

WPS, CRSV AND SEXUAL EXPLOITATION AND ABUSE IN PEACE OPERATIONS: MAKING SENSE OF THE MISSING LINKS

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In 2013, a UN investigation declared sexual exploitation and abuse (SEA) ‘the most significant risk to UN peacekeeping missions, above and beyond other key risks including protection of civilians.’¹ Former Secretary-General Ban Ki-moon himself argued that ‘a single substantiated case of [SEA] involving UN personnel is one case too many’,² and his successor, António Guterres has made reforming the UN’s SEA policies a cornerstone of his tenure. Yet, despite over 15 years of policy development designed to prevent SEA and hold perpetrators accountable, both civilian and military personnel associated with peacekeeping operations (PKOs) continue to perpetrate such acts.

Responses to allegations of SEA by peacekeepers and other interveners, such as aid workers or private contractors associated with missions, generally frame the issue as one of principles: that when peacekeepers abuse the local populations they have been deployed to protect, they undermine the basic UN principles that underpin their deployment, such as the protection of human rights, and the pursuit of peace and security. A 2015 Independent Review of SEA perpetrated by peacekeepers in the Central African Republic (CAR) asserted that ‘when peacekeepers exploit the vulnerability of the people they have been sent to protect, it is a fundamental betrayal of trust. When the international community fails to care for the victims or to hold the perpetrators to account, that betrayal is compounded.’³ Yet, while responses have centred on calling for peacekeepers and aid workers to better uphold the principles of the UN

system, policies have been based on an individualised understanding of SEA which has led to a focus on codes of conduct, pre-deployment training and mechanisms to hold perpetrators accountable within PKOs, which have been ineffective in decreasing the incidence of SEA. Indeed, it is exactly this conduct and discipline approach – or ‘train and punish’ model – that has isolated SEA policies from other relevant frameworks that have developed over the same time period, namely the Women, Peace and Security (WPS) frameworks, and related policy approaches to understanding and responding to conflict-related sexual violence (CRSV). This paper explores how the divorcing of SEA policy from WPS and CRSV, which represent explicitly feminist and human rights-based approaches, has undermined implementation in all three policy arenas, with a view to understanding how situating SEA policy within these

broader thematic frameworks might assist in strengthening the prevention and response of sexual exploitation and abuse by interveners in peace operations.

TOWARDS THE ZERO-TOLERANCE POLICY

According to the Secretary-General’s 2003 Bulletin which established the zero-tolerance policy on SEA, sexual exploitation is ‘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’, while *sexual abuse* is ‘the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.’⁴

- 1 Thelma Awori, Catherine Lutz and Paban Thapa, *Final Report: Expert Mission to Evaluate Risks to SEA Prevention Efforts in MINUSTAH, UNMIL, MONUSCO, and UNMISS* (2013), p. 1. This report was never officially released by the UN, but is available at <http://static1.squarespace.com/static/514a0127e4b04d7440e8045d/t/55afcf1e4b07b89d11d35ae/1437585313823/2013+Expert+Team+Report+FINAL.pdf>
- 2 Report of the Secretary-General on Special Measures for Protection from Sexual Exploitation and Sexual Abuse, A/69/779, 13 February 2015, 1.
- 3 Marie Deschamps, Hassan Jallow and Yasmin Sooka, *Taking Action on SEA by Peacekeepers: Report of an Independent Review on SEA by International Peacekeeping Forces in the CAR* (NY:UN, 2015), i.
- 4 Secretary-General's Bulletin: Special Measures for Protection from Sexual Exploitation and Sexual Abuse ST/SGB/2003/13, 9 October 2003, 1.
- 5 Sandra Whitworth, *Men, Militarism, and UN Peacekeeping: A Gendered Analysis* (Boulder: Lynne Rienner, 2004), 68.
- 6 *Ibid.*, 67–68.
- 7 Judy L. Ledgerwood, "UN Peacekeeping Missions: The Lessons from Cambodia", *Asia Pacific Issues No. 11* (Honolulu: East-West Center, 1994).
- 8 Olivera Simic, *Regulation of Sexual Conduct in UN Peacekeeping Operations* (New York: Springer, 2012), 41.
- 9 Jasmine-Kim Westendorf and Louise Searle, "Sexual Exploitation and Abuse in Peace Operations: Trends, Policy Responses and Future Directions", *International Affairs* 93 (2) (2017): 365–87.
- 10 *Ibid.*, 375–76. For further exploration of the causes of SEA, see: Marsha Henry, "Sexual Exploitation and Abuse in UN Peacekeeping Missions: Problematising Current Responses", in *Gender, Agency, and Coercion*, ed Sumi Madhok, Anne Phillips, and Kalpana Wilson (Houndmills: Palgrave Macmillan, 2013), 127; Sherene Razack, "From The 'clean Snows of Petawawa': The Violence of Canadian Peacekeepers in Somalia", *Cultural Anthropology* 15 (1) (2000): 127–63; Cynthia Enloe, *Maneuvers: The International Politics of Militarizing Women's Lives* (Berkeley: University of California Press, 2000), 101; Sherene Razack, *Dark Threats and White Knights* (Toronto: University of Toronto Press, 2004); Paul Higate, "Peacekeepers, Masculinities, and Sexual Exploitation", *Men and Masculinities* 10 (1) (2007): 99–119.
- 11 UNHCR and Save the Children UK, *Sexual Violence & Exploitation: The Experience of Refugee Children in Guinea, Liberia and Sierra Leone* (London: UNHCR, 2002).
- 12 Report of the Secretary-General on the activities of the OIOS: Investigation into Sexual Exploitation of Refugees by Aid Workers in West Africa, A/57/465, 11 October 2002: 9–11.
- 13 *Ibid.*, 1.

