PHRG
PEACE HUMAN
RIGHTS GOVERNANCE

Volume 4, Issue 2, July 2020

Sexual Exploitation and Abuse in Peacekeeping: Making Human Rights Obligations Universal

Sofia Sutera

Research Articles*

DOI:

10.14658/pupj-phrg-2020-2-1

How to cite:

Sutera, S. (2020) Sexual Exploitation and Abuse in Peacekeeping: Making Human Rights Obligations Universal, *Peace Human Rights Governance*, 4(2), 161-188.

Article first published online

July 2020

*All research articles published in PHRG undergo a rigorous double-blind review process by at least two independent, anonymous expert reviewers

PADOVA UP

PHRG 4(2), July 2020

Sexual Exploitation and Abuse in Peacekeeping: Making Human Rights Obligations Universal

*Sofia Sutera**

Abstract
Violence and exploitation against women are usually characterized by intersectional dimensions of discrimination. Considering that 2019 marks the 40th anniversary of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979, the aim of this paper is to look at the grave emergence of acts of sexual exploitation and abuse (SEA) in the context of peacekeeping operations, affecting in particular women and girls, through a human rights based approach, which emphasizes the agency of individuals as rights holders. Moreover, CEDAW General Recommendation No. 35, adopted in 2017, updating General Recommendation No. 19 from 1992 (the first to finally bring violence against women outside of the private sphere into the field of human rights), while recognizing that the prohibition of gender-based violence has become a norm of international customary law, also determines different levels of State liability for acts and omissions committed by its agents or subjects under its authority, within and outside its territory, and for failing to exercise due diligence in preventing violence. This research therefore looks at the justiciability of violence and exploitation against women and girls in the context of UN missions by examining the standards of conduct adopted by the UN and the legal frameworks for Troop Contributing Countries, in order to observe if they are compliant with international norms on extraterritorial responsibility.

Keywords: *Women's Human Rights, Women and Girls' Protection, Peacekeeping Operations, Sexual Exploitation and Abuse, UN System*

* Ph.D candidate, University of Padova Human Rights Centre, email: sofia.sutera@phd.unipd.it

1. Introduction: SEA and the UN

Since the 1990s allegations of UN peacekeepers sexually exploiting or abusing the local population started to emerge (Mudgway 2017, 1454; Oswald 2016, 144; Kanetake 2010, 200), yet, the UN only took a clear stance in 2003 by means of the UN Secretary General Kofi Annan's Bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13) which launched the UN zero tolerance policy, directed to all peacekeeping missions operating under UN command and control and to all UN staff. While this policy eventually manifests an explicit commitment of the UN against sexual exploitation and abuse (SEA), it has also been object of many criticisms, mainly linked to the shortcomings of portraying women only as victims in need of protection, without the dignity of being acknowledged as well as sexual agents (Otto 2007), and of detracting attention from the causes, such as the feminization of poverty and the lack of alternative options for women in post-conflict societies, which produce SEA themselves (Simić 2009, Kanetake 2010).

Feminist scholars such as Dianne Otto have, indeed, underlined, that the elimination of SEA 'will only be achieved by an approach that takes women's autonomy and equality seriously, and places as much importance on realizing economic and social rights for those who are the most disadvantaged, as on building the rule of law and democratic institutions' (Otto 2007, 38).

In 1993 the issue of SEA in the context of peacekeeping emerged during the UN Transitional Authority in Cambodia (UNTAC), while in 1995 in Bosnia and Herzegovina women and girls were forced to work as sex slaves in brothels frequented by UN personnel, many of them involved in sex trafficking. A scandal which was first addressed only in 1999 through policy responses by the UN Mission in Bosnia and Herzegovina and the Office of the High Commissioner for Human Rights (Westendorf and Searle 2017).

Thus, more than a decade passed, from the first reports of SEA in the early 1990s, before a clear response was adopted (Otto 2007, 34). Additionally, the Zeid Report (UN General Assembly 2005), issued by the then Personal Adviser to the UN Secretary-General, in 2005 denounced a culture of sexual exploitation in UN peacekeeping (Mudgway 2017, 1454) and still in 2016 the report completed by a special panel to investigate allegations of SEA in the Central African Republic by peacekeepers highlighted the UN 'institutional failure to respond immediately and effectively to incidents of sexual violence' (UN General Assembly 2016a, 5).

