders are the ones to stimulate SEA, all prevention mechanisms fall apart.

6.2 – Assessing the causes of widespread SEA in MONUSCO

In Resolution 2409 of 24 March 2018, the Security Council contradicts UN's previous hopes for political stabilization in the DRC, attesting the utter need of cooperation from the host country's government. The Council states that it remains "deeply concerned by reports of increased serious violations and abuses of human rights and violations of international humanitarian law committed by some members of the Armed Forces of the DRC (FARDC), the National Intelligence Agency (ANR), the Republican Guard and Congolese National Police (PNC)" (S/RES/2409).

The following Resolution 2463 of 29 March 2019, to extend MONUSCO mandate, reiterates the very same concerns but amplified to the government's actions. Resolution 2463 emphasizes "the need for the Government of the DRC to respect human rights and refrain from disproportionate use of force" (S/RES/2463),

²⁶ See also Chapter 3 and Grady, 2016.

²⁷ S/RES/2348 (2017). See also S/RES/2409 (2018) and S/RES/2463 (2019).

²⁸ UN Peacekeeping. <https://peacekeeping.un.org/en/troop-and-police-contributors>, checked on 17/08/2019.

²⁹ 15,366 UN contingent troops; 1,364 UN police officers; and 263 staff officers.

while Resolution 2409 restrained to “the need for the Government of the DRC to continue to ensure the increased professionalism of its security forces” (S/RES/2409). Should that be a clear sign that the situation in the DRC has deteriorated? In many occasions, both resolutions cite the national forces as constant predators of human rights.

Even though the Security Council recognizes that the national army (FARDC) is the main actor of SEA in the DRC, the cycle of impunity and reintegration of soldiers and commanders in the country makes it hard to distinguish between righteous soldiers and perverted ones. Kovatch (2016:162) reminds us that commander Bosco Ntaganda served in the FARDC as well as in many rebel groups and now faces charges for crimes against humanity (rape included) at the International Criminal Court. She also states that there is “evidence that the prevalence of militarized SEA has had a spill over effect into the general public” in a way that SEA behaviour has become rooted in the DRC³⁰ (ibidem). A research co-authored by Nobel Peace Laureate, Denis Mukwege, reports the patterns of military rape in the DRC, and states that the high incidence of gang rape “speaks to the widespread acceptability of sexual violence among armed combatants in South Kivu” (Bartels et al., 2013:350).

In fact, militarized gender normative violence goes unpunished in the country in such a way that it has been labelled “the rape capital of the world”³¹. Resolution 2409 also mentions particular concern of the UN due to high levels of violence and violation of human rights and humanitarian international law that involve “targeted attacks against civilians, widespread sexual and gender-based violence”. Bartels et al. (2013:342) also pointed that in East DRC, militias are poorly supplied and turn to pillage of local villages. The authors suggest that this indirectly-induced contact between soldiers and civilians is in part responsible for sexual abuse. In the same line, Kovach (2016:171) identifies that SEA is prone to spring in missions where the mandate explicitly orders the protection of civilians, due to the high degree of interaction between peacekeepers and locals.

If we cross both information, it is no surprise that Nordås and Rustad’s (2013) findings are true and mentioning women in mandates can do more harm than good. Nordås and Rustad carried out a complex study regarding variation in SEA in which mentioning women in mandates was one of the variables. Results shown that “for those cases where women are mentioned, there is a heightened likelihood that there will be reports of SEA” (Nordås & Rustad, 2013:526), possibly because the specific mention of women could indicate a troubled situation for females in the host society, which could lead to inducement of peacekeepers into committing SEA (idem:527). Therefore, the more involvement with the host population, higher are the chances of SEA to develop.

Related to that is the factor of socialization. At the same time the Security Council recognizes that Congolese forces lack discipline, lack accountability and there are evidences that many of their members are

³⁰ See “UN Sexual Violence in Conflict DRC”: <https://www.un.org/sexualviolenceinconflict/countries/democratic-republic-of-the-congo>; Kleinfeld, Philip and Kowene, Gaius. (18/12/2017). “Inside the Congolese army’s campaign of rape and looting in south Kivu”: <https://www.thenewhumanitarian.org/special-report/2017/12/18/exclusive-inside-congolese-army-s-campaign-rape-and-looting-south-kivu>; all checked on 18/08/2019.

³¹ UN News Centre. (27/04/2010). “Tackling Sexual Violence Must Include Prevention, Ending Impunity - UN Official”: <http://www.un.org/apps/news/story.asp?NewsID=34502#.UYO5epXS5UQ>, checked on 19/08/2019.

well-known perpetrators, there is no effort to keep MONUSCO peacekeepers from the companion of the Congolese army. This disengaged stance can negatively affect MONUSCO's agents and, consequently, the mandate of the mission.

Stephen Moncrief (2017) suggests that SEA is linked with socialization of troops in both Troop Contributing Country and the peacekeeping mission (p.715). He affirms that low level of surveillance is the breakdown point in the mission's disciplinary structure that might lead to SEA, just like American lawyer and retired Naval officer, Keith Allred, concluded eleven years before (See Allred, 2006). One of Moncrief's findings is that "to understand variation in SEA, the relevant socializing environments are not just the societies from which peacekeepers hail, but the militaries in which the peacekeepers are trained and the missions to which they are deployed" (Moncrief, 2017:718). In this sense, Kovach (2016:162) also says that the expectation of impunity is likely to contaminate MONUSCO forces, even though to a more limited degree. Paradoxically enough, MONUC supported the re-creation of the FARDC in 2003, considered a prominent moment in UN PKOs in the DRC.

MONUC/MONUSCO are considered fluctuating missions (Novosseloff, 2019:23), having had moments of high effectiveness, and moments of no effectiveness at all. There are endemic factors that contribute for the overall failures of those missions. First and foremost, extreme poverty is recurrent in the Democratic Republic of Congo. Second, the position of women in Congolese society is relatively low, in part because years of masculine militarized context have mainstreamed gender normative violence throughout the country. When both factors meet, mainly in conflict-torn east, women and children tend to see sex with peacekeepers as the only way to survive. Thus, they exchange sex for as little as 1 dollar or simply food. It has even been reported that peacekeepers rape and offer the victims little money or food after, so it can be understood as "transactional sex"³². The extent to which sex can be a choice in such a situation of vulnerability is questionable (Kovach, 2016:164).

The tragic stories depicted above happened in 2004, after the 2003 SG Bulletin prohibited sexual conduct between peacekeepers and host population in exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour. The Bulletin also prohibited any sexual activity with children under the age of 18, regardless of the local age of consent and discouraged sexual involvement with any beneficiary of assistance, since the dynamics of power differ a lot from peacekeeper to host population. In fact, the Bulletin only expressly allows peacekeeping sex in two situations: if the local is legally married to the peacekeeper or if the relationship has been given a special dispensation by the Head of Department, Office or Mission (ST/SGB/2003/13: section 4.5).

Some authors like Otto (2007) believe that the Secretary-General's approach is vague and reinforces hierarchies of gender, status and wealth. She says that the "sweeping sexual prohibitions make the Bulletin a blunt and dangerously over-inclusive instrument, which leaves no intellectual, legal, cultural, or personal space for listening and responding to the material circumstances in which survival sex is negotiated" (Otto, 2007:24). She also states that the bulletin denies women agency in sexuality matters (Otto, 2007:12).

³² See Top Ten Most Underreported Humanitarian Stories 2005, Médecins sans Frontiers Report. See also: The Washington Post. (21 March 2005): One-dollar UN Girls.

Otto's ideas are valid and valuable in societies where women possess agency at all, which is not the case in the Democratic Republic of Congo³³. In the DRC, women hold only 10% of chairs in the National Assembly and none in the Constitutional Court even though they represent 50% of the voters. Besides, sexual violence against females has been normalized in the country.

Out of the countries that the UN has recorded data on allegations of sexual exploitation and abuse since 2015, three nationalities dominate the charts: South African, Tanzanian and Moroccan³⁴. It is important to understand that the UN mechanism of research does not consider every single alleged case, but the reported cases, which may include more than one allegation, but it is still being counted as one report³⁵.

According to Table 6.2.1, there have been 87 SEA allegations since 2015. Now, in a research for all types of SEA and all nationalities carried out in the UN official website, it is possible to see that South Africa counts with 37 allegations against their personnel, Tanzania follows with 14 allegations and Morocco counts with 5 allegations. South Africa alone represents 42% of SEA allegations in MONUSCO, while it ranks only as fifth major troop contributor (See Table 6.2.2). Morocco is the fourth TCC, with substantially less allegations than South Africa, and the United Republic of Tanzania falls on seventh place as TCC, but second in SEA allegations, which is altogether alarming.

Transporting Nordås and Rustad's (2013) theory of contingent size to the micro-level of national troops, how can the highest incidence of perpetrators among deployed troops fall on the fifth place in the ranking of TCCs instead of falling on the first or second place (Pakistan and India, respectively)?

