



SECURITY COUNCIL REPORT UPDATE REPORT



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Sexual Exploitation and Abuse by UN Peacekeeping Personnel

Expected Council Action

On 23 February the Council will hold an open meeting on the issue of sexual exploitation and abuse by peacekeeping personnel. No formal outcome is expected. It will be the second ever Council meeting on this matter. It has been proposed by the President of the Council and is meant to serve as a stock taking exercise but it comes up in the context of an increasingly bitter confrontation between the Security Council and the General Assembly over the appropriate role of the Council in the management of peacekeeping operations. The scheduling by the President of an open meeting on procurement in peacekeeping in the same week has prompted accusations from members of the Non-Aligned Movement and the G77 (a block of 132 developing nations and China) of encroachment on the purview of the General Assembly by the Council. The issue of sexual misconduct being on the Council's agenda has been raised in this context as an additional example of such encroachment.

Key Facts

Reports of sexual exploitation and abuse by UN personnel of vulnerable people—often the very people that these UN workers were supposed to protect—have been surfacing for years. Particularly persistent and serious allegations of abuse by humanitarian workers of refugees in West Africa led the Office of the UN High Commissioner for Refugees (UNHCR) to commission a consultants' report in 2001 on the matter. The report was presented to UNHCR in January 2002 and soon after was leaked to the press, resulting in wide coverage by international media. UNHCR subsequently requested the Office of Internal Oversight Services (OIOS) to conduct a thorough investigation. The resulting report made public in October 2002, stressed difficulties involved in conducting the investigation given both the nature of the alleged abuse as well as the environment in which it occurred, yet it confirmed the existence of the problem of sexual exploitation of refugees and identified specific cases of misconduct by at least one UNHCR volunteer and one UN peacekeeper, as well as several NGO workers.

Reacting to this disturbing information, when the Security Council renewed the peacekeeping mandate in Sierra Leone, it included a reference to the need for the prevention of sexual abuse and exploitation in resolution 1436 (2002).

A year later, the Secretary-General issued a policy Bulletin on special measures for protection from sexual exploitation and abuse. It contained definitions of such acts, classified them as serious misconduct for all UN staff, including UN agencies, and stressed that these rules should also apply to entities and individuals working in cooperative arrangements with the UN.

Despite the stated policy banning any form of sexual contact by UN personnel with local population whether consensual or coerced and regardless of the age of persons involved, cases of sexual abuse continued. In early 2004, media reports indicated serious abuses perpetrated by personnel of the UN Mission in the Democratic Republic of the Congo (MONUC). The allegations included rapes, having sex with children, as well as wide spread coercion of vulnerable women and children into sex in exchange for food or money. Similar allegations surfaced also with regard to the peacekeeping operation in Burundi, and subsequently in other missions, including Haiti and Liberia.

When it renewed MONCUC's mandate in October, the Council in resolution 1565 expressed its grave concern about the allegations of sexual exploitation and misconduct and requested an investigation by the Secretary-General. It also urged training about and implementation of a code of conduct regarding sexual misconduct. The Secretary-General submitted his report in February 2004. He also appointed Prince Zeid Ra'ad Zeid Al-Hussein, the Permanent Representative of Jordan and a former UN peacekeeper, as his adviser in addressing sexual exploitation and abuse committed by peacekeeping personnel. Prince Zeid conducted an in depth investigation of the overall problem affecting peacekeeping operations and prepared a report that was published in March 2005. The report was the first comprehensive analysis of sexual exploitation and abuse by UN peacekeeping personnel and presented an alarming picture of a wide spread and largely tolerated phenomenon. The report put forward a series of concrete recommendations dealing with definitions, rules, training, accountability as well as disciplinary and criminal measures.

Following the publication of Prince Zeid's report, in resolutions renewing or establishing peacekeeping mandates, the Council has included references to zero tolerance policy regarding sexual exploitation and abuse and has requested the Secretary-General to take measures necessary to ensure protection from these acts and to report on these matters to the Council in his periodic reports on the respective operations.

Starting in mid-2004, the Council has also made sexual exploitation one of the issues covered during its missions to peacekeeping operations around the world.

In May 2005, the Council held its first ever open briefing on this matter and received information from Prince Zeid and the Under Secretary-General for Peacekeeping Operations, Jean-Marie Guéhenno. It issued a presidential statement (S/PRST/2005/21) in which it condemned, in the strongest terms, all acts of sexual abuse and exploitation committed by peacekeepers and stressed the need to ensure proper investigation and accountability.

Consistent with the recommendations of the comprehensive report, full time conduct and discipline officers have begun to be deployed as part of peacekeeping missions, and as of this writing have been placed within operations in Burundi, Côte d'Ivoire, Democratic Republic of the Congo, Haiti, Liberia, Sierra Leone, Sudan and Timor-Leste. In November, a ten-person Conduct and Disciplinary Team has been set up at the Department of Peacekeeping Operation at the UN Headquarters.