Awareness of peacekeepers perpetrating SEA first emerged during the UN Transitional Authority in Cambodia in 1993, when the number of prostitutes in Cambodia grew from 6000 to more than 25,000 within a year of the peacekeepers' arrival.⁵ The widespread use of prostitutes by peacekeepers involved violence and the sexual abuse of girls, leading Cambodian sex workers to complain to the UN that 'UNTAC customers could be more cruel' than Cambodians.⁶ The UN response to the phenomenon was threefold: Chief of Mission Yasushi Akashi dismissed the significance of SEA, declaring that 'boys will be boys';⁷ mission leadership advised peacekeepers not to wear uniforms when visiting brothels nor park UN vehicles directly outside; and an additional 800,000 condoms were shipped to the country to prevent the spread of HIV.⁸ Since then, peacekeepers have been implicated in prostitution, sex trafficking, the production of pornography, rape, gang rape, sadistic sexual violence, transactional sex and other forms of SEA with both adults and children in virtually every peacekeeping operation. As Louise Searle and I have shown in previous work, it is important to recognise the variation in the nature and causes of these different manifestations of SEA, as a basis for effective policy: raping children with dogs, as French Sangaris soldiers allegedly did in the Central African Republic, is a world away from consensual transactional sex between adults even in the context of unequal power dynamics, and is different again to direct or indirect involvement in sex trafficking and forced prostitution.⁹ These different behaviours are facilitated or encouraged by a complex mix of factors including: gendered power dynamics, gender constructs and gendered norms of sexual behaviours; the unregulated and insecure contexts into which peacekeepers are deployed; military cultures, including militarised masculinities, and historical military practices such as military prostitution; peacekeeping economies characterised by deprivation, poverty and material inequality between

interveners and locals; the existence of criminal networks; opportunism; and the shadows of colonial violence.¹⁰ These local, international, normative and systemic factors crystallise in different constellations in different peace operations, giving rise to distinct forms of SEA, and understanding the localised intersections and interactions of the factors is essential to establishing robust and effective SEA policy.

In 2001, independent consultants hired by UNHCR and Save the Children UK raised the alarm that UN and NGO staff were abusing and exploiting women and children in refugee camps in Guinea, Liberia and Sierra Leone.¹¹ A subsequent UN Office of Internal Oversight Services (OIOS) investigation in 2002 verified that SEA was prevalent, documenting amongst other cases: a sexual relationship between a UN civilian staff member and a 17 year-old refugee in exchange for school fees; the violent rape of girls by NGO staff; the rape of boys by UN military peacekeepers in Sierra Leone; the exchange of sex for food provided by NGO staff; and the refusal of international staff to take responsibility for children fathered with local women.¹² The report led Secretary-General Kofi Annan to declare that:

'[SEA] by humanitarian staff cannot be tolerated. It violates everything the UN stands for. Men, women and children displaced by conflict or other disasters are among the most vulnerable people on earth. They look to the UN and its humanitarian partners for shelter and protection. Anyone employed by or affiliated with the UN who breaks that sacred trust must be held accountable and, when the circumstances so warrant, prosecuted.'¹³

This sparked the first real developments of SEA policy. The General Assembly (UNGA) adopted a resolution expressing grave concern at incidents of SEA, and directed the Secretary-General to establish preventive and accountability measures in all PKOs and humanitarian operations, establish reporting

and investigative procedures, and collect data on SEA. All UN bodies and NGOs were encouraged to do the same.¹⁴

The Secretary-General consequently issued the 2003 'zero-tolerance bulletin' for all UN staff, which outlined duties of mission leadership to ensure accountability, including through referring cases to national authorities for criminal prosecution. It also mandated that all non-UN entities or individuals working in cooperation with the UN accept and implement those standards.¹⁵ The zero-tolerance policy has been a cornerstone of SEA policy, albeit hotly contested on the basis of its treatment of consent between adults (all transactional sex is prohibited, regardless of whether it involves consenting adults) and its implications for understanding the agency of local women involved (all relationships between peacekeepers and locals are *strongly discouraged* because of the unequal power dynamics, even if they do not involve SEA).¹⁶

Despite the zero-tolerance policy, military, civilian and police peacekeepers in UN peace operations have continued to perpetrate SEA. The 2017 annual Secretary-General's report *Special Measures for Protection from Sexual Exploitation and Abuse* included the most comprehensive breakdown of allegations and status of investigations to date.¹⁷ It reported that in 2016, a total of 103 allegations were recorded involving personnel in peacekeeping and special political missions – an increase from 69 in 2015. Sexual abuse accounted for 57 per cent of the allegations – with nearly two-thirds involving children. (All allegations involving children are recorded as sexual abuse rather than exploitation, regardless of the specific acts involved.) Sexual exploitation accounted for the remaining 43 per cent of allegations. Of the allegations, 73 related to military personnel, 23 related to civilian personnel, and seven involved police personnel.

It is important to note that personnel in the three groups – civilian, military and police – are called peacekeepers when deployed as part of a peacekeeping operation; a common assumption is that the term applies only to military personnel. There is also a widely held assumption that military peacekeepers are most responsible for SEA: in fact, while military peacekeepers are responsible for the highest overall number of allegations, civilian peacekeepers have the highest rates of SEA allegations per capita, followed by military and then police peacekeepers.¹⁸ Furthermore, SEA is not limited to peacekeepers: the Secretary-General's reports also account for SEA by civilian staff of UN funds, programs and agencies, and there is documented, albeit ad hoc, evidence of SEA perpetrated by NGO staff.¹⁹ This reinforces the need to recognise and address the range of factors that go beyond military cultures and militarised masculinities in preventing and addressing SEA by interveners.

It is unlikely that UN statistics reflect the true scale of SEA in peace operations: Grady's research has shown that UN data is unreliable due to poor data-management,

14 United Nations General Assembly, Investigation into Sexual Exploitation of Refugees by Aid Workers in West Africa, A/RES/57/306, 22 May 2003: 1–2.

15 Secretary-General's Bulletin, ST/SGB/2003/13.

16 See eg, Dianne Otto, "Making Sense of Zero Tolerance Policies in Peacekeeping Sexual Economies", in *Sexuality and the Law*, ed Vanessa Munro and Carl Stychin (Abingdon: Routledge-Cavendish, 2007): 259–282; Simic, *Regulation of Sexual Conduct in UN Peacekeeping Operations*.

17 Report of the Secretary-General on Special Measures for Protection from Sexual Exploitation and Abuse: A New Approach, A/71/818, 28 February 2017.

18 United Nations Conduct and Discipline Unit, "Status of Allegations, Investigations and Actions (Sexual Exploitation and Abuse)," *UN Peacekeeping Online*, accessed June 23, 2016, <https://cdu.unlb.org/Statistics/DetailedOverviewofAllegationsfrom2015onward/StatusofAllegationsInvestigationsandActionsSexualExploitationandAbuse.aspx>

19 See eg, Sarah Martin, *Must Boys Be Boys? Ending Sexual Exploitation and Abuse in UN Peacekeeping Missions* (Washington DC: Refugees International, 2005).



potential false allegations and a likely under-reporting of SEA,²⁰ the latter of which has also been flagged by UN investigators themselves.²¹ Other studies have suggested that SEA rates are significantly higher than official statistics. For instance, a recent study in Liberia found that an estimated 58,000 women aged 18-30 engaged in transactional sex in the first nine years of the UN Mission in Liberia – more than 75 per cent with UN personnel, and more than half reported their first encounter happened before they were 18 years old.²²

POLICY DEVELOPMENT AFTER THE ZERO-TOLERANCE BULLETIN

Since the 2003 Bulletin, SEA policy has been developed consistently, although largely in response to scandals rather than proactively as the timeline on pages 14-15 illustrates. A year after the Bulletin was released, The Independent documented the abuse and exploitation of young girls in IDP camps by UN peacekeepers in Bunia, DRC, which jolted the UN into a new wave of investigations and policy development.²³ These shifted focus from preventive measures such as education to policy enforcement. At the request of the Special Committee on PKOs (C34), the Secretary-General commissioned a comprehensive report and strategy on peacekeeper SEA by Jordanian Prince Zeid Ra'ad Al-Hussein. Introducing the Zeid Report to the General Assembly in 2005, the Secretary-General declared existing SEA measures to be 'manifestly inadequate,' and called for a fundamental shift in approach.²⁴ The Zeid Report found that the problem of SEA in peace operations revolved around four issues: rules on standards of conduct; the investigative process; organisational, managerial and command responsibility; and individual disciplinary, financial and criminal accountability.²⁵ Its recommendations emphasised the need for agency systems and processes to strengthen accountability, and were endorsed by the C34 and General Assembly.

