

UN Peacekeeping Mission and its Nexus to Human Trafficking

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Introduction

Since the early 1990s, allegations of egregious sexual misconduct surrounding peacekeeping personnel have emerged. The sexual misconduct allegations include sexual conduct with minors, rape, sexual slavery, human trafficking, consorting with prostitutes in exchange for goods and money. These allegations damage the reputation of the United Nations and delay meaningful development. Peacekeepers continue trafficking victims and exploit women with near impunity. When allegations first emerged regarding peacekeeping and human trafficking connection, the Special Representative of the Secretary General Yasushi Akashi infamously quipped, “Boys will be boys.”¹ However, by the mid-2000s the UN began acknowledging the disturbing relationship between peacekeeping mission and human trafficking. This paper aims to examine how the “boys club” mentality, inconsistent and/or non-existent prosecution and punishment, lack of accountability contributes to trafficking in post conflict zones. This paper will also examine the correlation of peacekeeping and trafficking through the context of UN mission in the Balkans- Bosnia and Herzegovina, and Kosovo. Lastly, it will examine policy suggestions on how to re-establish confidence and the UN’s legitimacy.

Contextual history and role of UN Peacekeepers

United Nations Peacekeeping began in the wake of World War II and the solidification of the Cold War. The 1948 UN mission was to monitor the Armistice Agreement in Palestine.² The military peacekeepers deployed to Palestine formed the basis of the United Nations Truce Supervision Organization (UNTSO) and set the basic pattern for peacekeeping development over

¹ Cale Horne and Morgan Barney, “The Impact of UN Peacekeeping Operations on Human Trafficking,” *International Migration* 57, no. 5 (2019): pp. 3-20, <https://doi.org/10.1111/imig.12606>, 1.

² Rubinstein, Robert A. *Peacekeeping under Fire: Culture and Intervention*. Paradigm Publ., 2009. 16

the next four decades of operations. The UN Charter gives the Security Council primary responsibility to establish and authorize peace operations.³ UN Charter Chapter VII titled, “Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression,” details the Council’s powers to maintain peace when the State is unable to maintain security and public order. Generally, the UN Secretariat or Council will pass a resolution calling for immediate end and cease-fire when international peace and security is threatened.⁴ Peacekeeping operations require authorization from the whole body.

The primary roles of peacekeeping operations consisted of monitoring, reporting, and confidence-building, with unarmed military observers and lightly armed troops.⁵ However, with the surge of the Cold War, peacekeeping operations shifted from observational to “multidimensional”.⁶ The multidimensional missions aimed to implement peace agreements in addition to provide support for foundational peace in conflict zones. These foundational aspects include: “administrators, economists, police officers, legal experts, de-miners, electoral observers, human rights monitors, civil affairs and governance specialists, humanitarian workers, communications and public information experts, and more.”⁷

The tasks of peacekeeping operations are prescribed by a mandate for the specific mission. The involved parties give their consent of the mission’s mandate.⁸ The military component of a peacekeeping mission is under the direction of a force commander appointed by the United Nations secretary-general.⁹ Additionally, the deployed troops are coordinated from a variety of

³ United Nations., “Mandates and the Legal Basis for Peacekeeping Peacekeeping,” United Nations (United Nations, 2006), <https://peacekeeping.un.org/en/mandates-and-legal-basis-peacekeeping>.

⁴ Rubinstein, Robert A. *Peacekeeping under Fire: Culture and Intervention*. Paradigm Publ., 2009. 23

⁵ United Nations, “Our History Peacekeeping,” United Nations (United Nations), accessed May 14, 2022, <https://peacekeeping.un.org/en/our-history>.