The major link connecting the main countries of nationality of allegations is that they all score low in the Human Development Index (HDI): Tanzania ranks 154th place, Morocco ranks 123rd place and South Africa gets 113th place³⁶. Meanwhile, Pakistan and India fall below South Africa and Morocco, being in 150th and 130th place respectively. Further analysis showed that Morocco and South Africa score better than India and Pakistan when it comes to Gender Inequality Index (GII), and the same happens with Income Inequality Index. So far, we could refute Mazurana's (2005), Higate's (2007) and Kent's (2007) ideas on the ground that the most impoverished and unequal countries (except for Tanzania) were not the ones facing most allegations of SEA in MONUSCO. Nevertheless, we recognize that PKOs are complex settings. An assortment of factors contribute to develop the mission culture, so we will approach this conundrum through Moncrief's theory of socialization of troops in the TCC (See Moncrief, 2017).

If we take a closer look in each of these countries individually, we might have a better glimpse of their domestic context. South Africa scored better in HDI and GII, because its constitution prohibits discrimination

³³ See Report on Gender Inequality and Social Institutions in the DRC (2010) – Women's International League for Peace and Freedom: <https://www.peacewomen.org/content/gender-inequality-and-social-institutions-dr-congo> and MONUSCO at a Glance (2019): <https://monusco.unmissions.org/en/monusco-glance-0>, checked on 20/08/2019.

³⁴ Research conducted in: <https://conduct.unmissions.org/table-of-allegations> on 20/08/2019.

³⁵ As per OIOS, matters of sexual exploitation and abuse are counted by reports received. A report of sexual exploitation and abuse may relate to one or more alleged perpetrators and may involve one or more victims. When a report is received, a process of ensuring accountability starts. If a report received refers to alleged perpetrators of more than one category of personnel (for example, civilian and military), or personnel from more than one troop-contributing country, the report would be counted individually for each separate track of accountability: one for civilian personnel, and one for each troop-contributing country whose personnel may be involved. – UN Missions at <https://www.unmissions.org>

³⁶ UNDP: <http://hdr.undp.org/en/data>, checked on 20/08/2019.

about gender, pregnancy, sex, sexual orientation and marital status. Nonetheless, gender-based violence scales high with over twenty-five percent of men admitting they have raped a woman at least once (Kovach, 2013:167). Even though rape and marital rape are prohibited, only 1 in every 6 reported cases go to court and only six per cent end up in conviction, abductions for forced marriage happen frequently, and abusive relationships are so common, that some figures suggest that South Africa has the highest number of rape per capita in the world (ibidem). Conclusion drawn is that the government has been failing to protect women.

A similar situation happens in Morocco where there was no law criminalizing domestic abuse and violence against women until 2018. In fact, until 2013, situation for women in Morocco was so precarious that we can barely say that their well-being was a matter of concern. Kovach (2013:166) compiled that:

Morocco's rape laws are under the "decency offense" section, meaning that the woman's "status" prior to the attack is the defining measure of her attacker's punishment (whether she was married, unmarried, virgin, etc.), and in the eyes of the law, a woman of "known immoral character" cannot be "raped." Marital rape is not specifically recognized. Rapes of minors can be "solved" by forced marriage to the rapist, and this is common practice in order to avoid prosecution. Polls show that the majority of the public accepts that men can beat their wives for certain reasons, and a high percentage of women voiced agreement with this as well.

Little has changed up to date. However, in 2014, the penal code was amended, eliminating the provision that allowed rapists to evade prosecution by marrying their victim³⁷. In 2018, a new bill finally defined violence against women as "any act based on gender discrimination that entails physical, psychological, sexual, or economic harm to a woman". The law fails to address marital rape and does not provide a definition for domestic violence³⁸.

Situation of women in Tanzania is degrading. Studies made by the World Health Organization in 2005 exposed that 41% of women in Dar es Salaam had experienced "physical or sexual violence at the hands of a partner"³⁹. The MKUKUTA Status Report 2006 revealed that about 60% of women and 42% of men see wife beating as acceptable and not serious enough to require assistance. Even the United States mentioned the Tanzanian gender-based violence in its Country Reports on Human Rights Practices for 2007, pointing cultural, family, and social pressures as factors that hold women back from reporting domestic abuse. The reports also state that competent authorities hardly take action against perpetrators. And no wonder GBV has been normalized: the country has no specific or comprehensive laws on GBV. According to Tanzania Women Lawyers Association (2014), the very few legal frameworks that encompass women's rights are: a) the Constitution, which, similarly to South Africa's, prohibits discrimination on the basis of gender; b) The Law of Marriage, that allows girls as young as 15 years-old to marry if consented by their parents; c) Penal Code, Chapter 16, which criminalizes rape, but fails to address marital rape and domestic violence.

³⁷ BBC News. (23/01/2014). "Morocco amends controversial rape marriage law": <https://www.bbc.com/news/world-africa-25855025>; and Lonardo, Luigi. (13 November 2015). "Rape Law in Morocco": <https://ohrh.law.ox.ac.uk/rape-law-in-morocco>, all checked on 22/08/2019.

³⁸ Kansa, Reba. (01/03/2018). "Marital Rape Is Still Legal in Morocco Despite Brand New Domestic Violence Law": <https://www.globalcitizen.org/en/content/morocco-violence-women-dv-rape-law>, checked on 22/08/2019.

³⁹ Tanzania: "Situation of women victims of domestic violence": <https://www.refworld.org/docid/48d2237a23.html>, checked on 22/08/2019.

India and Pakistan appear on the TOP 10 Most Dangerous Countries for Women 2018⁴⁰, ranking 1st and 6th places, respectively. Both countries stacked high on sexual and non-sexual violence and culture and traditions being hazardous to women and girls. In all countries listed, the State seems to be absent in enforcing laws against GBV and when they exist, authorities are equally absent in carrying on prosecution and effective conviction of perpetrator.

Analysis of data in Tanzania shows that domestic violence is generally accepted by women. By submitting themselves to violence, they are tacitly supporting and perpetuating a damaging behaviour and passing it on to next generations, and we understand that as one example of the role women play promoting violence (See Mazurana et al., 2005:02). To support that idea, interviews carried out with focus groups in the Democratic Republic of Congo (VanRooyen & Kelly, n.d) reflected that GBV is a learned behaviour, almost an “acquired taste”. Two excerpts below illustrate how widespread masculine militarization allied with government’s complacency are a recipe for violence cycles:

“Before the war, rape was uncommon. However, soldiers set a ‘trend’ of sexual violence that has been adopted by other men. Now, rape is seen as commonplace and acceptable. Women may be raped by robbers, neighbors, rejected suitors.”

Woman, Chambucha Focus Group

“Congolese didn’t know about sexual violence before now, but strangers brought it and now we do it too – we’re trained.”

Man, Panzi Hospital Focus Group

If we consider all the potential factors that contribute for SEA perpetrated by particular national troops (troop size, gender inequality, poverty, GBV in the country of origin, role of women in their society, cultural aspects, specific laws and regulations, enforcement of women’s rights), we will be able to identify many common grounds, but still no differential to understand variation in number of allegations against South Africans, for example, compared with allegations against Indians. Also considering the host culture and the similar contacts they have within the larger group of soldiers, it is hard to grasp such disparities.

Even though most TCCs still crumble allegations when it comes to assuming responsibility over investigations, turning our attention to the response of each Troop Contributing Country to the stain caused by allegations of sexual exploitation and abuse instead of their proper legal response, might be key to understand the incidence of perpetrators in some troops more than others.

For instance, India has adhered to the zero-tolerance policy and made “considerable changes to the way Indian peacekeepers are recruited, trained and prosecuted”⁴¹. India is a pioneer when it comes to gender mainstreaming in peacekeeping: it deployed the first Female Formed Police Unit (FFPU) in Liberia (2007) and is committed to break barriers within its army and promote a culture of gender equality in the military (Kaul, 2018). It was India the first country to contribute to the Trust Fund in Support of Victims of

⁴⁰ TOP 10 Most Dangerous Countries for Women 2018: <https://poll2018.trust.org>, checked on 22/08/2019.

⁴¹ Kaul, Aastha. (21/02/2018). “Sexual exploitation and abuse among peacekeeping forces, and India’s response”: <https://www.orfonline.org/expert-speak/sexual-exploitation-and-abuse-among-peacekeeping-forces-and-indias-response> checked on 23/08/2019.

Sexual Exploitation and Abuse⁴². India also counts with stringent pre-deployment vetting measures and does not deploy into peacekeeping missions any military, police or civilian officer convicted of any misconduct, not just limited to SEA. To ensure that the country's image will remain clean and bright⁴³, India promotes gender sensitisation in pre-deployment training, and makes sure that all cases of SEA are investigated and convicted, when applicable.

Another case is the Islamic Republic of Pakistan, which was one of the first signatories of the Voluntary Compact on Preventing and Addressing Sexual Exploitation and Abuse (2017). Despite all internal problems, Pakistan is an assiduous contributor to UN peacekeeping operations. According to Inam-ur-Rahman Malik (2014), UN peacekeeping helps the country to project to the outside world, and it boosts Pakistan's diplomatic profile at the UN. Policymakers see the participation in UN peacekeeping as: a) a way to counter India's ambition to gain a permanent seat in the Security Council, b) promote a good image of the country internally, e.g. by exhibiting pictures of Pakistani blue berets. Malik also affirms that "Pakistan is eager not to be outdone by India in its UN peacekeeping profile and views its UN blue berets as a counterweight to India's regional and global ambitions" (ibidem).

