

ROUNDTABLE ON SEXUAL EXPLOITATION AND ABUSE IN PEACE OPERATIONS

THEMATIC SUMMARY REPORT

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Despite efforts to combat sexual exploitation and abuse (SEA) in peacekeeping operations, these problems persist. In September 2019, a roundtable was convened to examine the persistence of SEA in peace operations by Dr Ai Kihara-Hunt (Deputy Director, Research Center for Sustainable Peace, University of Tokyo), Dr Marsha Henry (Interim Director, Centre for Women, Peace and Security, London School of Economics and Political Science) and Ms Jane Connors (UN Victims' Rights Advocate), with funding from the Humanities Center of the University of Tokyo. Dr Kihara-Hunt and Dr Henry shared findings from their research, followed by an open discussion with participants. The roundtable addressed the issue of SEA through the frame of accountability, attending to three key forms of accountability: 1) Legal (individual) accountability for misconduct and criminal behaviour; 2) Ethical/professional accountability for the provision of conducive professional environments aimed at 'doing no harm'; and 3) Institutional accountability for addressing SEA while ensuring a victim-centred approach and due process. Within this frame, participants spoke to the overall questions: Is the current approach to accountability effective? How can accountability be furthered by the UN and Member States?

This round table brought together 31 participants, including UN Secretariat officials, academic researchers, and civil society representatives to engage on research, data, and initiatives around SEA. The conversations were conducted under the Chatham House Rule, and contributions are therefore not attributed to individuals or institutions.

INSTITUTIONAL ACCOUNTABILITY

The notion of institutional accountability stems from recognising the responsibilities of the UN as the organisation that mandates and authorises peace operations and that directly or indirectly employs peacekeeping personnel. While this form of accountability has important linkages to both legal accountability and professional accountability, the discussion around institutional accountability centred on the first two pillars of the Secretary-General's four-pronged strategy to prevent and respond to SEA, namely: (1) prioritizing the rights and dignity of victims, and (b) ending impunity through strengthened reporting and investigations.

The establishment of a Trust Fund for victims and a Victims' Advocate were welcomed as measures towards institutional accountability. These measures were considered particularly important in view of the fact that victims, as a constituency demanding accountability, are not typically in positions of power. They are not politically organised, and they are often in underprivileged positions. Accordingly, participants highlighted the need to consider the concept of accountability from the perspectives of victims themselves: What does accountability look like to victims? Victims are primarily interested in accessible complaint pathways; protection; assistance on health, education, finances, and livelihoods; support for children born from SEA; better investigative procedures (no repeat interviews); and better access to legal remedies, including being informed on how their complaint is being handled.

Participants discussed a number of initiatives that speak to some of these concerns. In particular, UN investigations are being developed to minimise the trauma of reporting, including by providing interview and protection plan training and risk management tools, and standardising reporting procedures. Participants also discussed the potential of developing investigative practices that are less reliant on victim testimony, complaint mechanisms that are accessible to child victims¹, and working with Member States to ensure that paternity claims are effectively processed and child support payments are ensured.

Additionally, participants noted that the UN introduced in 2018 a Clear Check Screening Tool, intended to ensure that personnel who have committed SEA in the past are not hired by another UN agency, which may otherwise be unaware of their past offences. The need to ensure whistle-blower protection was also raised.

ETHICAL/PROFESSIONAL ACCOUNTABILITY

The question of ethical accountability to produce a professional environment that does not condone SEA was described as a responsibility of both the UN and Member States. Several participants noted that the working environment in missions continues to pose a challenge in this regard and reported witnessing mission environments in which sexualised behaviour and a lack of respect for the local population appeared

¹ Participants discussed that the complaint procedure is complicated and that existing roles of the UN and member States are not straightforward. As a result, it may not be easy for victims to come forward, meaning that investigative procedures may favour the peacekeepers.

to provide conditions conducive to exploitation and abuse. In response to these challenges, participants discussed different measures to ensure ethical/professional accountability.

Participants argued that work towards gender parity objectives supports the goal of reducing SEA. Increasing the number of female peacekeepers was mentioned as one way of reducing incidents of SEA. While the UN has demonstrated considerable leadership in fostering a public image supportive of gender parity, work remains to be done. The UN and Member States should incorporate questions of child protection and digital privacy safeguarding into the production of public imagery. This work could be further strengthened through an increased presence of female peacekeepers. Participants suggested commitment to a parity goal of 50% women, which carries symbolic significance, and the refusal of all-male deployments of troops and police. At the same time, participants cautioned that there is a danger in relying solely on increasing female personnel to address the problem of SEA and highlighted that these measures should be taken in tandem with a commitment to women's equal rights, and to addressing discriminatory environments.