However, while the higher levels of the UN were concerned with enhancing enforcement and accountability mechanisms, the field-level staff were still struggling with basic questions of how to implement the zero-tolerance policy. For example, a review of the SEA response of the UN Mission in the Democratic Republic of Congo (MONUC) demonstrated that, when the office was established in 2005 in response to the Zeid Report, there were no procedures for conducting investigations, the UN's responsibility to victims was unclear, and there was no guidance on how to address paternity claims.²⁶ In documenting lessons learnt, the former Director of MONUC's Office for Addressing SEA highlighted need for specific training for field managers and commanders in how to create and maintain environments that prevent SEA and mitigates their tendency to 'down-play the issue, or even cover up', and called for mission-specific training that addresses the impact and context of SEA.²⁷

This call for a policy approach that focuses not only on rules, but on understanding the environments in which SEA is perpetrated and its impacts, has gone largely unheeded. Although new operational directives such as curfews, non-fraternisation policies, requirements to wear uniforms outside compounds, and off-limits locations have resulted in a decrease in reported incidents, scholars and UN staff alike have suggested that SEA has simply been pushed underground.²⁸ Further, the focus on procedures for investigations conflicts with the reality that SEA, like other forms of sexual and gender-based violence, is significantly under-reported and difficult to 'prove' to UN investigative standards.²⁹ There are various reasons for this, including that many victims fear retribution if they give evidence against soldiers – particularly in contexts where CRSV has been prevalent and perpetrated by soldiers. Additionally, witness evidence can be difficult to secure because of people movements in emergency settings, and the quality and admissibility of witness statements collected during initial

- 20 Kate Grady, "Sex, Statistics, Peacekeepers and Power: UN Data on Sexual Exploitation and Abuse and the Quest for Legal Reform", *The Modern Law Review* 79 (6) (2016), 942.
- 21 Nicola Dahrendorf, Sexual Exploitation and Abuse: Lessons Learned Study, Addressing Sexual Exploitation and Abuse in MONUC (New York: UNDPKO, 2006): 13–14; Deschamps et al., *Taking Action on Sexual Exploitation and Abuse by Peacekeepers*, 16.
- 22 Bernd Beber et al, "Peacekeeping, International Norms, and Transactional Sex in Monrovia, Liberia", *International Organization* 71 (1) (2016): 1-30.
- 23 Kate Holt and Sarah Hughes, "Sex and Death in the Heart of Africa", *The Independent*, 25 May 2004, www.independent.co.uk/news/world/africa/sex-and-death-in-the-heart-of-africa-564563.html
- 24 Letter of the Secretary-General to the General Assembly on the Comprehensive Review of the Whole Question of Peacekeeping Operations in All Their Aspects, A/59/710, 24 March 2005.
- 25 Zeid Ra'ad Al-Hussein, A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations, A/59/710, (NY: UN, 2005).
- 26 Dahrendorf, *Sexual Exploitation and Abuse*, 4.
- 27 Ibid, 11–14.
- 28 Ibid, 13–14; Grady, "Sex, Statistics, Peacekeepers and Power", 942; Deschamps et al, *Taking Action on Sexual Exploitation and Abuse by Peacekeepers*, 16.
- 29 Deschamps et al, *Taking Action on Sexual Exploitation and Abuse by Peacekeepers*, 16.

interviews varies greatly. There is also often confusion, even within the UN, over who is responsible for investigating. These factors are complicated by the departure, rotation or repatriation of alleged perpetrators before investigations are completed and the UN's lack of authority over troop contributing countries (TCCs) regarding investigative processes. And finally, the reticence of both UN and TCC military officials to hold perpetrators accountable for SEA underscores the dangers of focusing on procedural matters at the expense of the broader political factors that shape policy implementation.³⁰

In 2008, the UNGA adopted a Comprehensive Strategy on Assistance and Support to Victims of SEA by UN Staff and Related Personnel, which aims to ensure that complainants, survivors and children receive appropriate medical, legal, psychosocial and other assistance (barring compensation) in a timely and effective manner.³¹ This marked an important shift in policy toward a victim-centred response to SEA. It is important to note that although the foundations of a victim-centred approach already existed in the UNGA's 1985 Basic Principles of Justice for Victims of Crime and Abuse of Power,³² these were not applied by the UN or Member States to peacekeeper SEA until 2008, demonstrating how SEA policy has been pursued in isolation from other relevant policy frameworks.

Despite all of this policy development, in 2010, an independent global review of the extent of policy implementation post-Zeid found that very little had been achieved. It found that despite seven years of SEA policy implementation, understanding and acceptance of new policies by staff and managers remained low, leadership by senior managers was critically absent, policies and guidance had generally not been communicated to the field, and implementation was 'patchy, poor or non-existent.'³³ However, little substantive action was taken, even in the context of the high-profile launch of the UK government's Prevention of Sexual

Violence Initiative in 2012, which aims to address harmful attitudes towards victims and survivors of CRSV, deliver better access to support services and justice for survivors, and train military and police personnel to better prevent and respond to CRSV. All three of these priorities are relevant to the development of effective SEA policy, yet neither conceptual nor programmatic links were made between SEA policy and the work being done in relation to CRSV or WPS more broadly.

It is therefore somewhat unsurprising that SEA remained a significant problem in peace operations, culminating in the 2015 CAR scandal. After the CAR revelations, an independent panel was appointed to investigate SEA by international peacekeeping forces in CAR. The panel's report documented 'gross institutional failure' within the UN's response, including that survivors received inadequate care and protection, additional victims were identified but not followed up to take testimony, and the Head of Mission failed to take 'any action' to end abuse or report allegations appropriately.³⁴ The report acknowledged that the Sangaris forces were not bound by UN SEA frameworks as they were not under UN command even though they operated under a UN mandate. The Independent Report nonetheless called for a fundamental shift in how the UN, including TCCs, understand and frame SEA. The Panel argued that SEA can no longer be perceived as simply a personnel conduct and discipline issue, but should be understood as a violation of basic human rights and a form of CRSV that triggers the UN Security Council's mandated protection responsibilities, regardless of whether alleged perpetrators are under UN command. Reporting on SEA allegations against non-UN forces under a Security Council mandate has since been included in the annual Secretary-General's report on SEA.