⁶ United Nations, 2006

⁷ United Nations, 2006

⁸ Rubinstein, Robert A. *Peacekeeping under Fire: Culture and Intervention*. Paradigm Publ., 2009. 26

⁹ Rubinstein. 26

countries. The Security Council aims to have diverse national troops to reinforce the impartiality of the UN and the legitimacy of the mission.¹⁰ The countries involved in the conflict must agree to the troops' origins. Numerous reasons exist as to why parties to a conflict would accept or reject certain inclusions in a mission. One reason for rejecting a potential contributor might be viewed as an aggressor or possess conflicting interests, thereby being incapable of being a fair broker.¹¹

1948 to 1991 is cited as traditional peacekeeping upholding the “holy-trinity” of principles- “consent, impartiality, and the minimum use of force.”¹² The role of traditional peacekeeping shifted to a more complex environment in the post-Cold War era. As global security changed, globalization evolved, and newly independent states formed resulting in peacekeepers encountering fragile and often volatile conflict zones.¹³ The UN Protection Force was viewed as failing their mission in Rwanda (1993), and UN Operation Somalia(1992), the UN reassessed its effectiveness to better maintain peace. New peacekeeping emerged to examine the shortcomings of traditional peacekeeping and more effective future operations.¹⁴

The United Nations does not have a standing army; therefore, it must rely on troop-contributing countries (TCCs) to provide soldiers for missions. As stated above, these soldiers are organized from a variety of countries comprising a diverse range of social and gender norms.¹⁵ In addition to diverse norms, the host countries are responsible for delivering disciplinary

¹⁰ Eyal Ben-Ari, “Mastering Soldiers: Conflict, Emotions, and the Enemy in an Israeli Army Unit,” JSTOR (Berghahn Books, 1998), <https://www.jstor.org/stable/j.ctt1btbw9p.21>.

¹¹ Rubinstein, Robert A. *Peacekeeping under Fire: Culture and Intervention*. Paradigm Publ., 2009. 27

¹² Rubinstein, 27

¹³ All Answers Ltd, “The Traditional Forms of Peacekeeping,” Law Teacher (LawTeacher, August 26, 2021), <https://www.lawteacher.net/free-law-essays/international-law/the-traditional-forms-of-peacekeeping-international-law-essay.php>.

¹⁴ Law Teacher, 2016

¹⁵ Ní Fionnuala Aoláin et al., *The Oxford Handbook of Gender and Conflict* (Oxford, MI: Oxford University Press, 2018), 409.

mechanisms to their respective ranks. Unfortunately, accountability and punishment for a soldier's sexual misconduct rests with peacekeepers' sending state, leaving the victim in those cases without justice.

Laws against sexual abuse

Accusations and reports have emerged regarding peacekeepers engaging in sexual exploitation and abuse (SEA) and misconduct in missions since the early 1990s. The United Nations defines SEA as: '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.'¹⁶ Allegations have included: "sexual conduct with minors, rape, sexual slavery, human trafficking, consorting with prostitutes in exchange for goods and money."¹⁷

The U.N. Security Council has recognized that women require special protections from gender-based violence during armed conflicts.¹⁸ Security Resolution 1325 of October 2000, "Expresses (U.N)'s willingness to incorporate a gender perspective into peacekeeping operations..."¹⁹ and "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;"²⁰ Despite the Department of Peacekeeping Operations (DPKO) explicitly recognizing peacekeepers involvement in SEA and

¹⁶ UN Secretary General, *Secretary-General's Bulletin*, UN Doc ST/SGB/2003/13.

¹⁷ Melanie O'Brien, *Criminalising Peacekeepers: Modernising National Approaches to Sexual Exploitation and Abuse* (Basingstoke, Hampshire, NY: Palgrave Macmillan, 2018), 18.

¹⁸ Kate Grady, "Sexual Exploitation and Abuse by UN Peacekeepers: A Threat to Impartiality," *International Peacekeeping* 17, no. 2 (2010): pp. 215-228, <https://doi.org/10.1080/13533311003625100>, 220

¹⁹Nations United, "S/RES/1325. Security Council Resolution on Women and Peace and Security | UN Peacemaker," United Nations (United Nations, 2000), <https://peacemaker.un.org/node/105>.