Key Issues

Since no decision is proposed, the key issues for the Council members are likely to be not so much the substance of the problem as how to manage their relationship with countries outside the Council who are strongly opposed to the Council's taking up issues of the management of peacekeeping at this time. This may play out in difficulties over the adoption of the agenda for the open meeting, in particular, how to style the agenda item so that the General Assembly is not disempowered by virtue of the operation of article 12 (1) of the Charter. A further major issue will be whether there should be a debate at all or whether the meeting should simply include reports from the Secretariat (and

perhaps Prince Zeid). And a related issue will be if there is to be a debate, whether members of the General Assembly should participate under rule 37.

Council Dynamics

There has been a general consensus within the Council about the need for serious preventive measures to thwart misconduct and for accountability where it has occurred.

The United States and Denmark have taken the lead in getting the Council to devote specific meetings to the issue. While the meeting on 23 February will be the first Council debate specifically on this issue (during the May meeting members did not speak and only received a briefing), in the course of the past year, several Council members—in particular Argentina, Denmark, Japan, Tanzania and the United Kingdom—have been outspoken about this problem in their interventions during open debates on children in armed conflict and women, peace and security.

While there is a common approach on the substance, significant differences on the wisdom of raising the issue in this way and over the procedural handling of it seem likely.

Options

- Limiting the meeting to a briefing by Secretariat officials and perhaps by Prince Zeid.
- A briefing followed by statements by Council members.
- A debate involving member states currently not on the Council, under rule 37 of the Council provisional rules of procedure.
- A presidential statement is a possibility mentioned by some members, though as of this writing no draft has been circulated.

Underlying Problems

The change that has occurred in the approach to sexual exploitation in the context of UN peacekeeping over the last few years has been significant, though it took a serious crisis and extremely damning international publicity to trigger resolute action. Sexual contact by peacekeeping troops and UN civilian personnel with local populations existed for decades and were tolerated either implicitly or explicitly. Until the issuance of the 2003 Secretary-General's Bulletin, the UN lacked a clearly articulated policy on the matter. And even once it was issued; it took another many months and more adverse publicity, for the UN to begin to implement the new rules.

A major underlying problem was the limited control that the UN has over individual peacekeepers who are subject to their home country's military discipline.

A further problem was that many incidents involved personnel from other agencies, not just UN peacekeeping personnel.

In addition, in most situations UN personnel have enjoyed immunity from local jurisdictions and have been subject only to their home country's national laws. Laws differ from country to country and certain acts and practices may be perfectly legal in one place while they constitute a serious crime in another jurisdiction. Some troop contributing countries (TCC) were slow to take appropriate measures, both preventive, consisting of training of troops prior to deployment, and punitive, when personnel are repatriated because of misconduct. For many years, the UN has been reluctant to press for either, not wanting to diminish the pool of available peacekeepers.

The record of TCCs in addressing these matters has been very mixed. Troop contributors have also been slow in accepting the need for training and enforcement of the uniform UN designed rules due to cultural differences in the acceptance of certain types of behaviour.

Some of the criticisms of UN investigations have been unjustified. Investigations of allegations of sexual misconduct are always very difficult, under any circumstances, in any country, because of the nature of the problem which often results in the reluctance of victims and witnesses to provide testimony but also because it frequently rests on reports that cannot be independently corroborated. In the peacekeeping context these difficulties are additionally exacerbated by the environment in which these alleged acts have occurred, such as refugee camps or war torn areas with extremely vulnerable and often transitory populations and because the UN lacks any sort of criminal jurisdiction to compel testimony under oath.

There is also a growing political concern amongst General Assembly members that the focus on sexual abuse has been allowed to overshadow other equally grievous offences by troops deployed by the UN or in associated coalitions.

Historical Background

November 2005 Conduct and Discipline Team was established at UN Headquarters as part of DPKO.

August 2005 Conduct and Discipline units began to be deployed within peacekeeping missions.

31 May 2005 The Council held an open briefing and issued a presidential statement (S/PRST/2005/21) on sexual exploitation and abuse in peacekeeping.

February-March 2005 Under Secretary-General Louise Fréchette visited several UN peacekeeping missions in Africa as well as in Kosovo to emphasise the UN's policy of zero tolerance for sexual abuse by peacekeepers.

March 2005 Prince Zeid's comprehensive report was published.

February 2005 The Secretary-General's report on MONUC was published.

1 October 2004 The Council in resolution 1565 requested the Secretary-General to investigate the allegations concerning MONUC and take appropriate measures.

July 2004 The Secretary-General asked Prince Zeid Ra'ad Zeid Al-Husseini, the Permanent Representative of Jordan, to serve as his adviser in addressing sexual exploitation and abuse committed by all categories of personnel in peacekeeping contexts.

June – September 2004 Investigation by OIOS of 74 cases of allegations concerning MONUC.

Early 2004 The media reported numerous cases of sexual misconduct within MONUC.