In Pakistan, the military are not forced to participate in peacekeeping missions, rather, they do that by their own free will, because they see the contact with these international paradigms as of their own institutional interest: "Pakistani officers take pride in serving in UN missions, while those serving as force commanders in UN peacekeeping missions gain vital command exposure in a complex multinational environment and almost invariably rise to strategically important positions upon ending their assignment with the UN" (Malik, 2014).

Meanwhile, South Africa was only in the second wave of signatories of the Voluntary Compact. In May 2017, by direct request of South African government, Conduct and Discipline Officers from MONUSCO conducted a pre-deployment two-days training of 820 South African peacekeepers on prevention of SEA⁴⁴. It is standard procedure to give this training *in loco*, but the government of South Africa requested the training *in situ*, perhaps to counter claims of "ignorance of the law" when effectively in mission. By the occasion, the troops were briefed about the SEA incidents reported in previous years, and also warned of the consequences such acts can bring to host population, TCC, UN and the mission itself: "We are here because we must, all of us together, reverse the negative narrative about the Republic of South Africa military contingent members in MONUSCO", said Battalion Commander Lieutenant Colonel Tigele⁴⁵.

That surely depicts the will to improve the image of South Africa before the UN and the world and consequently tackle sexual misbehaviour in mission. However, looking a little closer, Joint Standing

⁴² UN News. (22/07/2016). "UN launches e-learning training to tackle sexual exploitation and abuse": <https://news.un.org/en/story/2016/07/535182-un-launches-e-learning-training-tackle-sexual-exploitation-and-abuse>, checked on 23/08/2019.

⁴³ See First Post. (18/05/2016). "Indian peacekeepers maintain clean record on sexual abuse, says UN report": <https://www.firstpost.com/india/indian-peacekeepers-maintain-clean-record-on-sexual-abuse-says-un-report-2786742.html>; and India Times. (14/07/2018). "Outgoing UN peacekeeping chief Herve Landsous praises Indian troops": <https://economictimes.indiatimes.com/news/defence/outgoing-un-peacekeeping-chief-herve-ladsous-praises-indian-troops/articleshow/57826339.cms>, all checked on 23/08/2019.

⁴⁴ "MONUSCO supports SANDF's prevention efforts on SEA". (08/12/2017): <https://conduct.unmissions.org/monusco-supports-south-african-defence-forces-prevention-efforts-sea-ahead-latest-peacekeeping>, checked on 24/08/2019.

⁴⁵ Ibidem.

Committee on Defence on 2 March 2018, raised the question of “why does South Africa have more SEA reports than other countries in MONUSCO?”.

Addressing the committee, Major General Mlandeli Kula, Chief Director of Joint Operation Division South African National Defence Force (SANDF) said that it was erratic that all cases reported involved abuse or exploitation. He said that many cases were consensual and South Africa was trying to find a proper way to deal with them⁴⁶. About the allegations of SEA by South African peacekeepers in the DRC that sparked in early 2018, SANDF denied the UN arguments that the army refused to cooperate with the investigations. According to the UN, the organization requested a joint investigation with a team from OIOS, but South Africa’s government rebuffed the request, alleging that “in this instance Pretoria’s stance would remain the same”⁴⁷. Neither Tanzania nor Morocco have a history of denying cooperation with the UN. In fact, both countries have shown commensurate responses to investigation and prosecution of alleged perpetrators by conducting joint investigations and convictions for rape in SEA allegations⁴⁸.

Still about the allegations, SANDF pronounced itself: "Such reports seem to suggest that these are new allegations which have surfaced when in actual fact these incidents being referred to occurred a while back"⁴⁹. By adopting such defensive stances, South Africa falls into a dangerous paternalism. Whether relations were consensual or not, they are still against the zero-tolerance policy, and albeit there are criticisms against this disposition of Secretary-General’s rules, breaking into them is not the right or proper response. When South African authorities try to condone a forbidden behaviour, they are not rightfully protesting, but rather bestowing permission to their nationals to act in disregard of SG’s policies, and this is something we do not see happening in India or Pakistan, for example.

There is a pattern of response that must be observed: countries care about their international image and tend to act whenever their overall international position is threatened⁵⁰. Ayodeji Ogunrotifa (2012) noticed that most scholars blame the states: their unwillingness or inability to comply with the norms or to act quickly, their political restraints or lack of logistical and political support and so on (Ogunrotifa, 2012: 921). However, these scholars fail to link their findings to the dynamics of world politics and the interest of the parties involved (ibidem). The author asserts that “the ideological composition of UN Security Council vis-à-vis the national interest of the super-powers are the potent factors that will determine the success and/or failure of UN

⁴⁶ “Zero tolerance for sexual abuse by SA peacekeepers in the DRC”. (12/03/2018): <https://www.defenceweb.co.za/sa-defence/sa-defence-sa-defence/zero-tolerance-for-sexual-abuse-by-sa-peacekeepers-in-the-drc>, checked on 24/08/2019.

⁴⁷ Bryce-Pease, Sherwin. (20/03/2018). SEA allegations rock the SANDF”: <http://www.sabcnews.com/sabcnews/sexual-exploitation-abuse-allegations-rock-sandf>, checked on 24/08/2019.

⁴⁸ See Besheer, Margaret. (05/04/2016). “Tanzania to Investigate Possible abuse by its peacekeepers in DRC”: <https://www.voanews.com/africa/tanzania-investigate-possible-abuse-its-peacekeepers-drc>; “Probe opens into UN troops’ alleged abuse in DRC”. (17/04/2017): <https://www.rappler.com/world/regions/africa/129768-probe-opens-un-troops-alleged-sex-abuse-congo-monusco> and “DRC: Moroccan peacekeepers arrested over sex abuse claims”. (14 February 2005): <https://reliefweb.int/report/democratic-republic-congo/drc-moroccan-un-peacekeepers-arrested-over-sex-abuse-claims>, all checked on 24/08/2019.

⁴⁹ “Five SA soldiers accused of sexual exploitation in the DRC”. (23/03/2018): https://www.huffingtonpost.co.uk/2018/03/23/five-sa-soldiers-accused-of-sexual-exploitation-in-the-drc-un_a_23393174, checked on 24/08/2019.

⁵⁰ CNN effect: a phenomenon in political science in which the broadcasting of shocking images of humanitarian crises by CNN can lead to foreign intervention. “But it only operates when there is both a high probability of success and low probability of casualties.” – Gilligan and Stedman, 2003:39.

peacekeeping operations” (Ogunrotifa, 2012:921), and believes that the successes and failures of MONUC can be explained by French-US rivalry in Africa, due to economic and political reasons.

We shall remember that the United Nations itself is composed by a multitude of states, each one with its own political agenda that cannot be parted from their international milieu. Even when we pass through the Security Council component and focus on Troop Contributing Countries, there are clashes of interests and ambitions that sometimes are conveyed to the field. These collisions of ideas, although heading towards a common goal, can have positive or negative effects on the mission.

That is the case of India and Pakistan, that compete for excellence; or European countries, that have long avoided to send peacekeepers to Africa, preferring to contribute building African capabilities, thus, keeping Africa dependant on external equipment and expertise (Pugh, 2004:47). The measure of states’ response to their nationals’ acts, as well as proper training and level of commitment is in part driven by their main interest when joining the mission, and to some extent, their relations with Security Council super-powers. As exposed by Gilligan and Stedman, states are more inclined to “take far higher levels of casualties when national interests are at stake than they are when only humanitarian motivations are present” (Gilligan and Stedman, 2003:39).