²⁰ United Nations, 2000

human trafficking, and the organization wide push for gender mainstreaming, the “boys club” mentality still exists. The problematic nature of the “boys club” mentality is that it ignores the experiences of women, does not prioritize women or their involvement in their development or peace processes, and results in a closing of ranks to protect those who violate women’s rights.²¹

Largely as a reaction to the harrowing allegations of SEA committed by peacekeepers, the U.N. Secretary General’s adopted Resolution 57/306, which led to a bulletin on “Special measures for protection from sexual exploitation and sexual abuse” in May 2003.²² The Secretary General’s “zero-tolerance” Bulletin of 2003 specifies that mission leaders must enforce sexual exploitation and abuse guidelines. And peacekeepers are expected and required to report any suspected abuses.²³ The bulletin strongly discourages ‘sexual relationships between U.N. staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics.’²⁴ Despite its well intentions, the restrictions are proven to have little effect, based in the growing numbers of SEA cases.

In addition to the zero-tolerance policy, the U.N. maintains the Codes of Conduct for military and civilian police. The U.N. Codes of Conduct incorporates the Ten Rules Code of Personal Conduct for Blue Helmets. The Code explicitly prohibits sexual abuse and exploitation: “Do not indulge in immoral acts of sexual, physical or psychological abuse or exploitation of the

²¹ Melanie O'Brien, *Criminalising Peacekeepers: Modernising National Approaches to Sexual Exploitation and Abuse* (Basingstoke, Hampshire, NY: Palgrave Macmillan, 2018), 8.

²² Conor Foley, *UN Peacekeeping Operations and the Protection of Civilians: Saving Succeeding Generations* (Cambridge, United Kingdom, UK: Cambridge University Press, 2018), 248.

²³ Sam R Bell, Michael E Flynn, and Carla Martinez Machain, “U.N. Peacekeeping Forces and the Demand for Sex Trafficking,” OUP Academic (Oxford University Press, August 20, 2018), <https://academic.oup.com/isq/article-abstract/62/3/643/5076386>, 644.

²⁴ Melanie O'Brien, *Criminalising Peacekeepers: Modernising National Approaches to Sexual Exploitation and Abuse* (Basingstoke, Hampshire, NY: Palgrave Macmillan, 2018), 3.

local population or United Nations staff, especially women and children,”²⁵ however, sexual abuse and exploitation persists by peacekeepers.

The adoption of the UN Trafficking Protocol in 2000 outlined an internationally agreed definition of human trafficking.²⁶ The Trafficking Protocol required states to criminalize human trafficking.

Under Article 3:

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.²⁷

Despite the policies and definitions of trafficking, these restrictions are very limiting in their effectiveness. Peacekeepers are volunteers to the U.N. in exchange for compensation.²⁸ The U.N. can repatriate and ban wrongdoers who violate the rules from future missions, but it is rare that cases are reported. Furthermore, the U.N. does not have criminal or disciplinary jurisdictions over military members of peacekeeping operations.²⁹ Disciplinary actions can only be undertaken by the TCC. To further complicate, there is considerable reluctance for militaries to punish a

²⁵ Nations United, "Ten Rules/Code of Personal Conduct for Blue Helmets," Conduct in UN Field Missions, January 25, 2017, <https://conduct.unmissions.org/ten-rulescode-personal-conduct-blue-helmets>.

²⁶ Ní Fionnuala Aoláin et al., *The Oxford Handbook of Gender and Conflict* (Oxford, MI: Oxford University Press, 2018), 403.

²⁷ Human Rights, United Nation. "Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children." In *OHCHR*, 2000. <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>.

²⁸ Sam R Bell, Michael E Flynn, and Carla Martinez Machain, "U.N. Peacekeeping Forces and the Demand for Sex Trafficking," OUP Academic (Oxford University Press, August 20, 2018), <https://academic.oup.com/isq/article-abstract/62/3/643/5076386>.

²⁹ General Assembly, UN. 2005. *A/59/710: A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations*. Technical report, General Assembly.

soldier for paying for sex.³⁰ Countries are reluctant to discipline their soldiers due to not viewing paying for prostitution as an offence.