- 30 Jenna Stern, "Reducing Sexual Exploitation and Abuse in UN Peacekeeping: Ten Years after the Zeid Report", *Civilians in Conflict Policy Brief No. 1* (Washington DC: Stimson Centre, 2015): 13–17; Holt and Hughes, "Sex and Death in the Heart of Africa"; Deschamps et al, *Taking Action on Sexual Exploitation and Abuse by Peacekeepers*: i, iv, 77–78; Roisin Burke, "Attribution of Responsibility: Sexual Abuse and Exploitation, and Effective Control of Blue Helmets", *Journal of International Peacekeeping* 16 (1) (2012): 1–46; Kathryn Bolkovac and Cari Lynn, *The Whistleblower* (NY: Macmillan, 2011).
- 31 UN General Assembly, *UN Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by UN Staff and Related Personnel*, A/RES/62/214, 7 March 2008, 2.
- 32 UN General Assembly, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power A/RES/40/34*, 29 November 1985.
- 33 IASC, *Global Review of Protection from SEA by UN, NGO, IOM and IFRC Personnel* (NY: UNOCHA, 2010).
- 34 Deschamps et al, *Taking Action on SEA by Peacekeepers*, i.

The CAR scandal also led to a shift in the UN leadership's action and language around SEA. First, the Secretary-General Ban Ki-moon demanded the resignation of General Babacar Gaye, the Head of Mission, who ignored the reports of SEA occurring on his watch. Then, the Secretary-General declared in his statement to the Security Council that the Secretariat could not alone address the 'global scourge' of SEA by troops in peace operations, and placed responsibility for ensuring justice for victims 'squarely' on TCCs. He went on to say that neither Member States nor the UN were doing enough to report misconduct and punish perpetrators.³⁵

This strong call for states to take greater responsibility for preventing and ensuring accountability for SEA by their troops within peacekeeping missions suggests that the UN Secretariat recognises that policies are not working, and that it needs to work harder to co-opt TCCs and other areas of work, such as human rights, into the framework, although links to WPS or CRSV remained notably absent. After the CAR scandal, the Secretary-General also bolstered the investigation powers of the OIOS to include detailed reporting on the countries of personnel involved for greater TCC accountability, the number of victims, and whether a paternity claim has been lodged. The premise for this change appears to be that 'naming and shaming' countries whose personnel perpetrate SEA will prompt states to take prevention and accountability measures more seriously. The Secretary-General appointed Jane Holl Lute as the first Special Coordinator on Improving UN Response to SEA, in order to streamline SEA policy.

In response to these developments, the UN Security Council adopted Resolution 2272 in March 2016, endorsing the Secretary-General's decision to repatriate military or police units of a contingent where 'credible evidence of widespread or systematic' SEA by that unit exists. The Council requested that the Secretary-General replace all units of a troop-contributing or police-contributing

country in a particular PKO where that country fails to appropriately investigate allegations against their personnel, hold perpetrators accountable, or inform the Secretary-General of progress. Enhanced measures to strengthen prevention include a Secretariat-wide communications and information strategy, a new e-learning programme for all field mission personnel and a request that TCCs certify that personnel have not engaged in prior misconduct while deployed as a peacekeeper (but not in other professional contexts).³⁶ There are also new reporting requirements for TCCs regarding the progress and outcomes of SEA investigations; these details will be included in the Secretary-General's annual reports on SEA, and will influence the Secretary-General's decisions regarding accepting TCC contributions to current or future peacekeeping operations. At the Security Council, Resolution 2272 was met with resistance from Egypt and Russia, who argued the policy amounted to 'collective punishment',³⁷ but Russia eventually voted in favour of the resolution while Egypt abstained. A key objection was the unfair burden of responsibility Resolution 2272 places on less developed states – which contribute the bulk of military personnel to peacekeeping operations – for responding to a complex issue that even developed state armies continued to struggle with, as evidenced by the CAR scandal. However the broader resistance by some TCCs to the Resolution also highlights the problem with assuming that SEA is antithetical to the goals of TCCs in peace operations, when in fact TCCs contribute troops for a range of reasons that may not align with the promotion of core UN principles. Moreover, some armies perpetrate CRSV in their regular operations as a 'practice of war', which Elisabeth Jean Wood has shown is 'not ordered (even implicitly) or institutionalised, but is tolerated for a variety of reasons'.³⁸ It is unsurprising then that the same soldiers, deployed as peacekeepers, might perpetrate the same violence and that officials might opt out of ensuring accountability. Furthermore, there are

35 Secretary-General's Remarks to Security Council Consultations on the Situation in the Central African Republic, 13 August 2015, www.un.org/sg/statements/index.asp?nid=8903

36 Report of the Secretary-General on Special Measures for Protection from Sexual Exploitation and Sexual Abuse, A/71/818.

37 Louis Charbonneau, "UN Adopts Resolution on Combating Sex Crimes by Peacekeepers", Reuters, 12 March 2016, <http://in.reuters.com/article/un-peacekeepers-sexcrimes/idINKCN0VWD2IM>

38 Elisabeth Jean Wood, "Conflict-related sexual violence and the policy implications of recent research", *International Review of the Red Cross* 96 (894) (2014), 473.

serious concerns about the feasibility of the Resolution's implementation, particularly given its ambiguous language and the operational implications of repatriating large national contingents in the context of the chronic under-supply of peacekeepers to UN Missions.³⁹

Earlier this year, newly appointed Secretary-General António Guterres made reforming SEA policy a priority of his tenure, appointing a High-Level Task Force, led by the existing Special Coordinator on SEA, to develop a strategy that delivers 'visible and measurable improvements' in the UN's prevention and response to SEA.⁴⁰ The most significant innovations of the new policy were the recognition of the system-wide nature of the problem of SEA that requires response from a multi-stakeholder network, the victim-centred approach, and fostering greater transparency of reporting and investigations to end impunity for perpetrators.⁴¹ In a major departure from previous policy, and explicitly connecting SEA to WPS for the first time, the Report argued that increasing the number of women in UN activities, including as armed peacekeepers, would help advance efforts to prevent and respond to SEA, and identified gender inequality and discrimination as the root of SEA. Further, the Secretary-General committed to developing a special protocol on preventing SEA which would include strict rules regarding non-fraternisation, certification of mandatory pre-deployment training, restrictions on the consumption of alcohol and a written acknowledgement from every individual deployed stating that they understand UN values and principles, and 'knows, understands, and commits to following the rules and regulations regarding [SEA].'⁴² So, will this new direction succeed in responding to SEA where past policies have failed? And why have past policies failed so consistently?