In June 2013, the UN Security Council, in charge of the maintenance of international peace and security, adopted a resolution on women, peace and security in which it requested the Secretary-General to intensify efforts to

implement the policy of zero tolerance on SEA by UN personnel. Furthermore, the resolution demanded that Member States ensure full accountability in prosecuting nationals involved in the commission of such acts (UN Security Council 2013, 15). Indeed, as the Security Council reiterates, SEA has 'a detrimental effect on the fulfilment of mission mandates' (UN Security Council 2005).

In 2016 the UN Security Council Resolution (UNSCR) 2272 was the first Security Council resolution to deal exclusively with SEA by peacekeepers, showing the commitment of the Security Council to the Secretary-General's policies on SEA (Oswald 2016, 153). The provisions of this resolution centred on military personnel and members of police units serving in peacekeeping missions, and the responsibility of troop- and police-contributing countries to investigate SEA and punish the involved personnel. Particularly, UNSCR 2272 requests the Secretary-General to repatriate a particular military or police unit when there is credible evidence of widespread or systemic SEA by that unit. Moreover, if the country is not committed to investigate the allegations, informing the Secretary-General of progress in investigations, the resolution demands the replacement of all units of the troop- or police-contributing country from which the perpetrator is[1].

Since 2004 the Secretary-General has been issuing a Report on "Special measures for protection from sexual exploitation and sexual abuse", in compliance with the request of the General Assembly in 2003 of maintaining data on investigations into sexual exploitation and related offences. Even so, in 2016 the General Assembly adopted Resolution A/RES/70/286 which demands 'that all peacekeeping operations implement fully the United Nations policy of zero tolerance of sexual exploitation and sexual abuse in United Nations peacekeeping operations' (UN General Assembly 2016b, para.70).

Considering that 2019 marks the 40th anniversary of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979 by the UN General Assembly, the aim of this paper is to look at the grave emergence of acts of SEA in the context of peacekeeping operations (PKOs), affecting in particular women and girls[2], through a human rights based approach, which emphasizes the agency of individuals as rights holders.

[1] Thus, countries such as Egypt and Russia accused the policy of 'collective punishment' (Westendorf and Searle 2017, 381).

[2] Indeed, in his 2017 Report, the Secretary-General underlined that: As shown by the data contained in the present report, nearly all victims of sexual exploitation and abuse by United Nations personnel are women and girls. Through its work worldwide, the United Nations must do more to promote gender balance and women's empowerment, in part, to counteract the conditions that can give rise to violence against women (UN General Assembly 2017, para.10).

Particularly, the focus of this research is on understanding the current justiciability of SEA: in fact the international and the domestic legal arena often lack appropriate channels of communication and this failure risks jeopardizing the human rights themselves of the victims because even if some redress is provided still there is no coordination between the action of the UN and those of the member states. As a matter of fact, PKOs are contexts characterized by the multi-level interaction of different and interconnected organizations, which is necessary to address in order to reach justiciability as the right for victims to access justice meaningfully, a condition which requires proper enforcement and accountability in combating wrongdoing.

Considering that contingent military peacekeepers constitute the overwhelming majority of UN peacekeepers (Jennings 2017), this analysis looks specifically at the provisions which deal with their involvement in acts of SEA.

Indeed, the research question which leads this analysis is to understand if Troop Contributing Countries (TCCs) to PKOs are compliant with international norms on extraterritorial responsibility, an investigation characterized by a strong exploratory nature and thus by the lack of predetermined hypothesis to direct the research itself. In spite of the preliminary conclusions which this paper can reach, according to its very nature, this research hopes to provide the basis for further research on the mentioned frameworks, especially as an incentive for their development by the many stakeholders, from the domestic representatives, to the UN system and the civil society, aiming to 'make zero tolerance a reality' (UN 2019b).

The main data utilized in order to try to formulate a first overview of the "state-of-the-art" of the legal frameworks of TCCs vis-à-vis SEA in PKOs is the reports submitted by the countries themselves to the UN and available online[3]. Moreover, a review of the relevant legal policies and the academic literature has been carried out in order to build the necessary standards against which to test the country legal frameworks. Indeed, in order to understand if these frameworks are in accordance with the international rules, a detailed review of the provisions which at the international level establish the legal boundaries of the environment where SEA happens, is paramount. Considering, though, that SEA do not happen in a vacuum, but must be understood 'within the gendered structures of power that help perpetuate conflict-related violence against women and girls' (Vojdik 2019, 2)[4], a critical feminist perspective helps

[3] At: https://peacekeeping.un.org/en/standards-of-conduct (accessed 08/04/2020)

[4] As recognized in 2017 also by UN Secretary-General António Guterres who stated: 'We must acknowledge that unequal gender relations lie at the heart of sexual exploitation and abuse' (UN General Assembly 2017, 5).

as the main interpretative key in approaching this phenomenon throughout this review.