The policies that were developed by the Department of Defense, NATO and UN intended to eliminate the exploitation of women by peacekeepers. Unfortunately, the problem persists because enforcement of the policies has been sporadic and there has been an absence of political will to address the problem.³¹

Case Study of peacekeeper sexual exploitation

There have been an increasing number of accusations and reports regarding peacekeepers engaging in sexual exploitation in missions across the globe, including the former Yugoslavia, Democratic Republic of the Congo (DRC), Sierra Leone, Haiti, and Cambodia.³² The Balkans peacekeeping mission provide an example of how the combination of conflict regions, post-war militarization, and economic instability creates an environment for women to become exploited.

Most peacekeepers are not engaged in human trafficking, however, overwhelming evidence suggests a relationship between trafficking to post-conflict regions and exploitation by peacekeepers.³³ The Balkan peacekeeping missions were one of the first reported cases UN peacekeeping personnel involved in human trafficking.

³⁰ Jennings, Kathleen M., And Morten Bøås. 2015. "Transactions and Interactions: Everyday Life in the Peacekeeping Economy." *Journal of Intervention and State building*. 290.

³¹ Shelley, Louise I. *Human Trafficking: A Global Perspective*. Cambridge University Press, 2010. 51.

³² Melanie O'Brien, *Criminalising Peacekeepers: Modernising National Approaches to Sexual Exploitation and Abuse* (Basingstoke, Hampshire, NY: Palgrave Macmillan, 2018), 3.

³³ Sarah Elizabeth Mendelson, *Barracks and Brothels: Peacekeepers and Human Trafficking in the Balkans* (Washington, D.C., DC: Center for Strategic and International Studies, 2005), 3.

The UN Office on Drugs and Crime noted an “unprecedented increase in the trafficking of women and girls, that contributed to creation of a sex economy that had not existed earlier.”³⁴ The trafficking phenomenon was relatively unknown until the mid-1990s, when the UN Security Council authorized Resolution 1035.³⁵ The Resolution ushered in approximately 35,000 soldiers from the North Atlantic Treaty Organization (NATO) and non-NATO countries into the former republics of Yugoslavia. With the arrival of predominantly male UN peacekeeping personnel, women – primarily from Ukraine, Romania and Moldova also arrived in the region to service the growing demand from the Bosnia and Herzegovina (BiH) peacekeeping operation. BiH soon became a major destination country for women trafficked for the purpose of sexual exploitation.³⁶

Limanowska explains that two types of peacekeeping personnel involvement in human trafficking existed in the BiH missions. The first type of personnel involvement included frequenting of brothels and being clients of the victims.³⁷ The second type of personnel involvement included peacekeepers purchasing women and their passports from traffickers to assert ownership over them.³⁸ The victims were then used for sex and housework.³⁹ Peacekeepers were especially active in the organizational aspect of trafficking crimes. This included forging documents, confiscating documents, transporting victims across borders, and recruiting potential

³⁴ UNDOC, “Crime and Its Impact on the Balkans,” United Nations Office on Drugs and Crime, 2008, https://www.unodc.org/documents/data-and-analysis/Balkan_study.pdf.

³⁵ Olivera Simic, “‘Boys Will Be Boys’: Human Trafficking and UN Peacekeeping in Bosnia and Kosovo,” *Trafficking and Human Rights*, 2010, pp. 79-94, <https://doi.org/10.4337/9781849806800.00012>, 82.

³⁶ Simic, 83.

³⁷ Barbara Limanowska, “Trafficking Trafficking in Human Beings in South Eastern ... - Un.org,” 2005, <https://www.un.org/ruleoflaw/files/humantraffickinginSouthEasternEurope.pdf>.107.

³⁸ Limanowska, 109

³⁹ Limanowska, 108

victims into prostitution.⁴⁰ Furthermore, paramilitary groups formed partnerships with UN peacekeepers and troops to earn money from smuggled goods and trafficked women.⁴¹

Mendelson states that trafficking for forced prostitution, especially in women and young girls, follows market demand, and in post-conflict situations, that demand is often created by UN peacekeeping personnel.⁴² International workers in conflict areas and an increase in foreign capital propelled trafficking in women from across Europe. The international workers, in comparison to the region they are stationed in, are relatively wealthy and therefore could afford the market for trafficked women. The sex trade of the Balkans became central to the predatory war economies, with the peacekeeping context creating the demand. The rape camps, also serving as brothels were staffed with trafficking victims and tailored for the specific use of international peacekeepers.⁴³ The peacekeepers, staff, and soldiers boosted the illicit economy of sex, drug, and arms trafficking.⁴⁴

