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Addressing the Sexual Misconduct of Peacekeepers

PEP BRIEFING NOTE

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A Partnership for Effective Peacekeeping (PEP) Publication

The PEP is a non-partisan policy working group that brings together the humanitarian, human rights, peace and security, think tank, and academic communities in support of greater peace operations capacity. The PEP promotes public policy solutions to improve national and international peacekeeping infrastructure, and works to build the political will to support such policies by: providing an open forum for discussion of peace operations issues; serving as an information resource for media and policymakers; and engaging in educational efforts that facilitate greater understanding of peace operations. The PEP does not exclusively support any one particular solution for the capacity problems that prevent effective peacekeeping operations. Rather, the PEP facilitates the exploration of all potential pragmatic and achievable solutions in a candid and 'outside the box' atmosphere.

Introduction

Allegations of sexual exploitation and abuse have become widespread within United Nations peacekeeping missions. In response, the UN and its Department of Peacekeeping Operations (DPKO) have taken a strong and visible stance against the sexual misconduct of peacekeepers through an increase in transparency, inter-agency coordination, investigations, and gender training. But the question of accountability and peacekeeper 'impunity' still thwarts nearly all attempts to address the crisis of perception smearing international peacekeeping.

Reports of problems within MONUC (the UN mission in the Democratic Republic of the Congo) provide a vivid example of the problem.

- ❑ In 2003 DPKO received 24 new cases of alleged sexual exploitation/abuse within MONUC. As of April 2004, less than half of the cases were appropriately handled, according to observers.
- ❑ In August 2003, the MONUC child protection office in Kindu sent a memo to MONUC headquarters describing concerns about child abuse, yet sources say no action was taken.
- ❑ The investigation into allegations of child pornography rings, sex shows and the rape of babies by Moroccan peacekeepers serving in MONUC was terminated due to a reported lack of evidence and minimal support from the military contingent commanders.
- ❑ The OIOS (Office of Internal Oversight Services) inquiry process has been described as ineffective. The UN has no authority to follow through on any investigations currently underway. At most, after a lengthy process, the UN can repatriate an individual, but cannot see those cases followed through in the country of origin. There appears to be near-total impunity for MONUC soldiers.

UN Policies

The United Nations has declared a policy of 'zero-tolerance' concerning crimes committed by UN peacekeepers (military personnel, civilian police, military observers and civilian staff).

- ❑ The UN defines sexual exploitation as: *"any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes."*
- ❑ Sexual abuse is defined as: *"actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions."*
- ❑ Sexual abuse and exploitation of any individual, in addition to abuse of authority, is considered by the UN as serious misconduct, which is defined as: *"any act, omission or negligence, including criminal acts that are a violation of mission standard operating procedures, directives, or any other applicable rules, regulations or administrative instructions that results in or is likely to result in serious damage or injury to an individual or to the mission."*

In addition to a policy of 'zero tolerance', the UN has created and distributed peacekeeping code of conduct cards entitled, [We Are United Nations Peacekeepers and Ten Rules - Code of Personal Conduct for Blue Helmets](#). Rule number four in [Ten Rules](#) states, *"[d]o not indulge in immoral acts of sexual, physical or psychological abuse or exploitation of the local population or United Nations staff; especially women and children."* [We are United Nations Peacekeepers](#) states, *"[w]e will never...commit any act that could result in physical, sexual or psychological harm or suffering to members of the local population, especially women and children; become involved in sexual liaisons which could affect our impartiality, or the well being of others."*

Sovereign Immunity, Weak Local Capacity, and Cumbersome Bureaucratic Procedures

Status of Mission or Forces Agreements (SOMA/SOFA) between the UN and Host Countries and Contribution Agreements between contributing countries and the UN both reserve full jurisdiction over misconduct by military troops serving as peacekeepers to the country of origin of the peacekeeper. Repatriation is the UN's only disciplinary option, and once military personnel are repatriated to their country of origin, the UN loses further authority. Additional disciplinary action, after repatriation, lies with the preferences, capability, and political will of the country of origin. The UN is authorized to request information concerning the disposition of repatriation cases. In sum, the UN has minimal authority to hold troops accountable for their actions.

Military Observers, Civilian Police and civilian staff in UN peacekeeping missions operate under the status of "experts performing missions", giving them functional immunity applicable under official functions. These personnel are subject to local civil and criminal jurisdiction for acts committed by them in the host country that do not form part of their official functions. However, many countries where peacekeeping missions take place do not have properly functioning legal systems, making it extremely difficult to initiate local prosecutions. Therefore, despite the fact that some level of accountability seems to be present, very few military observers or civilian police/staff have been tried by a host country.

When allegations of serious misconduct are lodged against a UN military peacekeeper a report is sent directly to the Head of the Mission and the Personnel Conduct Officer, and a preliminary investigation immediately follows. Once completed, the results of the preliminary investigation are given to the Head of the Mission. If the allegation proves well-substantiated the case is reported to UN headquarters in New York and the national authorities of the countries concerned. The Head of the Mission convenes a Board of Inquiry, which determines responsibility. The Board makes recommendations regarding any disciplinary action which, along with a final report, are sent to UN Headquarters. The Head of the Mission, after consultation with the Board of Inquiry and other relevant personnel, recommends appropriate action to UN headquarters, which makes the final decision, and conveys that decision back to the Head of the Mission.

Problems with Holding UN Peacekeepers Accountable

The nature of most UN peacekeeping missions, the UN system itself, and the reality of sex crimes sometimes serves as an impediment to implementing sustained and effective accountability policies.

- ❑ The UN is only as strong as its member states. Therefore, if member states demand impunity for their peacekeepers, the UN does not have the authority to pursue any action beyond repatriation. Most countries have little interest in seeing their peacekeepers brought to trial for crimes committed while 'doing good deeds' elsewhere in the world. Many countries that contribute peacekeeping forces do not have the requisite legislation to prosecute their peacekeepers upon repatriation. Making matters worse, rape is not even a crime under some national legal systems.
- ❑ The UN does not have a sufficiently streamlined policy for reporting and dealing with the misconduct of UN peacekeepers. The standard length of a peacekeeping cycle is six months, making it difficult to initiate, conduct, and finish an investigation before the peacekeeper is rotated to another post. There also seems to be a culture of acceptance ('boys will be boys') within the leadership of some UN peacekeeping missions that serves to impede investigatory procedures.
- ❑ Many women are hesitant to report cases of sexual exploitation/abuse out of fear of a societal/cultural backlash. Additionally, the overwhelming majority of personnel serving in peacekeeping missions are male, which can make it uncomfortable and in some cases unfeasible (in cultures where women cannot interact with a non-related male) for women to report a crime.

Conclusion

The United Nations has emphasized in recent years that it holds employees to the highest standards in both their professional and personal lives. The UN has stressed a policy of zero-tolerance for peacekeeper misconduct and, in some cases, has made significant efforts to combat the problem. Yet until the member states of the UN eliminate peacekeeper impunity, the problem will remain. Meanwhile, allegations of sexual misconduct and abuse by UN peacekeepers continue to cast a black cloud over the fundamental purpose of UN peacekeeping missions.

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