

Distinguishing between exploitative and non-exploitative sex involving UN peacekeepers: the wrongs of “zero tolerance”

By Olivera Simić

■ Executive summary

The links between the presence of peacekeepers and the sexual exploitation and abuse of women have been documented across peace support operations (PSOs). This expert analysis critically analyses the United Nations secretary general's *Bulletin on Special Measures for Protection from Sexual Exploitation and Sexual Abuse*, which was promulgated in 2003 to address the problem of sexual exploitation and abuse in the context of PSOs. The expert analysis is concerned with the broad definition of sexual exploitation provided by the bulletin, which includes most sexual relationships and prostitution.

The expert analysis concludes that the bulletin's definition of sexual exploitation is overinclusive in its “strong discouragement” of sexual relationships and prohibition of prostitution regardless of consent, age and fair remuneration. It argues that, as currently formulated, the bulletin undermines women's agency and sexual autonomy, and blurs important distinctions between consensual sex and sexual offences. The bulletin thus relies on and perpetuates negative gender stereotypes and imperial hierarchies and, consequently, encourages stigma and discrimination. It casts women as victims and peacekeepers as sexual predators who cannot treat women as equals.

Introduction: sexual exploitation in peace support operations

With the end of the cold war, the early 1990s saw a dramatic increase in peace support operations (PSOs). This was accompanied by the first reports (as early as 1995) expressing concern about sexual activities between peacekeepers and local women and girls (Phal, 1995). Soon after, reports began to proliferate about the sharp rise in prostitution and trafficking in women that accompanied PSOs in Somalia and Bosnia and Herzegovina. These were followed by reports from later missions that alleged the involvement of peacekeepers in sexual exploitation and abuse in West Africa (Liberia, Sierra Leone and Guinea), the Democratic Republic of Congo, Eritrea, and East Timor.

Today, the links between the presence of peacekeepers and the sexual exploitation and abuse of women and girls have been documented across the range of PSOs. However, the scope of the problem of sexual exploitation is difficult to

determine due to the lack of both reporting and a clear distinction between sexual exploitation and abuse, on the one hand, and consensual forms of sexual interactions, on the other.

UN response to sexual exploitation in PSOs

As a direct consequence of the alleged increase in cases of sexual exploitation and abuse, the United Nations (UN) Department for Peacekeeping Operations (DPKO) has created strict rules for PSO personnel regarding non-fraternisation with local people. The UN and DPKO responses to sexual exploitation allegations developed in three phases that ranged from initial, ad hoc responses to increasingly co-ordinated responses that culminated in the promulgation of the secretary general's bulletin entitled *Special Measures for Protection from Sexual Exploitation and Abuse* in 2003 (the bulletin). The initial responses were developed by individual missions and were largely dismissive of the

allegations of sexual exploitation, indicating a lack of political will to investigate them. However, in phase 2 the DPKO started to address the allegations by developing guidelines and training manuals on the topic that recognised and respected the sexual agency of local women and peacekeepers. Rather than stereotyping local women as inherently vulnerable and peacekeepers as predators, in phase 2 the DPKO entrusted both local women and peacekeepers with the responsibility to distinguish between sexually exploitative and non-exploitative sex in PSOs. The adoption of the bulletin (phase 3) followed increased pressure for more decisive action from the international community and non-governmental organisations. This pressure became impossible to ignore with the publication of a report by the UN High Commissioner for Refugees and Save the Children in 2002 that found some peacekeepers to be involved in exchanging aid for sex with children. As a result the secretary general's bulletin promulgated in 2003 adopted a "zero-tolerance" approach to (almost all) sex.

Distinguishing between exploitative and non-exploitative sex

Peacekeepers accused of sexual exploitation have been involved in sexual practices ranging from consensual sexual relationships with local women to forced prostitution and sex work, exchanging sex for food, trafficking in women and the manufacture of pornographic films involving local women. While sexual interactions between the local population and peacekeepers are a feature of most – if not all – PSOs, the problematic, exploitative dimensions of these activities are not as pronounced or clear. As a result, many allegations have been made and much questionable evidence has been presented to support accusations of sexual exploitation. For example, the dramatic rise in the incidence of HIV/AIDS in Cambodia after peacekeepers were deployed there may be due to alleged sexual exploitation, but an alternative explanation may be that women who worked in the sex industry lacked information and the means of protection. Meanwhile, although the UN mission in Bosnia and Herzegovina became (in)famous for the involvement of peacekeepers in trafficking in women and girls, it is unknown how many women came into the country voluntarily to work in the sex industry. The UN mission in Eritrea became notorious for the involvement of a peacekeeper in making pornographic movies with a local woman, while Liberia and East Timor count as examples of where the phenomenon of so-called "peace babies"¹ became a central concern, yet there is no argument to support the hypothesis that all "peace babies" are necessarily the result of sexual exploitation. The majority of these cases were presented as sexually exploitative, although issues of consent and the age of the parties involved were ignored.

Problems with "zero tolerance"

This expert analysis demonstrates that the approach of the secretary general's bulletin to sexual exploitation is problematic for two key reasons. Firstly, it employs a broad definition of sexual exploitation that includes sexual relationships and prostitution. In this respect, the bulletin is driven by "sexual negativity" (Rubin, 1984) that treats all sexual activity as having negative consequences for PSO "beneficiaries". The bulletin treats almost all sex as coercive and completely ignores the environment that is concerned with agency and survival (Otto, 2007). Secondly, the bulletin treats "beneficiaries" as passive and helpless women who lack the agency to decide whether to be involved in sexual relationships or prostitution with peacekeepers. It also wrongly portrays all peacekeepers as sexual predators who prey on local women. The bulletin's provisions on sexual relationships and prostitution do not distinguish between exploitative and non-exploitative sex, and as such are inconsistent with international human rights law, since they deem both consent and age to be irrelevant to the question of whether sexual conduct is exploitative.