In 2004, the DPKO published a paper noting the strong anecdotal evidence of peacekeeping personnel being involved in the sexual services of trafficking victims. In considering the problem in terms of supply and demands, the introduction of peacekeepers increases the demand for prostitution.⁴⁵ The report stated:

⁴⁰ Limanowska, 83

⁴¹ UNDOC, "Crime and Its Impact on the Balkans," United Nations Office on Drugs and Crime, 2008, https://www.unodc.org/documents/data-and-analysis/Balkan_study.pdf. 51

⁴² Sarah Elizabeth Mendelson, *Barracks and Brothels: Peacekeepers and Human Trafficking in the Balkans* (Washington, D.C., DC: Center for Strategic and International Studies, 2005), 5.

⁴³ UNDOC, "Crime and Its Impact on the Balkans," United Nations Office on Drugs and Crime, 2008, https://www.unodc.org/documents/data-and-analysis/Balkan_study.pdf. 51

⁴⁴ Thi Hoang, "When the Peacekeepers Are Part of the Problem," ReliefWeb, 2019, <https://reliefweb.int/report/world/when-peacekeepers-are-part-problem>.

⁴⁵ Cale Horne and Morgan Barney, "The Impact of UN Peacekeeping Operations on Human Trafficking," *International Migration* 57, no. 5 (2019): pp. 3-20, <https://doi.org/10.1111/imig.12606>, 4.

[T]raffickers are likely to continue to target future missions as a source of demand, as clients for services. ... Human trafficking is a low risk, high revenue primer for organized crime activities... Any influx of peacekeeping troops and other personnel, contractors, local combatants and reconstruction money will create a source of demand and locally accessible revenue in otherwise poor economies.⁴⁶

Lastly, it is important to note that economies created and fueled by peacekeepers (sex trafficking, narcotics, etc.) tend to remain functional even after peacekeeping operations have ended. Their activities “shaping gendered economic and social power relations in the long term’ and embedding sex work and trafficking in the post-war economy.”⁴⁷

The UN Security Council Resolution 1244 in June 1999 created the UN Interim Administration Mission in Kosovo (UNMIK). This authorized the deployment of 50,000 UN peacekeeping personnel into the region. Like the BiH situation, Kosovo became a major destination country for women and girls trafficked into forced prostitution, primarily from Bulgaria, Moldova, and Ukraine.⁴⁸ The clients were reportedly members of the international community, with some involved in the trafficking process itself – like the BiH mission. The lack of sufficient police officers, weak criminal justice systems, and Kosovo’s proximity to source countries all contributed to the booming sex industry.⁴⁹

⁴⁶ Horne and Barney, 4

⁴⁷ Jasmine-Kim Westendorf and Louise Searle, “Sexual Exploitation and Abuse in Peace Operations: Trends, Policy Responses and Future Directions,” *International Affairs* 93, no. 2 (January 2017): pp. 365-387, <https://doi.org/10.1093/ia/iix001>.

⁴⁸ Westendorf and Searle, 380

⁴⁹ Olivera Simic, “‘Boys Will Be Boys’: Human Trafficking and UN Peacekeeping in Bosnia and Kosovo,” *Trafficking and Human Rights*, 2010, pp. 79-94, <https://doi.org/10.4337/9781849806800.00012>, 82.

The lack of a consistent and enforced policy to police such actions, blanket immunity for violators, and atmosphere for acceptance for peacekeeping personnel behavior contributes to the few cases being fully investigated. Despite the serious allegations from victims in BiH and Kosovo, no member of UNMIBH (United Nations Mission in Bosnia and Herzegovina) or UNMIK, has ever been criminally prosecuted for trafficking or trafficking related crimes.⁵⁰ The most serious (and only) punishment that UN peacekeeping personnel faced in BiH was rapid repatriation and a non-binding promise from the contributing country to take legal action.⁵¹ UNMIK acknowledged peacekeepers' involvement in trafficking women in 2001 and repatriated ten UNMIK police officers in connection to allegation relating to trafficking humans. However, in 2004, UNMIK denied the existence of such cases: 'to date, no such [criminal] case has involved trafficking or any other related offence.'⁵² To date, there is no evidence of the home country prosecuting or disciplining the police officers.