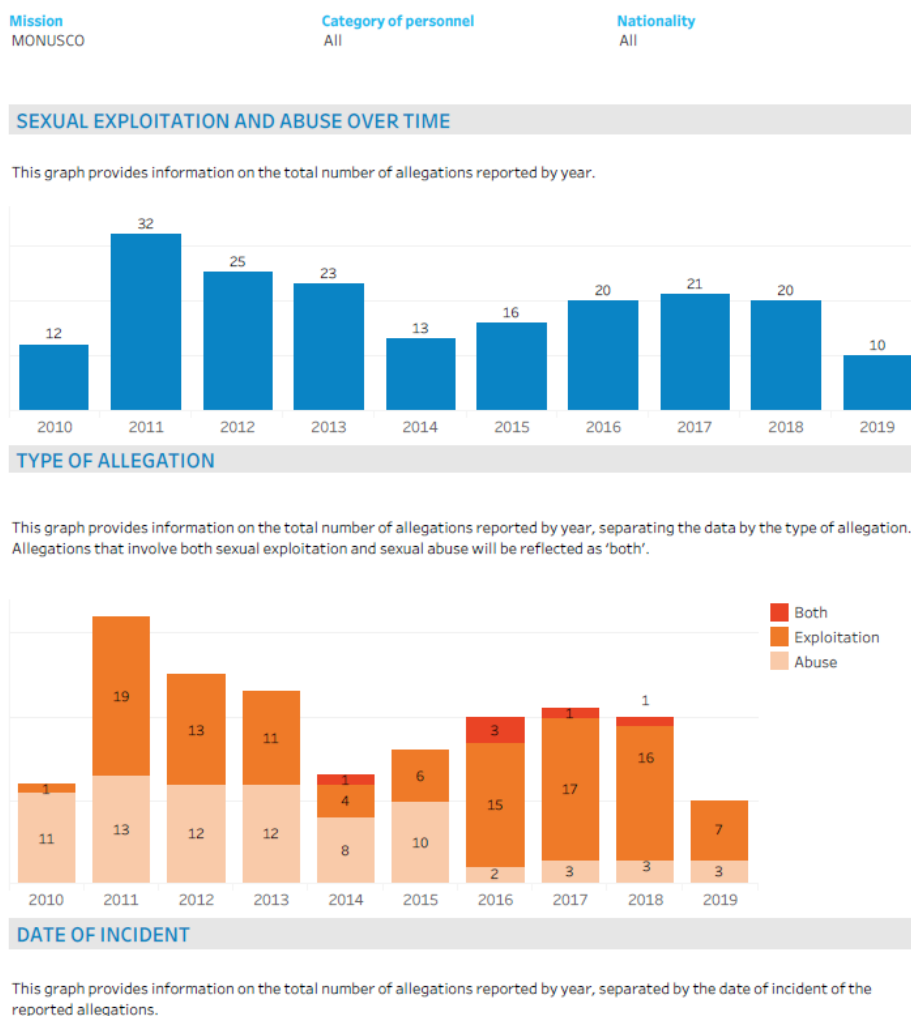
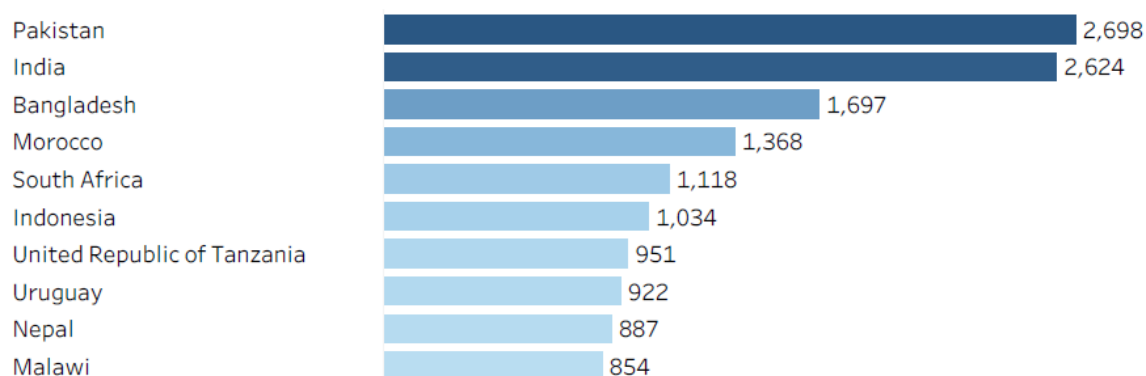


Table 6.2.1: Retrieved from <https://conduct.unmissions.org/sea-overview>, on 14 August 2019.

Top ten troop contributors (as of March 2019)



Top ten police contributors (as of March 2019)

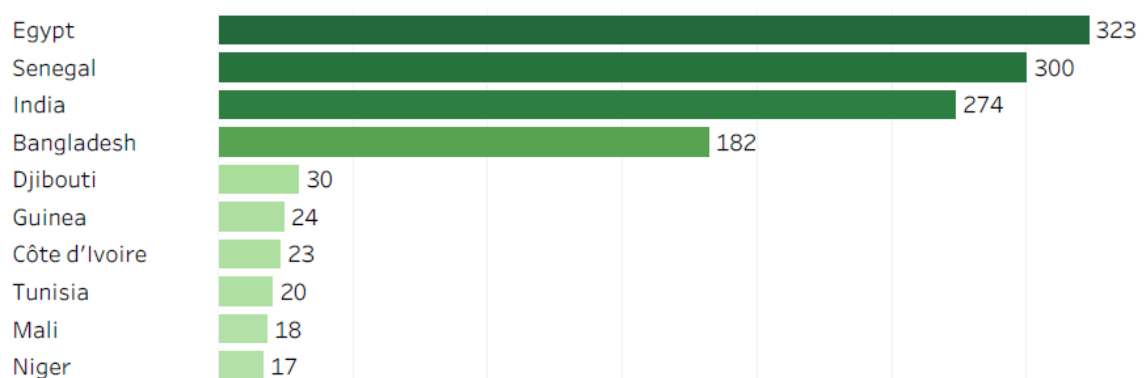


Table 6.2.2: Retrieved from <https://peacekeeping.un.org/en/mission/monusco>, on 14 August 2019.

6.3 – Pragmatic Inertia of the United Nations

Troop Contributing Countries are always called on their responsibilities when dealing with sexual exploitation and abuse allegations. As noted in the case study, each member state has a different response to SEA, proportional to their approach of peacekeeping and to their interests before the international community or within the UN itself. We shall not completely separate responsibility of TCCs from responsibility of the UN in cases of SEA. They have different competences, but they are deeply intertwined.

The United Nations is a legal person, operating under several treaties signed by its member-states, and enjoys immunity based on diplomatic principles. As a result, soldiers working under the UN's flag cannot be prosecuted by the nations they are operating in, it is duty of their own governments to prosecute them for crimes committed during service (Inal and Smith, 2018:143). But it does not mean the UN is exempt from any obligation. About a case of Moroccan soldiers who were accused of SEA in the DRC in 2010, Tuba Inal and Merrill Smith (2018) clarify that:

While the prosecution of the four Moroccan peacekeepers undoubtedly marked a step in the right direction by demonstrating that holding UN peacekeepers accountable for their sexual crimes is a realistically achievable goal, it only came after the UN mission and related sexual abuses became highly scrutinized by the media. Furthermore, despite Morocco Justice Department's decision to hold the said soldiers accountable before a court of law, the UN failed, once again, to concretely develop and implement a set of long-term policies or procedures to permanently and effectively address the roots of the issue. (Inal and Smith, 2018: 153-154)

Time after time the UN has been accused of not doing enough to tackle SEA by its own peacekeepers. The Zeid report already exposed that there is a general feeling of abandonment on behalf of victims and UN staff, including commanders of mission, who feel overwhelmed and lost in the process on SEA allegations. Interviews with survivors of sexual violence attest the incongruence between the UN's speech and action, accusing the UN of what we dare to call "pragmatic inertia".

In June 2004, a confidential document was sent from the head of mission in Congo to the UN headquarters in New York. The coded cable outlined 50 allegations of SEA involving peacekeepers in MONUC. A week later, 4 more cases were reported. Soon, the number raised to 72 allegations. The OIOS sent a team of independent investigators to the DRC, but the investigation was a scandal. There was no protection for witnesses and a leaked report in July confided that they had been bribed to change their testimonies and threatened with retaliation in case they pursued their claims⁵¹. Six months later, no soldier had been charged.

About that case, Ms. Kippenberg, from Human Rights Watch, pronounced herself: "Prosecution of peacekeepers and civilian UN staff is currently very difficult because of immunity provisions and insufficient laws in troop-sending countries (...) The UN should take a more proactive role in ensuring that UN personnel can be prosecuted"⁵². In fact, we believe that the UN should work close to the TCC not only to follow-up investigations, but also to make sure that there are mechanisms of accountability, in case allegations result substantiated.

Firstly, reports of SEA are presented to the UN, which carries out an initial fact-finding investigation aimed at determining whether and which troops might be involved. After that, the UN forwards the allegation to the relevant military authorities, so the TCC can exert its jurisdiction. In a letter to AIDS-Free World, the UN said that: "criminal acts of sexual exploitation or abuse do not constitute official acts of a United Nations official or expert on mission. Accordingly, no functional immunity exists for such acts"⁵³. However, in practice, most senior UN officials rejoice of immunity and cannot be taken to court when accused of SEA, unless the UN issues a waiver of immunity for that specific case. Burke (2012:04) even suggested that the immunity of soldiers could be modified to allow prosecution by the host state in certain circumstances. For the reasons argued previously about the host state's lack of fundamental legal structure, we disagree with Burke, but we understand her point of using the SG's powers to widen SEA legal framework.

⁵¹Independent UK. (12/01/2005). "Sex and the UN: When peacemakers become predators": <https://www.independent.co.uk/news/world/africa/sex-and-the-un-when-peacemakers-become-predators-486170.html>, checked on 26/08/2019.

⁵² Ibidem.

⁵³ Letter from United Nations Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, Miguel de Serpa Soares, to AIDS-Free World Co-Directors, Paula Donovan and Stephen Lewis, 7 July 2017: <http://www.codebluecampaign.com/s/Letter-to-Ms-Paula-Donovan-and-Mr-Stephen-Lewis-7-July-2017.pdf>, checked 26/08/2019.