The bulletin unjustly treats all women as victims and all peacekeepers as sexual predators. Adult, voluntary, and adequately remunerated prostitution is not sexually exploitative and therefore should not be banned. Grouping sex with "humiliating or exploitative behaviour" implies that all sex is harmful, "particularly when a transactional exchange is involved" (Carmichael, 2006: 29). Consent and age should play an important role in distinguishing between sexual exploitation and (non-exploitative) prostitution. By dismissing the relevance of consent, remuneration and age, the bulletin blurs the division between voluntary prostitution and sexual exploitation, and consequently is inconsistent with international human rights law.

Looking ahead: implications for UN policymakers

Six major considerations for UN policymakers flow from the zero-tolerance policy.

Firstly, there is no doubt that there is general support for a policy that bans sexual exploitation in PSOs. Thus, protection from sexual exploitation is necessary in PSOs, including sex with minors, "survival sex", forced prostitution and trafficking in women for the purposes of forced prostitution. It is important to attend to the continuing problem of sexual exploitation, and the UN should develop both proactive and responsive strategies in this regard.

Secondly, the zero-tolerance policy as expressed in the bulletin is overinclusive and overprotective in terms of sexual relationships. There is no need to protect women from consensual sexual relationships with peacekeepers, and the decision should be left to the people involved in

1 "Peace babies" are babies born from sexual relationships between peacekeepers and local women.

such relationships. Local women “beneficiaries” are not a homogeneous group, as the bulletin assumes, and not all women are sexually “vulnerable” and in need of the protection that the bulletin seeks to provide. It may be unwise to make assumptions about local women who engage in sexual relationships with peacekeepers, because their relationships may be motivated by such ordinary desires as sexual attraction, love, friendship and a sense of adventure. The bulletin’s policy on sexual relationships also perpetuates a negative stereotype of (male) peacekeepers as people who cannot treat women with respect and who are not capable of engaging in consensual and mutually rewarding sexual relationships.

Thirdly, UN policymakers should recognise that prostitution is a fact of life in peacekeeping contexts and acknowledge that it is the conditions under which prostitution takes place that determine whether it is sexually exploitative. Voluntary and adequately remunerated adult prostitution is not sexually exploitative, but rather should be considered to be a viable and legitimate economic option for women in post-conflict societies. With this in mind, the UN should foster alternative economic options for local women, while recognising prostitution as a potentially important way for women to support themselves and their families. At the very least, as long as there is no “exit strategy” for women who work as prostitutes, prohibiting prostitution should not be an option. Further, prohibiting peacekeepers from paying money for sex denies prostitutes their right to work and earn a living. Imposing a blanket ban on prostitution may not necessarily contribute to its prevention or decline, because prohibition may push prostitution underground, hiding it from view and limiting the scope of policy responses to female prostitutes in particular.

Fourthly, the bulletin justifies its call for “strong discouragement” of sexual relationships and its ban on prostitution by claiming that these activities “violate universally recognized international legal norms and standards” (UN, 2003: sec. 3.1). Yet the bulletin breaches norms on sexual rights and freedoms, undermines women’s agency and sexual autonomy, and blurs the division between consensual sex and sexual offences.

Fifthly, the bulletin assumes that sexual relationships can undermine the “credibility and integrity” of the UN. However, the prohibition of sexual relationships may have very serious consequences for the UN, because it may encourage racism, discrimination and stigma. Rather than undermining UN credibility, sexual relationships between local women and peacekeepers may instead help to build trust across ethnic, national, linguistic and other identities: values that the UN stands for.

The UN, rather than focusing on sexual relationships and prostitution, should reconsider the breadth of legal immunities that peacekeepers enjoy while on mission and the lack of accountability for crimes committed in countries hosting a mission as having serious consequences for UN

credibility and integrity in the eyes of “beneficiaries”. The unequal power imagined in the bulletin is a reality because of the broad immunities enjoyed by peacekeeping personnel rather than because of unequal economic or gender power, as the bulletin seems to assume. The general inequality in power between peacekeepers and local women does not necessarily affect their sexual relationships.

Sixthly, the UN should shift its rhetoric from patronising and imperial language to the language of sexual agency and gender equality. The bulletin relies on and perpetuates negative gender and imperial stereotypes, and consequently encourages stigma and discrimination. It also reinforces and acts on negative stereotypes that exist about local women who are in sexual relationships. It is of concern that these stereotypes, which seem to be prevalent among local and international populations, are legitimised and entrenched virtually as rules in the bulletin. Rather than reinforcing gender stereotypes, the bulletin should promote gender equality and address the problem of sexual exploitation with a more targeted policy.

Conclusion

This expert analysis argues that the secretary general’s 2003 bulletin needs to be revised in consultation with local women and peacekeepers, and with international human rights law in mind. For example, if the current policy is to remain, at a minimum the UN should consult local women in the country hosting a mission, including sex workers and women in relationships with peacekeepers, on how the policy is applied. UN policymakers should shift from the design and implementation of a blueprint for the prevention of sexual exploitation and develop specific institutional interventions that would recognise local women and peacekeepers as having human rights. Future policies must take into account subjective considerations of age and consent in order to establish the difference between exploitative and non-exploitative sex. They also should be aware that prohibiting consensual sexual relationships between local women and peacekeepers may encourage racism and discrimination. Finally, UN policymakers should view local women as capable participants in their own lives and not ignore the perspectives of those on whose behalf it is claimed the peacekeepers are working.

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