UN Accountability

Following the travesty of the UN Mission in Bosnia and Herzegovina, peacekeepers responsible for trafficking victims were repatriated to their home countries for trafficking and prostitution related offenses.⁵³ The expectation that the peacekeepers' origin countries would prosecute the offenders for their alleged crime was not met and the UN disciplinary actions ended with the men's repatriation. Following international pressure, the UN Headquarters Bosnia and

⁵⁰ Martina Vandenberg, "Peacekeeping, Human Trafficking, and Sexual Abuse and Exploitation," *Oxford Handbooks Online*, June 2017, <https://doi.org/10.1093/oxfordhb/9780199300983.013.32>, 91.

⁵¹ Vandenberg, 91

⁵² Vandenberg, 91

⁵³ Ní Fionnuala Aoláin et al., *The Oxford Handbook of Gender and Conflict* (Oxford, MI: Oxford University Press, 2018), 409.

Herzegovina desk officer, Andrei Shkourko, illuminated a fatal flaw within the United Nations' accountability system. In the letter to Human Rights Watch, he wrote,

The United Nations does not have the legal authority to take punitive measures against civilian police monitors made available by members for United Nations peacekeeping operations, and the disciplinary follow-up to their misconduct is the responsibility of the contributing countries.⁵⁴

The UN does not prosecute mission members with alleged crimes of trafficking or other forms of sexual misconduct. The only option is for the UN to refer the cases back to the TCC and provide suggestions to prosecute offenders. The central flaw in the UN's accountability system is rooted in the Secretary General's 2003 *Referral to National Authorities* bulletin.⁵⁵

If, after proper investigation, there is evidence to support allegations of sexual exploitation or sexual abuse, these cases may, upon consultation with the Office of Legal Affairs, be referred to national authorities for criminal prosecution.⁵⁶

Simply repatriating alleged offenders back to the sending states that frequently fail to prosecute offenders will not resolve the ongoing harm to the UN's image, or its mission to maintaining peace. The Office of Legal Affairs provides evidence of the offense to the country of origin, with an understanding that Member states conduct their own investigation and provide follow-up. In reality, Member states rarely respond to follow-up correspondence and the UN does not punish countries for failing to hold peacekeepers accountable, nor punish for not responding

⁵⁴ Ní Fionnuala Aoláin et al., 408

⁵⁵ Ní Fionnuala Aoláin et al., 411

⁵⁶ Ní Fionnuala Aoláin et al., 411

to follow-up inquiries.⁵⁷ The UN's inability to enforce international laws exposes the root of the problem: the United Nations is dependent on member state to offer troops; therefore, it is reluctant to impose conditions on troops that will limit states' troop contributions.⁵⁸

To address this fundamental flaw in accountability and in response to further scandal following SEA reports in refugee camps in Guinea, Liberia, and Sierra Leone, the UN published, 'A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations,' or the Zeid Report of March 2005.⁵⁹ The report provided recommendations for the UN's prosecutorial authority dilemma. The recommendation addressed the lack of functioning legal systems where the UN routinely operated. The solution was to create an international convention that would subject UN personnel to the jurisdiction of States.⁶⁰ This would introduce an agreement with the host State and the UN to ensure criminal proceedings against personnel has satisfied international human rights standards.⁶¹ The Zeid report stated:

The founders of the United Nations did not intend that the privileges and immunities of its officials...should constitute a shield from national criminal prosecution for crimes committed in a State hosting a United Nations operation."⁶²

The feeling of impunity by peacekeepers from criminal prosecution within the UN is profoundly present. This was apparent from a UN report regarding peacekeepers in the Democratic Republic of Congo (MONUC) who systematically exploited women and children in January 2005. The Special Representative of the Secretary General for MONUC wrote, 'it is apparent that the

⁵⁷Ní Fionnuala Aoláin et al., 411

⁵⁸Ní Fionnuala Aoláin et al., 411

⁵⁹ Conor Foley, *UN Peacekeeping Operations and the Protection of Civilians: Saving Succeeding Generations* (Cambridge, United Kingdom, UK: Cambridge University Press, 2018), 248.