Having the United Nations such a vital role more in preventing than investigating sexual exploitation and abuse, it is indeed important that it uses all the means within its power to fight this persisting problem. As presented in Chapter 4, an array of measures has been adopted in this sense, including Resolutions 1325 and 2272, the 2003 SG Bulletin and adaptations to the Memorandum of Understanding celebrated with TCCs. The aforementioned policies sound all too good, but the plurality of cultures render inconsistency to UN's concepts. For example, in 2014, Human Rights Watch discovered that MoUs among TCCs in AMISOM (African Union Mission in Somalia) were not identical, and Burundi, Kenya and Rwanda had different takes and emphasis on sexual exploitation and abuse (HRW Report, 2014 apud Akonor, 2017:64).

As mentioned by Inal and Smith (2018), and in line with Otto (2007), the UN fails into attacking the roots of the issue. In Chapter 1 and Chapter 3, we discussed how poverty fuels war economies and how gender-based violence can emerge from starving societies. The Democratic Republic of Congo is an extremely poor country, susceptible to all the worst implications of violent conflict. In an interview in 2006, Nicole Dahrendorf - a specialist in law and human rights and creator of the first office to address allegations of SEA in MONUC - bore witness to poverty in the DRC: "Peacekeeping acts as a magnet for prostitution. Peacekeepers come in with cars and \$100 bills. (...) For a local woman, \$20 pays rent for a month (\$80,00). That pays for rent plus a child's education"⁵⁴.

That situation of extreme poverty fosters artificial economies conductor of SEA, and albeit showing consternation towards the people in DRC in each new mandate, the Secretary-General does not specifically highlight the importance of fighting poverty and reducing hunger, which would be simple to connect to the Sustainable Development Goals.

As stated by Dahrendorf, the whole context in the DRC is a spring for prostitution, and peacekeepers themselves are tempted to "consume" the service they are offered. Peacekeepers are often young men, far from home, dealing with feelings of isolation and in constant hardship and risk (Kovatch, 2016:171), and they consider to suffer harassment from prostitutes while the UN does nothing to "protect" soldiers from them. The UN does not provide a lot of sanctioned recreational activities, and to curve the lack of leisure, men feel entitled to seek "comfort" or engage in whatever kind of "entertainment" they can find (ibidem).

Sure, the UN has responded to SEA by issuing many official documents and Secretary-Generals have been voicing out their concerns reinforcing the UN's position, but a humanitarian approach requires fully-aware and fully-committed human beings. The UN must not ignore that soldiers are people first (military second) and thus need and deserve to have more than simply their bare necessities satisfied, so they can fulfil their duties in their full-capacity.

⁵⁴ "DRC: UN investigations into allegations of sexual offences by peacekeepers". (26/01/2006): <https://reliefweb.int/report/democratic-republic-congo/drc-un-investigations-allegations-sexual-offences-peacekeepers>, checked 26/08/2019.

6.4 - The weak language of the United Nations

So, in addition to inconsistency, the UN lacks congruency between what it preaches and the amount of effort it puts into bringing its policies into effect. Parting from that, many examples of inconsistency and incongruence can be drawn from written declarations, especially those that blend weak and strong language (see Chapter 4.1 about Resolution 1325).

The SG Bulletin 2003 does not explicitly prohibit non-transactional sex between peacekeepers and local beneficiaries of assistance, nonetheless, it “strongly discourages” these relationships on the grounds of “inherently unequal power dynamics”. That specific disposition has unclear meaning. While the bulletin forbids transactional sex between peacekeepers and locals, there is no straightforward distinction between “real” relationships and transactional ones. Scholars have defined transactional relationship as one in which both parties benefit from, or “an open-ended, non-contractual exchange” (Jennings, 2008: 22), but the bulletin has no explanation on terminology. The fact is, not all sexual relationship is forbidden between peacekeepers and locals, but frowned upon, and let to interpretation of the mission personnel and those in charge of investigations.

That daunting dispositive can be dangerous and directly affect the course of allegations. Besides, some authors have argued about the oblique gendered approach of the article, for “treating all prostitution as exploitative and all sexual relations between peacekeepers and locals to be discouraged denies the agency of women at the community level and overgeneralizes about the power inequality” (Akonor, 2017:64; See also Otto, 2007).

Another example of poor use of language, edging incongruence, is Resolution 2463 versus UN S/2018/280. In the same day that Resolution 2463 was issued, UN Secretary-General António Guterres acknowledged the critical situation in the DRC in his Report to the Security Council (UN S/2018/280). He admitted that in 2018 some 308 cases of SEA documented in the Democratic Republic of Congo were attributed to the FARDC and the Congolese National Police. Also, he recalled that the Action Plan against Sexual Violence developed by the national police and MONUSCO in March 2018 is still pending signature by the Minister of the Interior. Guterres also remembered the case of Lieutenant Colonel Mabiala Ngoma, who was still at large after being convicted for acts of rape/crimes against humanity in November 2018. By the occasion, his recommendation was a clear example of what is expected from the language in the United Nations normative framework:

I urge the Government of the Democratic Republic of the Congo to strengthen the prevention of conflict-related sexual violence by increasing security and State presence in areas where communities are involved in mining activities. I call for the armed and security forces to be adequately vetted and trained, and for a policy of zero tolerance of conflict-related sexual violence to be upheld by bringing offenders to justice, irrespective of rank, and ensuring that victims are protected and receive adequate reparations. (UN Secretary-general António Guterres, S/2018/280)

But then, and perhaps to appease the vitriol regarding the Congolese government's accountability on the national army's abuses, Resolution 2463 praises the efforts of the government into combatting and preventing SEA in conflict:

...including progress made in the fight against impunity through the arrest, prosecution and conviction of perpetrators from the FARDC and the PNC, and urges the Government of the DRC to continue to strengthen its efforts to combat impunity for sexual violence in conflict, including sexual violence committed by the FARDC and PNC at all levels, and to provide all necessary services and protection to survivors, victims and witnesses, and further calls upon the Government of the DRC to complete investigations into allegations of sexual exploitation and abuse by members of the FARDC in line with its zero-tolerance policy and, if appropriate, to prosecute those responsible (...) (S/RES/2463, 2019)

Certainly, advances shall not be ignored. But in that very same day, the secretary-general himself recalled episodes in which the government of the DRC failed severely in carrying on convictions and, by extension, he also admitted that Congolese government has a loose grip on its own army, which continues to inflict abuses (including SEA) upon civilians. It was expected that the UN would make use of more severe linguistics to express its discontents with the apparent laid-back attitude of the government or at least avoid evident approvals, once that DRC's situation was exposed. But then, we could infer that Secretary-General would not blame the government's powerlessness to handle its own army, if the UN itself struggles to keep SEA by peacekeepers at bay.

Besides, the language used in the resolution as a whole cannot be classified as strong⁵⁵, which is one of the requisites for a SC Resolution to be binding (Appiagyei-Atua, 2011:04) or at least seen as such. Being aware of the main problems that have been holding the mission in the DRC back, the Security Council should be more sharp when issuing mandates and resolutions, and the SG should be firmer in his observations.

Indeed, language is key to connecting internal and external actors of the United Nations, therefore, semantic and syntax matter within the UN normative framework. Perhaps the most notorious example is the recent Resolution 2467 (S/RES/2467, 2019), adopted by the Security Council with abstentions from China and Russia. The first draft of the Resolution, proposed by Germany, contained sensitive language and sparked outrage from China, Russia and the United States. The initial draft addressed the fund shortage for services to victims of gender-based or sexual violence in conflicts, covering: "comprehensive sexual and reproductive health care such as access to emergency contraception, safe termination of pregnancy and HIV prevention and treatment, as well as reintegration support for survivors".

The USA opposed the motion and Germany retreated to paragraph 19 of Resolution 2106 (2013), which specifies "the importance of providing timely assistance to survivors of sexual violence, urges United Nations entities and donors to provide non-discriminatory and comprehensive health services". Still, that was not an appropriate language for the USA, which menaced to veto the draft. Finally, Germany "agreed to omit entirely the paragraph on sexual and reproductive health to appease the US"⁵⁶.

⁵⁵ Words such as "decide," "declare," and "call upon" are examples of strong language, while "urge," "recommend," and "encourage" are weak. - Appiagyei-Atua, 2011, p.04.

⁵⁶ What's in Blue. "In hindsight: Negotiations on Resolution 2467". (02/05/2019): <https://www.whatsinblue.org/2019/05/in-hindsight-negotiations-on-resolution-2467-on-sexual-violence-in-conflict.php>, checked on 27/08/2019.

Another contentious matter was the language on the International Court of Justice (ICC). The original draft acknowledged the role of ICC, ad hoc tribunals and mixed tribunals in strengthening the fight against impunity for crimes of international relevance against women and girls. The US strongly opposed the mention of the ICC in this context (which had recently revoked the visa of ICC prosecutor, Fatou Bensouda, due to her investigation of possible war crimes committed by American forces in Afghanistan) and the mention was removed, resting that resolution 2467 only: “acknowledges the inclusion of sexual and gender-related crimes among the most serious crimes of international concern in the Rome Statute of the International Criminal Court” (ibidem footnote 56).