WHY HAVE SEA POLICIES BEEN INEFFECTIVE?

Two themes emerge from this account of the development of SEA policies that help explain why policy development has not effectively prevented SEA in peace operations, and provide a basis for thinking about whether recent developments might herald better outcomes, and what steps might lead to more robust policies in future.

First, these policies – including the adoption of Resolution 2272 – reflect an individualised understanding of SEA, and target individual compliance primarily through standards of conduct, recruitment standards and training, and threats of punishment. As a result, they fail to address the complex mix of contextual, normative and systemic factors that operate in distinct ways on the ground to produce SEA. In other words, SEA is understood primarily as an issue of rules not being adequately conveyed, understood and obeyed, rather than a diverse set of behaviours that involve varying levels of agency and consent and reflect local conditions and vulnerabilities, as well as gendered expectations of sexual behaviours, opportunism, violence, and the cultures interveners bring with them on

39 For an in-depth review of the feasibility of Resolution 2272's implementation, see Jeni Whalan, "Dealing with Disgrace: Implementing Resolution 2272 on the Challenges of Sexual Exploitation and Abuse in UN Peacekeeping" Providing for Peacekeeping No. 15, (NY: IPI, 2017).

40 Secretary-General's Note to Correspondents: The Secretary-General's Report on Special Measures for Protection from Sexual Exploitation and Abuse: A New Approach, 9 March 2017, www.un.org/sg/en/content/sg/note-correspondents/2017-03-09/note-correspondents-secretary-general%E2%80%99s-report-special

41 Report of the Secretary-General on Special Measures for Protection from Sexual Exploitation and Abuse, A/71/818.

42 Ibid.





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deployments. Further, the compliance-based approach assumes that robust accountability mechanisms deter rules breaches – a logic for which there is little evidence in relation to conflict-related sexual violence more broadly,⁴³ and which, moreover, is undermined by low rates of criminal charges or material punishments for perpetrators of SEA.

Perhaps most crucially, the train and punish approach obscures the challenge that mid- to high-ranking officials – in the UN, TCCs and other organisations – pose when they either refuse to deal with allegations or are simply too occupied with ‘hard security’ issues to take ‘gender issues’ seriously and adequately resource and support accountability processes. The way that SEA allegations in CAR have been dealt with over the last three years illustrates this challenge. In 2014-15, the internal UN report documenting the violent sexual abuse of children by French Sangaris soldiers, as well as by UN peacekeepers from Chad and Equatorial Guinea was suppressed and ignored by multiple UN offices and agencies, including senior officials, for almost a year before being leaked to Aids Free World, at which point the UN was forced by international outcry to take action.⁴⁴ Indeed, Prince Zeid, who authored the 2005 Zeid Report setting out the comprehensive strategy on SEA, and was by 2015 the UN’s High Commissioner for Human Rights, was himself implicated in the UN’s inadequate response to the CAR allegations, and in the harsh treatment of the whistleblower, Anders Kompass, by the official UN

independent review of the case.⁴⁵ Despite French President François Hollande’s vows to ‘show no mercy’ to the soldiers involved in the rapes,⁴⁶ earlier this year French judges decided not to bring charges against anyone, with a spokesperson citing challenges in basing a case solely on the accounts of children involved, without independent evidence.⁴⁷ This raises the question of whether the outcome would have been different had the UN taken steps to properly investigate the allegations when first reported.

In February 2016, after Secretary-General Ban Ki-moon committed to ‘doing more’ to protect civilians from peacekeeper SEA, the UN announced that 120 peacekeepers from the Republic of Congo would be immediately repatriated due to the gravity of the SEA allegations against them.⁴⁸ However, the troops in question were not repatriated for more than a month after the investigation had occurred, because senior UN officials were concerned about the risks of instability related to the mid-February presidential election, and did not want the unit to be repatriated until after the election. According to one UN official, there were allegations of at least nine more cases of SEA perpetrated by the contingent slated for repatriation, seven of which involved children, in the intervening period between their repatriation being announced and occurring.⁴⁹ This privileging of ‘hard security’ concerns over ‘soft security’ issues such as SEA throws into question the extent to which military and other UN officials are willing to genuinely implement more heavy-handed SEA policies such as those laid out in Resolution 2272, which was formally adopted after the initial CAR repatriation announcement just discussed. Secretary-General António Guterres committed himself to making protection from SEA one of his key priorities in his first week in office in 2017, declaring that ‘such acts of cruelty should never take place. Certainly, no person serving within the United Nations in any capacity should be associated with such vile and vicious crimes.’⁵⁰

- 43 Paul Kirby, “Ending Sexual Violence in Conflict: The Preventing Sexual Violence Initiative and Its Critics”, *International Affairs* 91 (3) (2015), 464.
- 44 For the full set of leaked documents, see www.codebluecampaign.com/undocuments
- 45 Deschamps et al, Taking Action on SEA by Peacekeepers, viii.
- 46 Angélique Chrisafis and Sandra Laville, “Hollande: No Mercy over Claims French Soldiers Abused Children in CAR”, *The Guardian*, 30 April 2015, www.theguardian.com/world/2015/apr/30/hollande-no-mercy-over-allegations-of-child-abuse-in-car-by-french-soldiers
- 47 Benoît Morenne, “No Charges in Sexual Abuse Case Involving French Peacekeepers”, *NY Times*, 6 January 2017, www.nytimes.com/2017/01/06/world/africa/french-peacekeepers-un-sexual-abuse-case-central-african-republic.html?nytmobile=0
- 48 “New Allegations of Sexual Abuse Emerge against UN Peacekeepers in Central African Republic”, *UN News Service*, 4 February 2016, www.un.org/apps/news/story.asp?NewsID=53163
- 49 UNWomen Official, Personal interview, New York, November 2, 2016.
- 50 Secretary-General’s Note to Correspondents.