⁶⁰ Foley, 248

⁶¹ UN General Assembly Resolution A/59/710 of 24 March 2005, para 89.

⁶² Ibid. Summary of recommendations pp. 4-6

feeling of impunity is such that not only have the policies (aimed at preventing sexual abuse and exploitation) not been enforced, but the command structures have not always given investigators their full cooperation.’⁶³ The UN could lift immunity and push for prosecution. But this raises the question of who would prosecute, under what country’s law, and with what degree of evidence? Despite the zero tolerance of SEA firmly established, the UN lacks any kind of direct, functional mechanism to ensure that offenders face legal consequences for their behavior.

The UN’s lack of action is stems from its “genetic defect.”⁶⁴ The genetic defect of the UN is that it is hostage to member states’ interests and bureaucratic limitations.⁶⁵ The organization is accountable to state interests and relies on their contributions. A weakness in efficient SEA and trafficking prosecution is that the UN does not have jurisdiction over peacekeepers, even though its rules nominally bind them.⁶⁶ The UN relies on TCC to hold their soldiers accountable for alleged SEA offenses and adherence to Security Council Resolutions. Some TCC have a strong resistance to upholding Security Council Resolutions (as shown in few prosecutions of SEA misconduct) and have shown no commitment to enforce SEA policies. When state interests do not align with UN principles of peace, justice, and human rights, the genetic defect overshadows any policy framework.⁶⁷

⁶³ Andrew Ladley, “Peacekeeper Abuse, Immunity and Impunity: The Need for Effective Criminal and Civil Accountability on International Peace Operations,” *Politics and Ethics Review* 1, no. 1 (2005): pp. 81-90, <https://doi.org/10.3366/per.2005.1.1.81>, 83.

⁶⁴ Jasmine-Kim Westendorf and Louise Searle, “Sexual Exploitation and Abuse in Peace Operations: Trends, Policy Responses and Future Directions,” *International Affairs* 93, no. 2 (January 2017): pp. 365-387, <https://doi.org/10.1093/ia/iix001>, 377.

⁶⁵ Westendorf and Searle, 376

⁶⁶ Westendorf and Searle, 380

⁶⁷ Westendorf and Searle, 379

Policy Reform

The United Nations has recognized peacekeepers having a direct and indirect involvement in human trafficking and SEA. In 2004 the DPKO has also acknowledged that “peacekeepers have come to be seen as a part of the problem [when it comes to trafficking in humans], rather than the solution.⁶⁸” Despite the numerous policies recommended, the genetic defect continues to plague meaningful improvement.

The Zeid Report of May 2004 introduced to the General Assembly described existing measures to address SEA as ‘manifestly inadequate’ and called for a fundamental shift in approach.⁶⁹ The report jolted policy development for peacekeeper SEA from prevention to enforcement and addressed SEA into four themes: rules on standards of conduct; the investigative process; organizational, managerial and command responsibility; and individual disciplinary, financial and criminal accountability.⁷⁰ The report emphasized agency systems to uplift accountability. Despite the recommendations presented in the Zeid Report, few were rarely implemented. The United Nations announced a myriad of policy changes to improve accountability in March 2016 that closes resembled recommendations made in the Zeid Report.⁷¹

The first recommendation is reexamining the training and attitudes of leadership. Senior military officers mold the culture and attitude of the soldiers they lead.⁷² Learning from the lessons of BiH and MONUC, managers and commanders should be trained and equipped to create and

⁶⁸ Olivera Simic, “‘Boys Will Be Boys’: Human Trafficking and UN Peacekeeping in Bosnia and Kosovo,” *Trafficking and Human Rights*, 2010, pp. 79-94, <https://doi.org/10.4337/9781849806800.00012>, 92.