And again, it is possible to notice the discrepancies between speech and action. A text that was the embodiment of years of joint effort of nations was amended and re-amended to conform to one Security Council member’s will. Plus, a mention of excellence for the efforts of the International Court of Justice in tackling a universal problem was stalled because of internal quarrels of a single member.

Outraged by the incoherencies of the UN, the representative of South Africa spoke out in the debate: “On the one hand, the text calls for a survivor-centered approach, while on the other hand it is denying survivors essential sexual and reproductive health services when they need them the most. The Council is therefore telling survivors of sexual violence in conflict that consensus is more important than their needs” (ibidem footnote 56).

That kind of one-sided attitude weakens the credibility of the UN itself and reinforces Ogunrotifa’s (2012:929) conclusion that the national interests of permanent members of the UN Security Council prevail and are a determining factor of the success or failure in peacekeeping missions, an assertion that we endorse, based on all the evidence presented in several studies.

7 – Conclusion: Identifying and healing the patterns of failure

Peacekeeping operations are ruthless missions that take place in stark backgrounds ravaged not only by conflict, but previous stigmas like poverty, hunger, corruption and widespread violence, which gain new proportion in times of war or stabilization. Those fractured societies instrumentalize human misery and normalize behaviours that in times of peace would not be tolerated, such is the case of gender-based violence in conflict context. Peacekeepers are sent to mitigate internal brawls, but they often also fall victims of the circumstances generated by a coefficient of factors.

The diversity of backgrounds in large PKOs, such as MONUSCO, plus the stark environment of the host country, create a unique culture of mission that must be surveilled from the beginning. We identified some flawed policies adopted by the United Nations in MONUSCO that we believe can be overcome, if the UN provide the right stimuli to Troop Contributing Countries and acknowledge its role as global pacifier.

7.1 – Addressing the root of the problems

The case study proved that the settings of PKOs have direct influence on the behaviour of deployed peacekeepers, who are subject to a variety of externalities like local poverty, size of troops, deficient infrastructure of peacekeeping facilities, lack of leisure, organizational paternalism, engendered impunity prospect (Mazurana et al., 2005; Nordås and Rustad, 2013; Kovach, 2016; Moncrief, 2017) and the inevitable clash of cultures.

Under a logical perspective, extreme poverty generates micro war-economies that profit from prostitution, especially from women and girls. Their circumstances oblige them to engage into “survival sex”, whose consumers are peacekeepers eager for entertainment, who see their possibilities of engaging into consensual relationship with local women be frowned upon by current UN policies. The bigger the size of troops, the least surveillance they have, which allows soldiers to leave their barracks at ease and get in touch with their local counterparts, who do not necessarily hold the same values or standard of conduct, and usually come from masculine militarized societies. The poor socialization of peacekeepers with local troops can have a numbing effect on peacekeepers, and the ingrained culture of impunity can lead to sexual exploitation and abuse (Moncrief, 2017).

However, the variation in incidence of SEA lies on TCCs’ mechanisms of prevention and response to allegations. As shown in MONUSCO, neither the size of contingent nor the position South Africa holds in the HDI explains why it remains number one country facing allegations of SEA by its nationals. It is clear, though, that it adopted a defensive stance whenever its peacekeepers were accused of sexual misconduct, at times discrediting UN’s charges or refusing to work together with OIOS. South Africa also showed disregard for SGB 2003 discouraging of sexual relationships between peacekeepers and beneficiaries of assistance. While it might be true that not every sexual relation between peacekeepers and locals fall under SEA coverage, it is

hard to tell one from another, in part because of poor content of resolutions (see chapter 6.2 and chapter 6.4). South Africa shows us that preventing SEA does not coincide with paternalism.

In that sense, assessing the perception each country has of peacekeeping missions is crucial to understand their reasons to deploy and to guarantee that their soldiers will abide by the rules (Ogunrotifa, 2012). Peacekeepers from countries that care a lot about their image, like India, or have a specific political agenda and try to leverage themselves through engaging in humanitarian aid, like Pakistan, seem to participate less into practices of sexual exploitation and abuse.

If it is true that the contact with corrupt soldiers can break soldiers of good-will, the opposite might well be right. Taking into account MONUSCO, the size of territory to be covered in the DRC and the menace posed by numerous militias, we conclude that reducing the size of troops is not the answer, but improving the quality of troops might be.

Peacekeepers from TCCs that hold women in high regard and show clear commitment into preventing and tackling SEA, must be added to missions where women are vehemently harassed, so they can have a soothing effect on masculine militarized contexts. Considering that the lack of policing is the breakdown point of zero-tolerance on the field, the UN should individually name and include special envoys to ensure that soldiers are complying with the UN principles. Those representatives must hold a clean record (just like the demands for TCCs' soldiers in resolution 2272 and the MoU) and be numerically proportional to the size of mission. Plus, promoting more recreational activities among peacekeepers and building facilities to allow soldiers to discharge their tensions would avoid soldiers from turning to illicit sexual practices or getting involved with groups remarkably known for their disrespect of human rights.

Another focal point is the apparent inability of the UN to correlate its own disciplines. It issues uncountable measures and policies to prevent and tackle SEA and get TCCs engaged, but we rarely see the UN addressing both - SEA and the underlying causes that contribute to perpetuate it - together. The SDGs are intrinsically related to improving living conditions in all member-states, thus promoting reduction of poverty and closing gender equality gaps along with the efforts to fight SEA would boost the efficacy of UN policies.

Also, although the UN cannot impose its policies on countries, it can impose its rules when contracting with TCCs for PKOs. Now, we recognize that the sole incorporation of women in PKOs is not enough to solve the problem of SEA (Jennings, 2011), but the slow and sensitive inclusion of women in militarized context can help to change institutional culture (as shown by zero-tolerance abiding stance of India in MONUSCO) and eventually, the culture of mission.

Knowing that Resolution 1325 was officially adopted by many nations, including the most prominent TCCs (India, Pakistan and the African Union), the UN could demand that some dispositions of the resolution are progressively met before taking peacekeepers from those countries. For instance, representation of women at decision-making levels and guarantee of protection of women and girls under the constitution, the electoral system, the police and judiciary (S/RES/1325 – 1 and 8 “c”, respectively). Considering that many countries want to bolster their international image, it is of their interest to keep contributing with the UN and abide by their norms. The UN would not only improve situation of women and girls and consequently prevent SEA, but

also ensure that TCCs have legislation protecting them, and as a result, a judicial system capable of holding perpetrators accountable. It is a win-win move.

Another non-invasive policy that could result in a gradual improvement of mission is regarding to the UN's requirements for deployment (Donadio, 2019). Some countries are struggling to build more inclusive institutions and domestic policies to allow more participation of women in the military, but it might take some time until women can advance in this area. The UN can remove barriers that impede the deployment of women, especially from countries that are beginning to implement strategies for closing gender equality gaps (like India) by standardizing the requirements of force creation to be not fully dependent on TCC's legislation. By doing that, the UN would not only foster adequate training of potential female peacekeepers in national contingents but would also help countries to fulfil Resolution 1325.

7.2 – Improving communication

The way the United Nations has to externalise its policies is through Security Council Resolutions and mandates. In that area, the UN brims with good intentions, but lacks dexterity. As argued by some authors (Otto, 2007; Jennings, 2008; Akonor, 2017), resolutions on SEA don't have a keen concept of what "sexual exploitation" means, they demand more than the UN can deliver (as is the case of imposing conditions of service on host states that the UN itself cannot reach, as stated by Ferstman, 2013), and their content is manipulated by a few super-powers in deterioration of common-sense (e.g. the watering-down of Resolution 2467).

The language used in resolutions and mandates is, at times, dubious. For instance, the 2003 SG Bulletin fails to give "transactional sex" a clear definition and still reinforces gender stereotypes that the UN itself struggles to break (SDG 5 – Gender equality) by practically removing the power of agency of women and implying relations of power in every sexual relationship between peacekeepers and beneficiaries of assistance. Also, blending weak and strong language make it hard to decipher whether they fall under category of decision or recommendation. Some resolutions of the Security Council are only binding after they are subject to extensive interpretation by experts (like Resolution 1325) or subject of jurisprudence in the International Court of Justice, as explained by Appiagyei-Atua (2011).

Secretary-general's statements also tend to use bland language and carry incongruencies. For instance, openly admitting that the Congolese Army is a heavy perpetrator of SEA and human rights abuses and the Congolese government fails into carrying on convictions of crimes against humanity, yet, praising them all for their commitment to fight SEA. Showing undeserved praise is a pattern that needs to stop.

We understand that there is no space for discretion in the UN normative framework. Therefore, the language used in Resolutions and official statements and codes addressing such important matters like Sexual Exploitation and Abuse should be clear, strong, sharp, concise and congruent. PKOs mandates should restrain their language to broader concepts, e.g. mention "civilian" instead of mentioning "women".