This paper is, thence, structured in this fashion: after this introductory paragraph on the phenomenon of SEA in the UN, it draws an overview of the current understanding of state responsibility at the international level, to then outline the specific context of PKOs and the legal frameworks provided by the TCCs, it thence reflects on the approach of the UN to this scourge and finally it concludes by elaborating some main considerations to the leading question of this research.

2. Extraterritorial Human Rights Obligations and State Responsibility

In the context of International Humanitarian Law (IHL)[5], rape constitutes a war crime in both international and non-international armed conflict. Moreover, sexual violence against women in times of armed conflict can be punished under the provisions for the crime of genocide according to the 1949 Genocide Convention and for crimes against humanity according to customary international law (Gardam 2018, 6)[6].

Looking at the core of International Human Rights Law (IHRL), the International Bill of Rights, consisting of the Universal Declaration of Human Rights (UDHR, adopted in 1948), the International Covenant on Civil and Political Rights (ICCPR, 1966)[7] with its two Optional Protocols and the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), it is possible to observe how it guarantees a special protection to women and vulnerable groups, including children and displaced persons. While this focus tends to reproduce the old narrative conflating women and children as the quintessentially vulnerable group (Otto 2007, 35), it also shows a commitment in taking into account women's issues.

Indeed, rape can be accounted as a violation of different human rights such as the prohibition of torture and other cruel, inhuman or degrading

[5] Although the military tends to prefer the expressions "Laws of Armed Conflicts" (LOAC) or "Laws of War", these two expressions should be understood as synonymous with "IHL"' (Bouvier 2012, 13).

[6] Particularly relevant is the adoption in 1998 of the statute of the International Criminal Court (ICC) – 'the most progressive and comprehensive legal framework on gender-based crimes to date' (UN Women 2015, 103) – which recognizes rape, sexual slavery, enforced prostitution, forced pregnancy and enforced sterilization, and other forms of sexual violence as war crimes, crimes against humanity, and constituent acts of genocide (Gardam 2019, 6-7).

[7] The two covenants entered into force in 1976, after a sufficient number of countries had ratified them.

treatment, or sexual slavery when women are repeatedly raped or are subject to enforced prostitution (Burke 2014, 74). Moreover, the protection of women and children from SEA is required by numerous international human rights treaties and soft law instruments which specifically prohibit rape, trafficking in women and children and the exploitation of the prostitution of others (Burke 2014, 74). It is fundamental to acknowledge that the Convention on the Rights of the Child expressly states that: 'States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse' (art.34). This Convention, adopted by the UN General Assembly in 1989 (the 30th anniversary of the UN Declaration of the Rights of the Child) has been ratified by 196 countries, that is every member of the United Nations except the United States. Similarly widespread is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which, after being adopted in 1979 by the UN General Assembly, has been ratified by 189 states, namely all the UN member states except Iran, Palau, Somalia, Sudan, Tonga and the United States.

The CEDAW Committee, which monitors the implementation of the convention, underlined how gender-based violence, and state failure to address it with due diligence, can violate human rights such as 'the right to life', 'the right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment', 'the right to equal protection according to humanitarian norms in time of international or internal armed conflict', 'the right to liberty and security of person', 'the right to equal protection under the law' and 'the right to the highest standard attainable of physical and mental health' (UN Committee on the Elimination of Discrimination Against Women 1992, para.7). In 2013 in the general recommendation (GR) No. 30, on women in conflict prevention, conflict and post-conflict situations, the Committee explicitly stated that:

> The Committee reiterates general recommendation No. 28 (2010) to the effect that the obligations of States parties also apply extraterritorially to persons within their effective control, even if not situated within the territory, and that States parties are responsible for all their actions affecting human rights, regardless of whether the affected persons are in their territory (UN Committee on the Elimination of Discrimination against Women 2013, para 3, 8).