Yet, despite the Secretary-General's strong commitment and attempts to build political will at all levels of the Secretariat and among Member States, new revelations about SEA in CAR in June 2017 suggest that some officials continue to block effective policy. The Code Blue Campaign at Aids Free World published leaked confidential UN documents from mid-May that included a detailed report of sexual and other misconduct by the Congolese battalion in the UN Multidimensional Integrated Stabilization Mission in the CAR (MINUSCA), and an official facsimile from the Force Commander noting that despite the repatriation of the former battalion commander and troops in 2016, the battalion has not improved and remains 'notorious for SEA misconducts, fuel trafficking and poor discipline' and requested that they be repatriated if Congo could not immediately improve the unit's standard.⁵¹ The letter was sent to Lt. Gen. Loitey, Military Advisor for PKOs in the Office for Military Affairs at the Department for Peacekeeping Operations, who sits on the Secretary-General's new High-Level Task Force overseeing the UN's reformed approach to SEA policy, and yet no action was taken by the Secretariat until 20 June, two weeks after the leaked documents were published. These three examples demonstrate that, despite policy development, one of the most significant challenges to effective SEA policy is the willingness of officials to enforce it; a challenge papered over by the individualised, train and punish model of SEA that has been developed to date. They also further illustrate the UN tendency to respond to SEA when prompted by public outcry and media revelations, rather than proactively.

The second, related theme emerging from my analysis of SEA policy development is that the individualised approach to understanding SEA has isolated policy from other relevant thematic agendas and operational frameworks, most notably WPS, but also CRSV and Protection of Civilians (POC), by focusing policy on conduct and discipline rather than broader issues of gender, protection and human rights. It is notable that Resolution 2272 was not listed as a WPS resolution, even though it has clear

synergies with that part of the Council's body of work, and includes a mandate for WPS mechanisms to include SEA allegations in reporting to the Secretary-General.⁵² In fact, SEA remains listed on the UN Peacekeeping website as a conduct and discipline issue only, despite the multiple calls from both within and outside the UN for it to be understood more broadly. Indeed, SEA is siloed from POC and WPS references in mission mandates, and was not included in the annual Secretary-General's reports on conflict-related sexual violence and children and armed conflict until after the CAR scandal.

It is important to note however, that although it took some time for those working in the WPS policy space to recognise SEA as within the purview of WPS, that has changed significantly in recent years. For example, the 2015 Global Study on 1325 gave significant attention to SEA, arguing strongly that greater women's presence in peace operations was crucial to reducing incidences of SEA;⁵³ this argument has since been reiterated by Secretary-General Guterres. Despite these moves from the WPS side, it appears that most SEA policy development continues to be pursued in ways isolated from the larger WPS body of work.

IMPLICATIONS OF ISOLATING SEA FROM WPS

So what are the impacts of this delinking of SEA policy from the WPS framework more broadly? First, by dealing with SEA as an individualised conduct and discipline issue only, policies and their implementers are constrained in addressing the structural gender inequalities that shape the choices made by perpetrators (and sometimes, their victims). The challenges of the UN's policy regarding transactional sex are illustrative of this lack of sensitivity to gender experiences and constructs. The zero-tolerance bulletin explicitly prohibits any 'exchange of money, employment, goods, or services for sex'. However, peace operations are normally deployed into contexts where the intersection of conflict-related sexual

51 These leaked documents are also available at www.codebluecampaign.com/undocuments/

52 S/RES/2272, 13.

53 Radhika Coomaraswamy et al., *Preventing Conflict, Transforming Justice, Securing the Peace: A Global Study on the Implementation of United Nations Security Council Resolution 1325* (NY: UNWomen, 2015).

violence and associated stigma, gender inequality, and material deprivation, creates the conditions for 'survival' sex economies to emerge and flourish. A key characteristic of transactional sex is that it 'involves a level of agency and negotiation' even though it is negotiated in the context of often-extreme deprivation, desperation, and insecurity.⁵⁴ Without incorporating a gender analysis into training materials, guidelines and approaches to SEA, it is difficult to make sense of the way this agency operates, and its implications for regulating sexual interactions between interveners and locals. So, for instance, despite receiving mandatory training on the UN code of conduct that prohibits transactional sex, some peacekeepers have argued to Paul Higate that their sexual 'transactions' were acceptable because women 'enthusiastically' competed to attract their attention, or because the 'donated' food, resources or money made the women involved more secure.⁵⁵ That some parents encourage their child's participation in transactional sex as a way of securing their family's economic survival may bolster this impression.⁵⁶ This illuminates the disconnect between the list of rules that peacekeepers are expected to follow, which is conveyed in mandatory pre-deployment training, and their understanding of why those rules are important. Situating SEA policy within a gendered analysis of power, vulnerability and agency – such as that embodied in the WPS framework – would not only give interveners the language and concepts necessary to understand the multiple dimensions of transactional sex and better navigate their interactions with locals, but would help eschew the 'women as victims' mentality that the policy currently reinforces.

integrity of the work of the United Nations and are strongly discouraged.⁵⁷ Putting aside the unenforceability of this provision,⁵⁸ this suggests that no adults in conflict-affected communities have the capacity to consent in the context of unequal power dynamics, which is infantilising and disempowering. Given that the policy is primarily understood to relate to relationships with local women (although relationships with local men fall under the same rule, the power dynamics between international women and local men tend to be understood as having less problematic power differentials⁵⁹) it stands in direct tension with the values that underpin the WPS framework. These hold that women can exert agency even in the context of the particular vulnerabilities they face in conflict and post-conflict contexts, and have valuable contributions to make to local and national processes of decision-making and peace-making. It is hardly surprising that there have been so few gains in convincing peacekeepers and policy-makers to ensure the full and active participation of women in peace processes if the same people receive training that reinforces the idea that adult women in conflict contexts are so vulnerable they cannot make choices for themselves about relationships they enter into. Ultimately, the current conduct and discipline approach to SEA fails to equip peacekeepers with the concepts and language required to navigate the complexities of relationships with locals, including distinguishing between exploitative and non-exploitative relationships.

This raises two issues for policy-makers, the first of which is how to improve training approaches in order to provide peacekeepers with the conceptual foundations to understand why certain forms of interactions with locals are problematic and may be exploitative even if consent appears to be present, and how to co-opt supervisors and managers into supporting robust discussions about these interactions and decisions while on deployment. Second, it raises the question of whether current definitions of prohibited and discouraged behaviours, as contained in the zero-tolerance bulletin,

Another implication of the isolation of SEA policy from WPS is the tension created between protection and participation in the implementation of SEA policy. One of the most controversial provisions in the zero-tolerance bulletin asserts that 'sexual relationships between United Nations staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics, undermine the credibility and

54 Otto, "Making Sense of Zero Tolerance Policies": 260–61.

55 Higate, "Peacekeepers, Masculinities, and Sexual Exploitation": 100–107.

56 Save the Children UK, *From Camp to Community: Liberia Study on Exploitation of Children* (London: Save the Children UK, 2006), 13.

57 ST/SGB/2003/13, para. 3(d).

58 For a more detailed discussion of this, see Jasmine-Kim Westendorf, "Sexual Exploitation and Abuse in Peace Operations: Viewing from the Perspective of WPS", in *Oxford Handbook on Women, Peace and Security*, ed Jacqui True and Sara Davies (Oxford: Oxford University Press, 2018).