There is no shortcut for the policies of the United Nations and member-states to produce effect. Policies are flawed. But once identified, these flaws can be healed, causing a ripple effect. Building up a more

egalitarian society with the implementation of the SDGs would prepare the foundation for a solid legal framework in TCCs and host countries. Stimulating and enforcing UN core policies such as zero-tolerance and resolutions 1325 and 2272 in member-states by using their own interests to promote UN's principles is legitimate and safe. That does not mean that the UN must stop naming and shaming, just the opposite. As proved by South Africa's government response to its MONUSCO's peacekeepers SEA allegations in the end of 2017 (see chapter 6.2), it is important to disclose the nationality of perpetrators.

All things considered, to prevent and tackle sexual exploitation and abuse, the grounds must be safe for women, both in TCC and host country. The United Nations should make better use of its tools to assess and access member-states. It must beware of the language used in its documents, it must be thoughtful when tailoring mandates and resolutions, but bold at the same time. It must contemplate that nations are sovereign but recognize that it plays a paramount conciliatory role among countries, hence it shall instrumentalize its means to benefit the maximum states and people it can. Considering the lack of consistency shown by the UN, we can affirm that policies will have better results as soon as the United Nations start to "walk its talk".

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United Nations
Security Council
31 October 2000

S/RES/1325 (2000)

Distr.: General

Resolution 1325 (2000)

**Adopted by the Security Council at its 4213th meeting, on
31 October 2000**

The Security Council,

Recalling its resolutions 1261 (1999) of 25 August 1999, 1265 (1999) of 17 September 1999, 1296 (2000) of 19 April 2000 and 1314 (2000) of 11 August 2000, as well as relevant statements of its President, and *recalling also* the statement of its President to the press on the occasion of the United Nations Day for Women's Rights and International Peace (International Women's Day) of 8 March 2000 (SC/6816),

Recalling also the commitments of the Beijing Declaration and Platform for Action (A/52/231) as well as those contained in the outcome document of the twenty-third Special Session of the United Nations General Assembly entitled "Women 2000: Gender Equality, Development and Peace for the Twenty-First Century" (A/S-23/10/Rev.1), in particular those concerning women and armed conflict,

Bearing in mind the purposes and principles of the Charter of the United Nations and the primary responsibility of the Security Council under the Charter for the maintenance of international peace and security,

Expressing concern that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements, and *recognizing* the consequent impact this has on durable peace and reconciliation,

Reaffirming the important role of women in the prevention and resolution of conflicts and in peace-building, and *stressing* the importance of their equal participation and full involvement in all efforts for the maintenance and

promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution,

Reaffirming also the need to implement fully international humanitarian and human rights law that protects the rights of women and girls during and after conflicts,

Emphasizing the need for all parties to ensure that mine clearance and mine awareness programmes take into account the special needs of women and girls,

Recognizing the urgent need to mainstream a gender perspective into peacekeeping operations, and in this regard *noting* the Windhoek Declaration and the Namibia Plan of Action on Mainstreaming a Gender Perspective in Multidimensional Peace Support Operations (S/2000/693),

Recognizing also the importance of the recommendation contained in the statement of its President to the press of 8 March 2000 for specialized training for all peacekeeping personnel on the protection, special needs and human rights of women and children in conflict situations,

Recognizing that an understanding of the impact of armed conflict on women and girls, effective institutional arrangements to guarantee their protection and full participation in the peace process can significantly contribute to the maintenance and promotion of international peace and security,

Noting the need to consolidate data on the impact of armed conflict on women and girls,

1. *Urges* Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict;
2. *Encourages* the Secretary-General to implement his strategic plan of action (A/49/587) calling for an increase in the participation of women at decision making levels in conflict resolution and peace processes;
3. *Urges* the Secretary-General to appoint more women as special representatives and envoys to pursue good offices on his behalf, and in this regard *calls on* Member States to provide candidates to the Secretary-General, for inclusion in a regularly updated centralized roster;
4. *Further urges* the Secretary-General to seek to expand the role and contribution of women in United Nations field-based operations, and especially among military observers, civilian police, human rights and humanitarian personnel;
5. *Expresses* its willingness to incorporate a gender perspective into peacekeeping operations, and *urges* the Secretary-General to ensure that, where appropriate, field operations include a gender component;
6. *Requests* the Secretary-General to provide to Member States training guidelines and materials on the protection, rights and the particular needs of women, as well as on the importance of involving women in all peacekeeping

and peacebuilding measures, *invites* Member States to incorporate these elements as well as HIV/AIDS awareness training into their national training programmes for military and civilian police personnel in preparation for deployment, and *further requests* the Secretary-General to ensure that civilian personnel of peacekeeping operations receive similar training;

7. *Urges* Member States to increase their voluntary financial, technical and logistical support for gender-sensitive training efforts, including those undertaken by relevant funds and programmes, inter alia, the United Nations Fund for Women and United Nations Children's Fund, and by the Office of the United Nations High Commissioner for Refugees and other relevant bodies;

8. *Calls on* all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia:

(a) The special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction;

(b) Measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements;

(c) Measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary;

9. *Calls upon* all parties to armed conflict to respect fully international law applicable to the rights and protection of women and girls, especially as civilians, in particular the obligations applicable to them under the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977, the Refugee Convention of 1951 and the Protocol thereto of 1967, the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and the Optional Protocol thereto of 1999 and the United Nations Convention on the Rights of the Child of 1989 and the two Optional Protocols thereto of 25 May 2000, and to bear in mind the relevant provisions of the Rome Statute of the International Criminal Court;

10. *Calls on* all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict;

11. *Emphasizes* the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes including those relating to sexual and other violence against women and girls, and in this regard *stresses* the need to exclude these crimes, where feasible from amnesty provisions;

12. *Calls upon* all parties to armed conflict to respect the civilian and humanitarian character of refugee camps and settlements, and to take into account the particular needs of women and girls, including in their design, and recalls its resolutions 1208 (1998) of 19 November 1998 and 1296 (2000) of 19 April 2000;

13. *Encourages* all those involved in the planning for disarmament, demobilization and reintegration to consider the different needs of female and male ex-combatants and to take into account the needs of their dependants;

14. *Reaffirms* its readiness, whenever measures are adopted under Article 41 of the Charter of the United Nations, to give consideration to their potential impact on the civilian population, bearing in mind the special needs of women and girls, in order to consider appropriate humanitarian exemptions;

15. *Expresses* its willingness to ensure that Security Council missions take into account gender considerations and the rights of women, including through consultation with local and international women's groups;

16. *Invites* the Secretary-General to carry out a study on the impact of armed conflict on women and girls, the role of women in peace-building and the gender dimensions of peace processes and conflict resolution, and *further invites* him to submit a report to the Security Council on the results of this study and to make this available to all Member States of the United Nations;

17. *Requests* the Secretary-General, where appropriate, to include in his reporting to the Security Council progress on gender mainstreaming throughout peacekeeping missions and all other aspects relating to women and girls; 18. *Decides* to remain actively seized of the matter.

Annex B

Compact between the Secretary-General of the United Nations and the Government of **Commitment to eliminate sexual exploitation and abuse**

The United Nations and its Member States perform critical work through operations on the ground to maintain peace and security, address humanitarian needs, promote and protect human rights and contribute to sustainable development. Together, we commit to protect the weak, aid those in need, uphold the dignity of every human being and serve the cause of peace.

The United Nations recognizes the importance of the support of your Government to its operations on the ground by, *inter alia*, contributing personnel to peace operations and special political missions, making financial contributions to peace, development or humanitarian operations, or through bilateral support to other Member States.

We recognize that the standards for uniformed personnel that have been adopted by the United Nations and its Member States, in relation to protection from sexual exploitation and abuse, should be equally adopted by non-United Nations forces deployed under a Security Council mandate.

The United Nations promotes women's and girls' full human rights and fundamental freedoms and women's active, full and equal political, social and economic participation, including in all conflict prevention and resolution, justice and security sector processes, as well as in wider development activities.

We are deeply concerned by ongoing reports of sexual exploitation and abuse by United Nations personnel and non-United Nations personnel deployed under a Security Council mandate. We will not allow such behavior, which exploits the vulnerable and destroys lives, to sully our reputation, diminish our contributions or undermine our values. We affirm the following principles to underscore our united efforts to eliminate sexual exploitation and abuse:

- The United Nations Charter is the foundation for the activities of the Organization and the conduct of the personnel who serve under its flag. Integrity is the cornerstone of service in the United Nations, based on respect for human rights and dignity.
- Our shared values demand that those who accept the privilege to support United Nations operations on the ground serve as trust-building agents and ensure that this trust is not eroded through acts of sexual exploitation and abuse.
- Sexual exploitation and abuse runs counter to our common values, and we will take all possible measures to uphold the right of every person to be free from sexual exploitation and abuse, without discrimination.
- We will promote a culture of professionalism and pride of service, work actively to prevent sexual exploitation and abuse and, should such acts occur, demand accountability from our leaders, managers and commanders, and any individual who violates our fundamental values.

- Where acts of sexual exploitation and abuse occur, the victim and his/her rights and dignity will be at the centre of our efforts and concern; the victim will be empowered and provided access to timely and effective assistance, and access to administrative and judicial processes and remedies.