Moreover, it stressed that:

> In conflict and post-conflict situations, States parties are bound to apply the Convention and other international human rights and humanitarian law when they exercise territorial or extraterritorial jurisdiction, whether individually, for example in unilateral military

> action, or as members of international or intergovernmental organizations and coalitions, for example as part of an international peacekeeping force. The Convention applies to a wide range of situations, including wherever a State exercises jurisdiction, such as occupation and other forms of administration of foreign territory, for example United Nations administration of territory; to national contingents that form part of an international peacekeeping or peace-enforcement operation; to persons detained by agents of a State, such as the military or mercenaries, outside its territory; to lawful or unlawful military actions in another State; to bilateral or multilateral donor assistance for conflict prevention and humanitarian aid, mitigation or post-conflict reconstruction; in involvement as third parties in peace or negotiation processes; and in the formation of trade agreements with conflict-affected countries (UN Committee on the Elimination of Discrimination against Women 2013, para 3, 9)[8].

In 2017, in GR No. 35 on gender-based violence against women, updating GR No.19, the Committee recognized that the prohibition of gender-based violence has become a norm of international customary law and clearly defined

> different levels of liability of the State for acts and omissions committed by its agents or those acting under its authority - in the territory of the State or abroad- and for failing to act with due diligence to prevent violence at the hands of private individuals and companies, protect women and girls from it, and ensure access to remedies for survivors (Concept Note 2017).

Further, while some scholars conclude that when military forces have the required level of control over the territory, they are responsible for the compliance of their members with both the provisions of IHL and HRL also in extraterritorial areas (Gardam 2019, 9), thus making reference to the concept of "effective control", others consider the concept of factual control.

Indeed, the concept of human rights itself implies 'that human beings have a duty towards all other human beings and must treat them as rights holders', if human rights are universal, states have a duty to protect the human rights of all human beings and are thus bound by extraterritorial obligations (Heupel 2018, 522)[9]. In her analysis, as a matter of fact, Heupel finds that

[8] Additionally, it requires States parties to regulate the activities of domestic non-State actors, within their effective control, when they operate extraterritorially (UN Committee on the Elimination of Discrimination against Women 2013, para 3, 10).

[9] While the UDHR does not clarify the meaning of the universal nature of human rights in terms of extraterritorial obligations, the human rights conventions are more precise: the Convention on the Prevention and Punishment of the Crime of Genocide and the lCESCR do not restrict their scope of application, while all other conventions have jurisdiction clauses

the view that states' human rights obligations include extraterritorial ones is fairly widespread among states, moreover extraterritorial obligations do not only arise in contexts in which states have control over territory, but also in contexts in which they exercise merely factual control, that is 'affecting, or having the potential to affect, people's enjoyment of human rights even without controlling the relevant territory' (Heupel 2018, 525)[10]. Therefore, according to Heupel, 'the "paradox in international human rights law" associated with the contradiction between the proclaimed universality of human rights and a predominantly territorial notion of jurisdiction is increasingly being dissolved' (Heupel 2018, 545).

Similarly, Burke asserts that, while it has been generally accepted that 'human rights are normatively universal and yet the obligations that arise under them are not', finally this

> broader, and now widely accepted, interpretation of extraterritorial jurisdiction which focuses not only on state control over territory, but also on state control or authority over victims can better reflects the reality that states can and do affect the rights of persons beyond their borders (Burke 2014, 86).

3. The Context of PKOs and the UN Structure

The UN Charter begins by recalling the commitment of the UN to promote and encourage respect for human rights[11], and requires that UN staff must act with the 'highest standards of efficiency, competence and integrity' (UN Charter 1945, art.101). Moreover, standards of conduct for the UN's International Civil Service were issued in 1954 and revised in 2001 and 2013; even if the last version does not mention SEA, it discusses harassment and abuse of authority, behaviour outside the workplace and violations of law. For what concerns specifically PKOs, the UN Department of Peacekeeping Operations (DPKO) has asserted that:

> United Nations peacekeeping operations should be conducted in full respect of human rights and should seek to advance human rights

that define it (Heupel 2018, 526).

[10] The scholar observes similar trends in the jurisprudence of courts and UN treaty bodies which mostly confine extraterritorial obligations to negative obligations but in some cases, such as the duty to protect or the duty to fulfil, ascribe to states also positive obligations. Moreover, control over a territory is not considered a necessary prerequisite for jurisdiction (Heupel, 2018, 527-528).