9 October 2003 The Secretary-General's Bulletin was issued.

22 May 2003 The General Assembly in resolution 57/306, having considered the OIOS report, condemned the phenomenon and requested that the Secretary-General ensure that remedial and preventive measures be implemented by all peacekeeping operations. It also asked him to issue a bulletin on sexual exploitation and abuse and to maintain data on all investigations and actions taken regarding the matter.

30 January 2003 Council resolution 1460 on children in armed conflict noted with concern reports of sexual exploitation of children by humanitarian workers and peacekeepers and requested that contributing countries develop pertinent codes of conduct for peacekeeping personnel as well as appropriate disciplinary measures and accountability mechanisms.

October 2002 The OIOS report on West Africa was published.

28 March 2002 Renewing the mandate of the peacekeeping operation in Sierra Leone, in resolution 1400 the Council expressed serious concern about the allegations of sexual abuse and requested the Secretary-General to make recommendations on how to prevent such crimes in the future. It also called on member states to bring to justice those responsible.

February – July 2002 An investigation by the OIOS into the allegations contained in the consultants' report was conducted.

February 2002 The consultants' report was leaked and the issue was widely covered by international media.

January 2002 The consultants' report, painting a very disturbing picture of wide spread abuse, was presented to UNHCR.

2001 UNHCR and the NGO Save the Children commissioned two consultants to investigate allegations of sexual abuse and exploitation of refugees in Guinea, Liberia and Sierra Leone.

UN Documents

Selected Security Council Resolutions

- S/RES/1590 (24 March 2005) was the first resolution to affirm zero tolerance of sexual exploitation in all UN peacekeeping missions.
- S/RES/1565 (1 October 2004) renewed the MONUC mandate and requested the Secretary-General investigate allegations of sexual exploitation by UN peacekeeping personnel and to take preventive measures.
- S/RES/1460 (30 January 2003) on children in armed conflict noted with concern the exploitation of children by peacekeepers.
- S/RES/1436 (24 September 2002) included a reference to the need for the prevention of sexual abuse and exploitation as part of the mandate renewal for peacekeeping in Sierra Leone.
- S/RES/1400 (28 March 2002) renewed the mandate in Sierra Leone, expressing concern about allegations of sexual abuse.

Selected Secretary-General's Reports/ Letters

- S/2005/72 (9 February 2005) was a report to the Council on steps taken by the Secretary-General to address allegations of sexual exploitation within MONUC.

Selected Presidential Statements

- S/PRST/2005/21 (31 May 2005) condemned, in the strongest terms, all acts of sexual abuse and exploitation committed by peacekeepers and welcomed the comprehensive report prepared by Prince Zeid.

Security Council Debates and Briefings

- S/PV.5294 and resumption 1 (27 October 2005) was an open debate on women, peace and security during which several delegations spoke about sexual exploitation and abuse in peacekeeping.
- S/PV.5191 (31 May 2005) Prince Zeid and Under Secretary-General Jean-Marie Guéhenno's briefed members of the Council in an open meeting.
- S/PV.5129 and resumption 1 (23 February 2005) was an open debate on children and armed conflict during which several delegations raised concerns about sexual exploitation and abuse by UN personnel.

Secretary-General's Bulletin

- ST/SGB/2003/13 (9 October 2003) was the Secretary-General's Bulletin containing definitions of sexual exploitation and abuse, classifying such acts as serious misconduct for all UN staff, including UN agencies, and stressing that these rules should also apply to entities and individuals working in cooperative arrangements with the UN.

Other Relevant Documents

- S/2006/85 (10 February 2006) a letter on behalf of the Non-Aligned Movement to the President of the Security Council raised concerns about the Council's encroachment on the powers and functions of the General Assembly and ECOSOC.
- A/60/640 (29 December 2005) report of the Secretary-General, which contained an annex with information on progress made in the implementation of measures to combat sexual exploitation and abuse in peacekeeping.
- A/RES/59/300 (30 June 2005) a General Assembly resolution that welcomed the report of Prince Zeid.
- A/59/782 (15 April 2005) a report of the Secretary-General that contained data on reports of sexual exploitation and abuse and measures taken.
- A/59/710 (24 March 2005) was a comprehensive report by Prince Zeid.
- A/59/661 (5 January 2005) was a report of the investigation by the Office of Internal Oversight Services into allegations of sexual exploitation within MONUC.
- A/RES/57/306 (22 May 2003) a General Assembly resolution that *inter alia* requested the Secretary-General to issue a bulletin on sexual exploitation and abuse and to maintain data on all investigations and actions taken regarding the matter.
- A/57/465 (11 October 2002) contained the report of the OIOS on sexual exploitation of refugees in West Africa.

Useful Additional Sources

UN's DPKO website on Sexual Exploitation and Abuse and Peacekeeping

<http://www.un.org/Depts/dpko/dpko/ctte/SEA.htm>