We re-affirm our commitment to fully implement these principles and undertake the following concrete actions, as applicable to the relevant categories of personnel serving in operations on the ground.

On behalf of the United Nations, the Secretary-General commits to:

Support and assistance to victims:

- (i) Strengthen measures to provide timely and comprehensive assistance to victims of sexual exploitation and abuse.
- (ii) Appoint a Victims' Rights Advocate at Headquarters and Victims' Rights Advocates in selected field missions to coordinate the United Nations systemwide strategic vision for victim assistance, protection and support, including measures to facilitate support to victims in gaining access to justice and effective remedies.
- (iii) Facilitate the collection, preservation and transmission of DNA evidence in response to requests for assistance in filing a paternity or child support claim, in line with internationally recognized chain of custody principles.

Efforts to prevent sexual exploitation and abuse:

- (iv) Foster and encourage capacity-building and learning on ways to prevent and address sexual exploitation and abuse, including by facilitating bilateral cooperation on best practices.
- (v) Ensure that systems are in place to vet incoming personnel against a history of prior sexual exploitation and abuse while serving with the United Nations.
- (vi) Engage with Member States to further develop mechanisms for preparing midlevel and senior leaders, including commanders of troop and police-contributing countries, for service in United Nations operations on the ground.
- (vii) Ensure continuing training for all categories and levels of personnel on United Nations values, standards and protection from sexual exploitation and abuse.
- (viii) Promote gender balance and women's empowerment in host countries in line with our mandate and in our own institutions, including through strengthened outreach efforts, as part of a strategy to achieve gender parity in the United Nations and to address the root causes that can give rise to sexual violence.

Accountability Measures:

- (ix) Support the capacity-building of National Investigation Officers.

- (x) Support greater quality and consistency in investigations by all investigative entities through the development of harmonized standards of investigation.
- (xi) Take measures to conduct child and victim-sensitive investigations.
- (xii) Continue to work together with Member States in their efforts to ensure that existing obstacles to the criminal prosecution of sexual exploitation and abuse crimes committed by their nationals are removed, including through any necessary legislative reform.
- (xiii) Review and propose changes to the rules governing the award of the United Nations medal to strengthen pride in United Nations operations.
- (xiv) Explore modalities to recognize excellence in leadership in conduct and discipline.
- (xv) Identify and launch a systematic mechanism to share and disseminate Member States' best practices and lessons learned with regard to protection from sexual exploitation and abuse.

The Government of commits to:

Support and assistance to victims:

- (i) Ensure full cooperation with the United Nations in all of its efforts and activities related to victim protection, assistance and support, including by cooperating with the Victims' Rights Advocate.
- (ii) Appoint national focal points, to facilitate addressing and processing claims of paternity and child support against their nationals directly with victims and their legal representatives, and to collaborate with the United Nations on these cases.

Efforts to prevent sexual exploitation and abuse:

- (iii) Ensure that personnel nominated or provided to serve with the United Nations are screened, and certify that they have not committed, or are alleged to have committed, criminal offences, including of a sexual nature, and/or violations of international human rights law or international humanitarian law, in keeping with the Policy on Human Rights Screening of United Nations Personnel.
- (iv) Formally certify that uniformed personnel have not been previously repatriated on disciplinary grounds or otherwise barred from participation in current or future United Nations missions in connection with an act of serious misconduct.
- (v) Provide robust pre-deployment training to their personnel on protection from sexual exploitation and abuse, and provide the United Nations with the required certifications regarding personnel to be deployed.
- (vi) Engage with the United Nations to further develop mechanisms for professional development of uniformed personnel, particularly commanders.
- (vii) Aim to deploy only commanders with prior peacekeeping experience and require them to develop specific plans and programmes for the prevention of sexual exploitation and abuse while deployed in line with relevant United Nations standards and policies

- (viii) Provide bilateral assistance to Member States to support their service to United Nations operations on the ground in line with United Nations standards of conduct.
- (ix) Identify and implement measures to ensure adequate living and working conditions of personnel, particularly those deployed in remote locations.
- (x) Promote gender balance and women's empowerment as part of a strategy to achieve gender parity in the personnel serving with the United Nations and to address the root causes that can give rise to sexual violence.

Accountability Measures:

- (xi) Ensure that investigations into alleged sexual exploitation and abuse by National Investigation Officers are conducted in accordance with the highest standards of independence, impartiality, thoroughness, timeliness and transparency.
- (xii) Ensure that National Investigation Officers have sufficient experience to adhere to relevant rules and procedures that would enable criminal accountability under national legislation.
- (xiii) Take measures to conduct child and victim-sensitive investigations and ensure that victims and witnesses receive necessary protection during investigations and judicial proceedings.
- (xiv) Take part in joint investigations into alleged sexual exploitation and abuse between National Investigation Officers and the designated United Nations investigative entity.
- (xv) Hold commanders accountable for the discipline and good order of members of their contingents and formed police units, and for failures to ensure that those under their command comply with the United Nations standards of conduct.
- (xvi) Ensure that, administrative rules, regulations or codes governing police and military while in service of United Nations peace operations explicitly recognize all forms of sexual exploitation and abuse as serious misconduct attracting sanctions that are commensurate with sanctions for similar crimes under national law.
- (xvii) Take disciplinary measures and/or undertake criminal prosecutions as appropriate to hold nationals accountable for acts of sexual exploitation and abuse under national law, whether such acts involve United Nations civilian personnel that are nationals of the Member State or personnel provided by the Member State and ensure that all such measures are enforced.
- (xviii) Ensure that existing obstacles to the criminal prosecution for crimes involving sexual exploitation and abuse committed by its nationals are removed, including through any necessary legislative reform, and in situations where culpable individuals have left their national service, and ensure that any obstacles to the provision of effective remedies for victims of sexual exploitation and abuse committed by its nationals while in service of United Nations operations are removed.
- (xix) Ensure that all appropriate disciplinary and judicial decisions and remedies are enforced.
- (xx) Test DNA samples, where provided by the United Nations in connection with paternity or child support claims, or investigations related to sexual exploitation and abuse, in order to support the relevant proceedings.

- (xxi) Consider the collection of DNA of contributed personnel, in the predeployment phase, as a preventive measure to support accountability.

For the Government of

For the United Nations

António Guterres
Secretary-General

Annex C

MEMBER STATES SIGNATORIES TO THE VOLUNTARY COMPACT WITH THE SECRETARY-GENERAL OF THE UNITED NATIONS ON THE COMMITMENT TO ELIMINATE SEXUAL EXPLOITATION AND ABUSE

AS OF 23 JANUARY 2019

- | | | |
|--|-------------------|---|
| 1. Albania | 34. Finland | 70. Paraguay |
| 2. Algeria | 35. France | 71. Peru |
| 3. Andorra | 36. Gabon | 72. Philippines |
| 4. Argentina | 37. the Gambia | 73. Poland |
| 5. Australia | 38. Germany | 74. Portugal |
| 6. Austria | 39. Greece | 75. Qatar |
| 7. Bangladesh | 40. Guatemala | 76. Republic of Korea |
| 8. Belarus | 41. Honduras | 77. Republic of Moldova |
| 9. Belgium | 42. Iceland | 78. Romania |
| 10. Benin | 43. India | 79. Rwanda |
| 11. Bhutan | 44. Indonesia | 80. Saint Vincent and the
Grenadines |
| 12. Bosnia and Herzegovina | 45. Ireland | 81. Samoa |
| 13. Brazil | 46. Israel | 82. San Marino |
| 14. Bulgaria | 47. Italy | 83. Senegal |
| 15. Cabo Verde | 48. Japan | 84. Slovakia |
| 16. Cambodia | 49. Kazakhstan | 85. Slovenia |
| 17. Canada | 50. Latvia | 86. South Africa |
| 18. Central African Republic | 51. Liechtenstein | 87. Spain |
| 19. Chile | 52. Lithuania | 88. Sri Lanka |
| 20. Costa Rica | 53. Luxembourg | 89. Sweden |
| 21. Cote d'Ivoire | 54. Malawi | 90. Tanzania |
| 22. Croatia | 55. Malaysia | 91. Thailand |
| 23. Cyprus | 56. Mali | 92. Togo |
| 24. Czech Republic | 57. Malta | 93. Tunisia |
| 25. Democratic Republic of
the Congo | 58. Mexico | 94. Turkey |
| 26. Denmark | 59. Monaco | 95. Uganda |
| 27. Djibouti | 60. Montenegro | 96. Ukraine |
| 28. Dominican Republic | 61. Morocco | 97. United Kingdom |
| 29. Ecuador | 62. Namibia | 98. United States of
America |
| 30. Egypt | 63. Nepal | 99. Uruguay |
| 31. El Salvador | 64. Netherlands | 100. Vietnam |
| 32. Estonia | 65. New Zealand | 101. Zambia |
| 33. Fiji ** | 66. Niger | |
| ** Indicated that they were
processing for signature,
physical copies not received | 67. Norway | |
| | 68. Pakistan | |
| | 69. Panama | |