59 This was borne out in many of the interviews conducted during this project in East Timor, Bosnia-Herzegovina, Geneva and New York.

strike an appropriate balance between setting up protective mechanisms that limit what peacekeepers are permitted to do, and undermining the agency of local individuals in establishing adult, consensual relationships with peacekeepers. The zero-tolerance bulletin is, in essence, an administrative policy, developed in 2003 in response to major SEA scandals, which has attained quasi-legal standing: it is being used as a basis for legal accountability processes, despite not having the internal coherence and clarity that would normally be expected of legal regulations. Revising it in order to improve clarity of the rules, and resolve contradictions with other frameworks, particularly WPS, may set the foundations for more effective policy implementation in future.

A third implication of the disconnect between SEA and WPS policy is that SEA policy has also been disconnected from the body of policy and operational work on CRSV that stemmed from two WPS Security Council Resolutions. In 2008, Resolution 1820 explicitly linked CRSV and WPS, and in 2009, Resolution 1888 mandated that peacekeepers protect women and children from CRSV and established the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict. These resolutions firmly established CRSV as a crime that is preventable and punishable under international human rights law, and have led to work to strengthen criminal accountability for CRSV, responsiveness to survivors, and judicial capacity. Key obstacles regarding accountability for SEA include the difficulty of collecting evidence in relation to allegations that satisfy legal standards, and generating political will to hold perpetrators criminally accountable under national legal frameworks. The operational and policy work being done under the CRSV umbrella is already addressing these challenges, but the connection has not yet been made to SEA accountability mechanisms. Indeed, the first recommendation of the Independent Review of the CAR SEA scandal was that:

'The most significant step the UN can take to improve its responses to allegations of sexual exploitation and abuse by peacekeepers is to acknowledge that such abuses are a form of conflict related sexual violence that must be addressed under the UN's human rights policies. To acknowledge and operationalize the UN's obligations to protect victims, report, investigate, and follow up on allegations, and ensure that perpetrators are held accountable, the SEA and human rights policy frameworks must be harmonized under a unified policy framework.'⁶⁰

It is clear from this analysis that linking SEA policy with WPS, and thereby also CRSV, on both conceptual and operational levels would be a significant step in reorienting it away from the individualised, conduct and discipline framing of 'the problem', which is a key reason policies have been ineffective to date. This would help on two fronts: prevention and response policies would benefit from being situated within the WPS frame of gender, power and protection issues, while accountability mechanisms would be strengthened by closer integration with CRSV frameworks. In other words, links to CRSV would strengthen the grounding of SEA in human rights and accountability frameworks, while links to WPS would provide the crucial grounding in feminist analysis, which is required for individuals to navigate the inevitably complex interpretation and implementation of SEA policies in practice.

If SEA policies and training drew on the language of gender and power, and the conceptual framework around women's roles and vulnerabilities in conflict and peace processes – which are the foundation of the WPS agenda and currently absent from SEA policy discourse – peacekeepers would be equipped with an understanding of why the SEA rules are important rather than simply what the rules are. Furthermore, couching SEA policy within the broader WPS framework and language would give peacekeepers and those involved in SEA accountability processes a conceptual framework for how to navigate the sometimes complicated negotiation

60 Deschamps et al, *Taking Action on SEA by Peacekeepers*, x.

of relationships with local individuals and communities, particularly sexual relationships that are consensual, but sometimes involve transactions, and where consent does not rest on equal, non-hierarchical power relations. Importantly, this conceptual framework would help prevent the infantilisation and disempowerment of women by foregrounding their agency, while providing peacekeepers with an understanding of the gendered, racialised and economic context in which it may be exercised. Equipping peacekeepers with a language of power dynamics – which can encompass gender, race and economics – and a lens through which to make sense of their own role and position in peacekeeping contexts, is crucial to preventing and ensuring accountability for SEA. It would provide all personnel involved – including military, policy and civilian peacekeepers, the UN Secretariat, TCCs and UN Funds and Agencies – with a better grounding from which to understand why certain behaviours are unacceptable in the context of peacekeeping operations, identify SEA and hold perpetrators accountable for violations of the zero-tolerance policy. The current approach provides a list of prohibited and discouraged behaviours, which belies the reality that navigating the permissibility or exploitative nature of sexual interactions that take place in the complex and unequal contexts into which peace operations are deployed is, in practice, less clear-cut than the current SEA policy approach suggests.

While prevention and response policies would benefit greatly from being couched within the language and concepts of WPS, accountability processes and mechanisms would be significantly improved through a closer integration with CRSV frameworks, which would assist in addressing the practical, political and legal challenges to holding perpetrators accountable. Recognising those types of SEA that are criminal – for instance sexual abuse, sexual exploitation of children and trafficking⁶¹ – as forms of CRSV, which require a robust, human rights-based criminal legal response and demands the foregrounding of victim needs, would be an important step in strengthening current

accountability mechanisms. Work already being done within the Office of the Special Coordinator for SEA to streamline and standardise reporting, data collection and referral processes is an important step in this direction, and would be bolstered by explicit connections with similar work being done in relation to CRSV. Further, if integrated into the Special Representative on Sexual Violence's work, SEA would benefit from the political mobilisation the Representative undertakes to ensure states hold their citizens accountable for crimes of sexual violence in conflict contexts.

CONCLUSIONS

The individualisation of SEA and resultant focus on conduct and disciplinary responses reflects a broader trend related to gender issues, namely that technocratic 'fixes' have been prioritised over efforts that address the underlying causes of gendered inequality and violence.⁶² By focusing on the technocratic responses to peacekeeper SEA – namely training on rules and regulations, administrative procedures for investigation of allegations and their associated bureaucratic structures – the international community appears to be taking concrete steps to address SEA, while inadvertently reinforcing the image of local women and children as victims lacking agency, and torpedoing more nuanced understandings of and responses to SEA in conflict and post-conflict contexts. Sam Cook has shown how this works in relation to WPS more broadly, with the foregrounding of the 'woman-in-conflict' at the expense of the broader concerns of the WPS agenda.⁶³ This is not to suggest that the narrowing of focus is a deliberate strategy to avoid dealing with the hardest aspects of intervener SEA, but rather that it is the consequence of bureaucratic and political pressures within the international system to focus on measurable, technocratic solutions.⁶⁴

That the narrowing of focus to technocratic responses has led to the isolation of SEA policy from WPS and CRSV agendas and frameworks is of particular concern as it robs

61 For a discussion that breaks down the different forms of SEA, see Westendorf and Searle, "Sexual Exploitation and Abuse in Peace Operations".