⁶⁹ Jasmine-Kim Westendorf and Louise Searle, “Sexual Exploitation and Abuse in Peace Operations: Trends, Policy Responses and Future Directions,” *International Affairs* 93, no. 2 (January 2017): pp. 365-387, <https://doi.org/10.1093/ia/iix001>, 376.

⁷⁰ Westendorf and Searle, 379

⁷¹ Martina Vandenberg, “Peacekeeping, Human Trafficking, and Sexual Abuse and Exploitation,” *Oxford Handbooks Online*, June 2017, <https://doi.org/10.1093/oxfordhb/9780199300983.013.32>, 14.

⁷² Sarah Elizabeth Mendelson, *Barracks and Brothels: Peacekeepers and Human Trafficking in the Balkans* (Washington, D.C., DC: Center for Strategic and International Studies, 2005), 70.

maintain an environment that prevents SEA and mitigate any tendency to ‘downplay’ or cover it up, and that mission-specific training describing the impact and context of SEA was also necessary.⁷³ The code of conduct and zero-tolerance policies should be enforced with consistent punishment for offenders. Policies existed in the past to prevent SEA and trafficking, especially during the UN Missions in Bosnia and in Kosovo, however, leadership failed to address simultaneously the larger attitudinal and cultural factors that facilitated or impeded compliance.⁷⁴

The UN does not punish countries that do not respond to UN follow-up requests, that fail to prosecute, and fail to punish perpetrators in any meaningful way.⁷⁵ The next recommendation encourages the UN to implement a mechanism that allows proper follow up regarding states prosecuting accused peacekeepers. It should also suspend troop contributions from countries with significant abuse allegations, and who fail to prosecute.

The UN must also make an impactful effort to minimize and punish peacekeepers involved in human trafficking. Peacekeepers involved in human trafficking create an economy that incorporates transnational organized criminals. To combat this dilemma, a transnational response is the only effective measure.⁷⁶ This response should involve collaboration of nongovernmental, governmental, and multilateral strategies and personnel.⁷⁷ The Department of Peacekeeping Operations (DPKO) must also send a clear message to peacekeepers that trafficking will not be tolerated on missions. Ultimately, the greatest deterrence for peacekeepers involved in trafficking is consistent prosecution and punishment for the offences. The DPKO should also adequately

⁷³ Jasmine-Kim Westendorf and Louise Searle, “Sexual Exploitation and Abuse in Peace Operations: Trends, Policy Responses and Future Directions,” *International Affairs* 93, no. 2 (January 2017): pp. 365-387, <https://doi.org/10.1093/ia/iix001>, 379.

⁷⁴ Sarah Elizabeth Mendelson, *Barracks and Brothels: Peacekeepers and Human Trafficking in the Balkans* (Washington, D.C., DC: Center for Strategic and International Studies, 2005), 70.

⁷⁵ Vandenberg, 15

⁷⁶ Sarah Elizabeth Mendelson, *Barracks and Brothels: Peacekeepers and Human Trafficking in the Balkans* (Washington, D.C., DC: Center for Strategic and International Studies, 2005), 71.

⁷⁷ Mendelson, 71

address trafficking by enlisting external experts on trafficking and its nexus to peacekeeping missions. This endeavor should be funded by member states with an aim to combat the growing problem.⁷⁸ The culture of impunity will continue unless such privileges are removed. The Secretary General António Guterres should waive immunity of individual peacekeepers accused of trafficking when evidence merits.⁷⁹ Dr. Kelly Askin, a global expert on accountability for rape as a war crime wrote, “to provide real justice, there should be military and civilian trials in the country where the crimes were committed. Troop-contributing countries should consent to having military and civilian courts.”⁸⁰

The United Nations must pursue a meaningful agenda that enforces its policies and mission. Without real enforcement and accountability, the very people intended for protection will continue to be exploited and trafficked.

⁷⁸ Mendelson, 75

⁷⁹ Mendelson, 75

⁸⁰ Mendelson, 75

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