Training was discussed as another way of mitigating SEA. Important initiatives in this regard include the introduction of a mandatory e-learning module on the topic, as well as pre-deployment and in-mission training for uniformed personnel. Participants noted that there are high expectations placed on training, but that there is a need to consider what training can or should achieve. Areas in which training was seen as particularly helpful include clarifying questions of what constitutes exploitative behaviour; providing knowledge and motivation for bystanders to intervene and report; and addressing broader questions of what types of professional environments and discourses training fosters. Participants advocated for a better inclusion of questions of masculinities in training, as well as ensuring that the voices of local populations, particularly victims of SEA, are brought into training initiatives.

Further measures are underway to ensure broader professional accountability. Leadership plays a key role in this, and contingent commanders are now required to sign a statement in which they acknowledge their responsibility to foster an environment that prevents SEA, and to report if it occurs. UNPOL officers are also required to sign a statement attesting that they understand the zero-tolerance policy. The first case of an individual being sanctioned for failing to pursue a report of SEA was recently filed.

Finally, the question of whether increasing home leave for peacekeepers would reduce the occurrence of SEA raised debate. The evidence does not fully support the notion that regular home leave prevents SEA, and the suggestion, it was highlighted, might make troop and police-contributing countries concerned about budgetary implications.

LEGAL (INDIVIDUAL) ACCOUNTABILITY

Individual accountability for SEA can be understood as primarily falling into three categories: criminal, disciplinary, and administrative accountability.² Although much of the discussion focused on what the UN can do to ensure individual accountability across all three domains (e.g. including administrative and

² This is in relation to the UN and/or Member States. In addition, between the victim and the perpetrator, there is civil accountability.

disciplinary sanctions such as withholding pay, severance, and repatriation), participants pointed out that it was important to ensure that the pursuit of other mechanisms did not result in criminal offences being downgraded to administrative or disciplinary matters. A key concern in discussions was how the UN and Member States can work alongside each other to ensure legal accountability. Participants were reminded that the UN does not exercise criminal responsibility, but rather relies on States in this regard. How the UN and Member States previously worked together was discussed, as well as how an investigation can be conducted in a more collaborative and effective manner. When credible allegations are made against UN staff, the Secretary-General refers these allegations to their state of nationality, as established by the General Assembly. Unfortunately, the follow-up of Member States on these referrals remains limited. For further clarification, the Secretary-General's Annual Report on Criminal Accountability of United Nations Officials and Experts on Mission (A/74/145, Annex I) can be referred to, as commended by UN representatives.

Participants highlighted that there is a need to address common misperceptions about Member States' ability to pursue criminal accountability. Indeed, several participants underscored that legal obstacles are far less significant than is often claimed. First, participants had an in-depth discussion on immunity. Even though the rules on the UN personnel's immunity is clarified in UN documents and policies, myths surrounding immunity prevents people from taking cases forward. Second, increasing numbers of states allow for extra-territorial jurisdiction, meaning that they would also be able to prosecute such crimes. Third, participants highlighted that the UN zero-tolerance policy also applies to implementing partners who are not UN personnel or part of national contingents.

Finally, some participants suggested that other legal mechanisms could be utilised to help ensure that Member States hold their nationals accountable. Such mechanisms include the CEDAW committee, the Human Rights Council, and regional human rights instruments.

CONCLUSIONS AND FURTHER CONSIDERATIONS

Although reports of SEA on peace missions have decreased to some degree in recent years, around fifty cases continue to be reported annually. While a number of policies and initiatives are in place to address these offences, implementation continues to pose a challenge.

Participants welcomed the fact that this discussion took into account civilian personnel as well as uniformed peacekeepers; especially as available data suggests that a higher proportion of civilian staff may be implicated in SEA cases. Furthermore, participants noted that SEA is not only a conduct and discipline issue, but rather implicates broader questions of working environments, respect for local populations, and gender equality.

Discussions at the round table pointed out the wide spectrum of acts included in the definition of SEA and called for a focus on the most vulnerable in prevention and response efforts. Examining the question of vulnerability, participants raised concerns about the accessibility of complaints mechanisms to children that are both child and gender sensitive, as well as the omission of questions of disability and sexual orientation from the discussion.