62 Mona Lena Krook and Jacqui True, "Rethinking the Life Cycles of International Norms: The United Nations and the Global Promotion of Gender Equality", *European Journal of International Relations* 18 (1) (2012): 115–17.

63 Sam Cook, "The 'Woman-in-Conflict' at the UN Security Council: A Subject of Practice", *International Affairs* 92 (2) (2016): 353–372.

64 For a more detailed discussion of these pressures, see Westendorf and Searle, "Sexual Exploitation and Abuse in Peace Operations": 383–85.

! Sexual exploitation and abuse undermines discipline, and damages the reputation of the United Nations.

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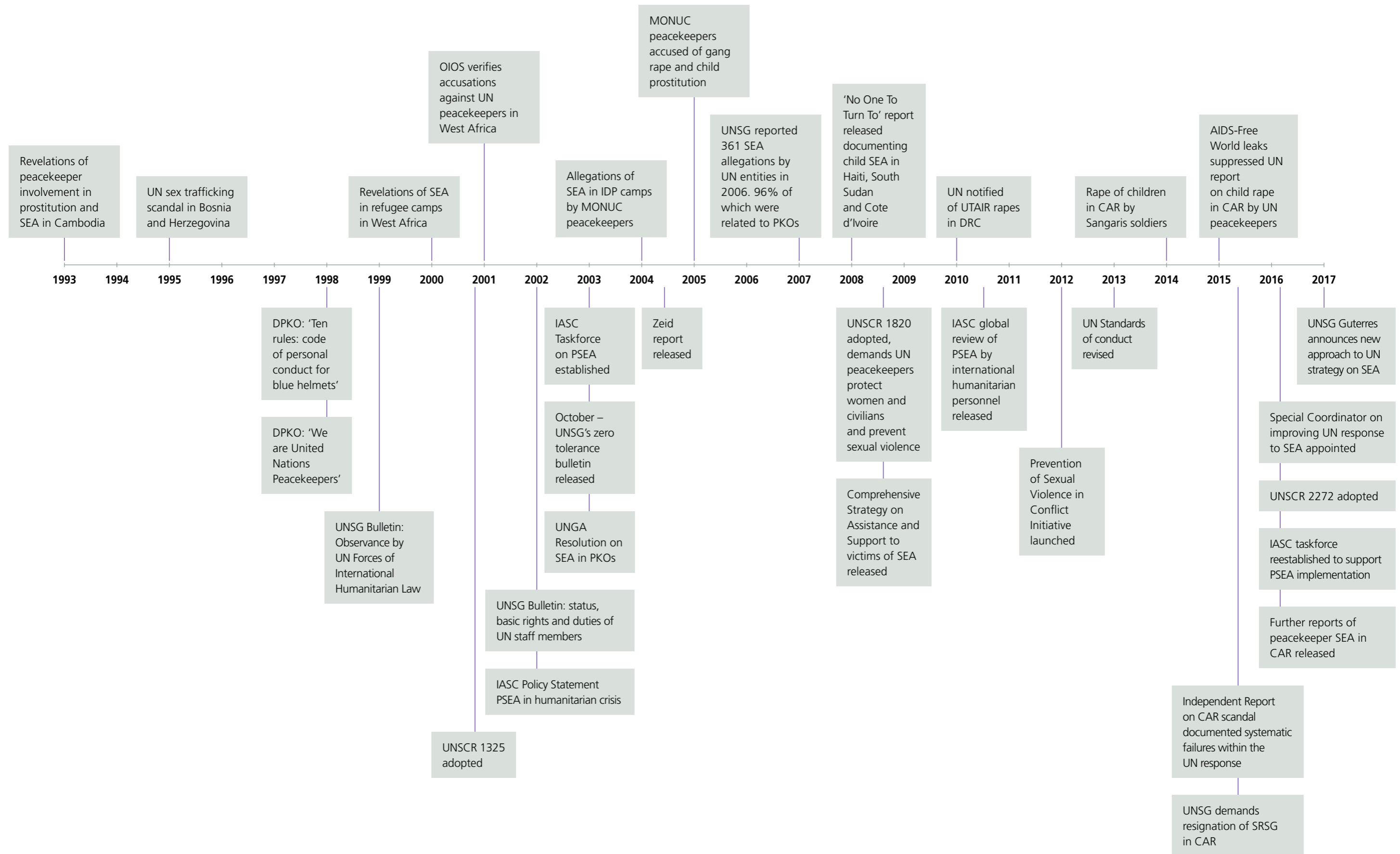
SEA policy of what would be a profitable grounding in feminist analysis and policy, and a more explicitly intersectional and human rights-based approach to understanding the causes and consequences of SEA, and developing robust prevention and accountability processes. Moreover, the gap in political will to ensure accountability for SEA runs in parallel to the lack of political will to realise the goals set out in the WPS framework around women's participation and protection more broadly, including in relation to CRSV, and aligning these three areas of policy work would ensure that gains made in one area benefit all three.

Recent policy developments, including Resolution 2272 and Secretary-General Guterres' 'new approach' to SEA are promising, in that they establish consequences for TCCs not pursuing robust accountability processes for personnel accused of SEA, put victims at the centre of UN responses, and demonstrate a renewed commitment from the UN's leadership to preventing and ensuring accountability for SEA in future peace operations. However, these policies risk repeating the same mistakes of past SEA policies by reinforcing the individualised, conduct and discipline approach, and thereby failing to recognise and address the complex mix of permissive and motivating factors that give rise to SEA, and addressing the political, bureaucratic and logistical reasons for the current accountability deficit. The Secretary-General's new approach does, however, lay the groundwork for changing

this, in its acknowledgement that unequal gender relations lie at the heart of SEA, and by connecting the response to the increased participation of women in UN activities, including as armed peacekeepers, which may pave the way for changing the perceptions of women's roles and agency in post-conflict contexts. Nevertheless, it is notable that the 'visible and measurable' improvements that the report suggests the UN will develop focus primarily on training, conduct protocols and reporting mechanisms, which may be undermined in similar ways previous policies have been.

Building stronger connections between WPS and SEA at operational and institutional levels would go some way to rectifying the failings of SEA policies to date, by situating them within a broader analysis of and concern for the intersecting set of gendered and other dynamics that lead to women's disenfranchisement and the particular vulnerabilities they face in conflict and post-conflict environments. Linking SEA with CRSV frameworks is crucial to embedding a victim-centred, human rights-based approach into accountability processes. Furthermore, harmonising these various arenas of policy and operational work would help limit the inevitable competition for resources that affects gender-related work, and would help maximise the political will available to ensure both participation and protection of women and children in conflict and post-conflict environments.

TIMELINE OF MAJOR SEA INCIDENTS AND POLICY RESPONSES



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