[11] See the Preamble where the peoples of the United Nations determined 'to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women' (UN Charter 1945).

> through the implementation of their mandates. [...] United Nations peacekeeping personnel – whether military, police or civilian – should act in accordance with international human rights law and understand how the implementation of their tasks intersects with human rights (UN 2008, 14-15).

Similarly, the Special Committee on PKOs has insisted that:

> Particularly with regard to the conduct of military, civilian police and civilian personnel in United Nations peacekeeping missions managed by the Department of Peacekeeping Operations, the Special Committee reiterates its insistence on the need for compliance with obligations under international human rights law and international humanitarian law, and underlines again that all acts of exploitation, including sexual exploitation, and all forms of abuse by military, civilian police and civilian personnel in United Nations peacekeeping missions managed by the Department are intolerable (UN Special Committee on Peacekeeping Operations 2005, para.52).

On the other hand, though, looking specifically at the context of UN international interventions, it is possible to observe that UN military personnel, while part of a UN operation and thus part of a subsidiary organ of the Security Council and under a UN mandate, remain part of an organ of their troop-contributing country (TCC) which employs them. Indeed, the sending states require host nations to sign agreements, called status-of-forces agreements or SOFAs, which are usually based on the exemption of TCCs from criminal prosecution by the host nation, as prerequisite[12] (Vojdik 2019, 4). Thus, criminal and disciplinary jurisdiction over troops remains with TCCs. Accordingly, the sending state can be held responsible for the acts or omissions of its military contingents in relation to SEA during UN operations (Burke 2014, 75-76). The responsibility of the TCC is presumed to originate from omission, such as the negligence in preventing and prosecuting SEA (because the original act is probably private in nature, not part of official duties). However, a *lex specialis* rule operates in the context of IHL, on the basis of which all acts of a state's armed forces can be ascribed to it (Burke 2012, 42-43). This is especially important considering that if the host state's courts cannot exercise criminal jurisdiction over UN

[12] The UN Model Status-of-Forces Agreement, which is a model 'intended to serve as a basis for the drafting of individual agreements to be concluded between the United Nations and countries on whose territory peace-keeping operations are deployed' (UN General Assembly 1990, para.2) for example, affirms that military personnel from TCCs are not subject to criminal prosecution by the host nation, thus criminal jurisdiction is reserved to TCCs (Vojdik 2019, 4-5).

military contingent personnel, SEA victims can rely only on the TCC to effectively investigate and prosecute acts of SEA.

Moreover, even if in contemporary UN PKOs substantial control over territory can be inferred from the exercise of public powers such as during transitional administrations (Burke 2014, 78), nevertheless, the Human Rights Committee itself has stated that reference to 'subject to its jurisdiction' in Article 1(1) relates 'not to the place where the violation occurred, but rather to the relationship between the individual and the State in relation to a violation of any of the rights set forth in the Covenant, wherever they occurred' (UN Human Rights Committee 1981, para.12.2). Further, it has specifically recognised that the TCC can be liable for human rights violations committed by its military personnel under the ICCPR[13].

Therefore, considering that the UN has no jurisdiction over members of military contingents committing crimes in UN mission host states, the implementation of the UN's zero tolerance policy against SEA (which bans almost all sex between peacekeepers and locals) relies essentially on TCCs (Burke 2014, 71). Indeed, the only measure that can be taken by the UN is the repatriation of individuals or of a particular unit, according to UNSCR 2272 of 2016, when there is 'credible evidence of widespread or systematic' SEA by that unit, further, it can replace all units of a TCC where that country fails to appropriately investigate allegations, hold perpetrators accountable or inform the Secretary-General of progress in investigations (UN Security Council 2016, para.1-2). Finally, it can make recommendations to the TCC and/ or exclude the subjects involved from future PKOs (Vojdik 2019, 12). Other measures to prevent SEA include communications strategies, a new e-learning programme for all mission personnel and certifications from TCCs that personnel have not committed previous misconduct in UN PKOs.

Thus, the UN is powerless to prosecute SEA committed by member states military contingent personnel because both the agreements between the UN and TCCs (the memorandums of understanding or troop-contribution agreements negotiated between the UN and troop-contributing states) and the status of forces agreements (negotiated between the UN and the mission host state) give exclusive jurisdiction to investigate and punish SEA performed by their troops to TCCs. On the other hand, immunity from prosecution in the host nation is a paramount provision for TCCs as for their involvement in PKOs, given that in post conflict states there is often no operational justice system (Vojdik 2019, 12).

