



---

### **Tackling Sexual Abuse!**

#### **The Peacekeeping Dilemma**



*Ankit Malhotra\**

### **The Problem**

The United Nations (UN) peacekeeping forces have had a long-standing presence in many countries. However, simultaneously, allegations of rape and sexual abuse have also surfaced against them. These officials are usually involved in non-security work like running refugee camps, supporting the distribution of food and humanitarian resources in a particularly unregulated environment. Evidence suggest, hundreds of women and minors are sexually abused by these so-called 'peacekeepers' in exchange of basic need items like food, cash and medicine. Victims of such misdemeanours can be traced in the Democratic Republic of the Congo, Haiti, Sierra Leone, East Timor, Bosnia and Herzegovina, Guinea and the Central African Republic. In all these regions, the UN staff and peacekeeping soldiers have faced frequent accusations of sexual exploitation and abuse (SEA) on a mass scale.

Despite this grim scenario, there is hardly any robust and uniform mechanism that can hold the offenders accountable. The protective shield of immunity further makes it worse.

### **The Great Wall of Immunity**

When the peacekeeping forces are dispatched to zones of conflict or disaster, its staff is protected by legal immunity akin (if not the same) to that of diplomats. The immunity is granted to safeguard the functionality of the peacekeepers as UN representatives and to protect them from pressures or threats of prosecution by local actors. To achieve this, the operative law is laid down in the [Convention on the Privileges and Immunities of the United Nations, 1946](#). Section 11 (a) of the Convention grants immunity to the UN

---

\*Ankit Malhotra is reading Law at Jindal Global University and is President of the Jindal Society of International Law. [✉ 19jgls-ankit.m@jgu.edu.in](mailto:19jgls-ankit.m@jgu.edu.in)

peacekeepers from 'personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind'. Section 18 further stipulates that the personnel shall, *inter alia*:

- (a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
- (e) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned;
- (f) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;
- (g) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

In a 2018 [report](#) published by PBS, over 2000 women and children were traced as alleged victims of SEAs committed by UN peacekeepers. But only a fraction- 53 uniformed peacekeepers and 1 civilian have faced imprisonment since the allegations have surfaced. One would agree that these figures reflect a dire need for a mechanism that can ensure judicious redressal of SEA-related claims against the UN forces.

### **Point of Origin**

One possible attribution of these crimes can be made to the recruitment of sub-trained military personnel for peacekeeping purposes. The developed world does not directly participate in the conflict; rather, it prefers distant financing of peacekeeping operations. As a result, the UN has to look for personnel in the third world, even from the nations where governments have dubious human rights records back home. A good example can be the [agreement between the UN and Burundi](#) regarding the deployment of forces for peacekeeping purposes in the Central African Republic.

Secondly, the onus of court-martialling peacekeeping troops is upon the countries from where they are sourced, which seldom show any proactive interest or capability in addressing crimes committed by their officials outside the home turf. The UN too, finds it difficult to get access to such military personnel for investigation purposes. As a result, crimes committed by these 'peacekeepers' rarely lead to their logical end.

Thirdly, in cases where officials do not belong to military background, even the possibilities of court-martial (or any investigation) are ruled out. This is a matter of grave concern as the issue of sexual abuse is more rampant amongst the civilian personnel as compared to their counterparts. They also make an overwhelming majority of the personnel who are assigned the task of peacekeeping. In 2020, 165 SEA allegations were reported and 117 of them were committed by civilians alone.

## Whistle Blowers' Fate

[Kathryn Bolkovac](#), a former monitor with United Nations International Police Task Force in Bosnia and Herzegovina exposed a trafficking ring in which UN personnel were trafficking young women from Eastern Europe as sex slaves. When it was brought to the notice of DynCorp Aerospace (the UN contractor she was working for), Kathryn lost her job. A similar incident happened with [Caroline Hunt](#), a former UN investigator who raised concerns over a rape allegation of a Sri Lankan refugee against a UNHCR worker.

These are the signs of insecurity on the part of the UN or its affiliates. Instead of going to the core of the problem, the peacekeeping or relief management system of the UN would rather choose to defend its reputation on the pretext that the larger purpose of the peacekeeping mission should not get frustrated. However, after scathing global criticism, the UN chose to create a committee on the specific issue of peacekeepers' induced SEA.

## Search for Accountability

Prince Zeid's comprehensive [report](#) on the question of SEA during peacekeeping operations was a watershed moment of justice and recognition for the victims. The report was a result of the efforts made by the then Secretary-General Mr. Kofi Annan who was extremely anguished by the shocking reports of SEAs committed by the peacekeepers in the Democratic Republic of Congo. In his letter to the UN General Assembly President he had acknowledged:

As the allegations in the Democratic Republic of the Congo surfaced, it became clear that the measures currently in place to address sexual exploitation and abuse in peacekeeping operations were manifestly inadequate and that a fundamental change in approach was needed.

The report makes several recommendations including- propagation of UN standards of conduct, reforming the investigative process, strengthening organizational, managerial and command responsibility, and instituting individual disciplinary, financial and criminal accountability.

Releasing and accepting the Zeid Report was a significant step for the UN. Accordingly, a Conduct and Discipline Unit came into [existence](#) with a mandate of developing training, investigative and victim assistance procedures through a three-pronged strategy - prevention, enforcement and remedial action.

A [policy brief](#) submitted by Jenna Stern chronicles a general downward trend in SEA allegations since the implementation of Zeid Report's recommendations, albeit, the number of total personnel serving in peacekeeping operations has steadily increased. The

avenues for community reporting have been seemingly strengthened. If these findings are to be believed on their face value, it can be argued that UN reforms and initiatives may be having an impact.

## **Conclusion**

The UN is arguably the top body to administer international affairs today. It is expected that as a vital force for good in the world, it will take all necessary steps to mitigate SEA incidents happening because of the criminal lapses in duties by the peacekeeping officials. Prince Zeid's report was an honest confession and a welcome step to start the process, but fifteen years down the line, a lot is still required to address continued ad-hocism in the SEA-related justice delivery mechanism.

-----*end of the post*-----