[13] The Human Rights Committee contended that Belgium was under an obligation to 'prohibit, and punish effectively, any conduct by military personnel … that is contrary to human rights' (UN Human Rights Committee 2004, para. 9).

4. Legal Frameworks of Troop-contributing States

In order to contrast SEA in 2006 the UN started keeping records and data of allegations of misconduct and subsequent actions and in July 2008 the Department of Field Support (now the Department of Operational Support) introduced a global database, the Misconduct Tracking System (MTS), for all allegations of misconduct involving peacekeeping personnel (UN 2019b). It is, though, only in 2015 that, to improve transparency and accountability, especially on the side of TCCs, the report of the Secretary-General on Special measures for the protection from sexual exploitation and sexual abuse (UN General Assembly 2016c) started including country-specific information for allegations involving uniformed personnel. Moreover, from 2015 onwards, information concerns also interim actions, the duration of investigations, details of action taken by member states and referrals for criminal accountability (UN 2019d).

With the same aim of improving transparency and accountability in the handling of cases of misconduct, the UN Department of Peace Operations, has 'requested that each Troop and Police Contributing Country (T/PCC) provide the legal framework applicable to its contingent and/or officers when deployed to a UN Mission' (UN 2019b).

As shown in the table below so far 61 countries delivered the information about their legal frameworks.

Troops Legal Frameworks:[14]

TCC	Last updated	Military Justice System	Deployable Court Martial
Argentina	19 July 2017	Not in peace time	Not provided
Australia	10 November 2016	Yes	Yes
Austria	10 November 2016	No	No
Bangladesh	7 December 2016	Yes	Yes
Belgium	16 November 2016	No	No
Bhutan	12 November 2018	Yes	Yes
Bosnia and Herzegovina	22 May 2019	No	No
Brazil	17 January 2017	Yes	No
Bulgaria	18 October 2018	Yes	No (if necessary, a prosecutor can be deployed to the mission area)

[14] Table made by the author of this article on the basis of the data available at https://peacekeeping.un.org/en/standards-of-conduct (accessed 07/04/2020)

Canada	29 November 2016	Yes	Yes
Chile	05 September 2019	Yes	No (possibility of deployable prosecutors)
Cote d'Ivoire	31 January 2019	Yes	No
Czech Republic	07 October 2016	No	No
Denmark	14 June 2017	Yes (However all military cases are heard by the ordinary courts)	No
Ecuador	19 October 2016	No	No
Egypt	07 April 2017	Yes	Yes
El Salvador	13 October 2016	Yes	Yes
Estonia	03 January 2019	No	No
Ethiopia	24 December 2018	Yes	No (However, disciplinary cases can be handled at Battalion and Company level by the Unit Disciplinary Committee)
Finland	12 December 2018	Not in peace time	Not in peace time
France	02 November 2016	Not in peace time (However a specialized court is competent for all offences of all kinds committed outside the territory of the French Republic by – or against – members of the French armed forces)	No
Germany	12 December 2018	No	No
Ghana	15 December 2016	Yes	Yes
Greece	27 December 2018	Yes	Yes
Guatemala	26 October 2016	Yes	Not provided
Hungary	12 April 2017	Yes (However Hungary military justice system operates within the civil justice system, in a special organisational framework)	No (only in cases of declared special legal order)
India	11 September 2018	Yes	Yes
Italy	07 August 2018	Yes	Not in peace time
Japan	24 January 2020	No	No
Jordan	02 November 2018	Yes	No (but a military prosecutor is deployed with the mission)

Latvia	28 December 2018	No	No (possibility of military courts only in the event of war or a state of emergency)
Lithuania	02 December 2016	No	No
Malawi	09 September 2016	Yes	Yes
Mexico	28 December 2016	Yes	No
Morocco	17 December 2016	Yes	Not provided
Nepal	04 September 2016	Yes	Yes
Netherlands	03 November 2016	Yes (However it is embedded in the civil justice system)	Yes (By law it is possible to have deployable Court Martials, but in practice this never happens)
Nigeria	20 September 2017	Yes	Yes
North Macedonia	25 April 2019	Yes, but only for disciplinary procedures	No
Norway	30 June 2017	No	No
New Zealand	07 November 2016	Yes	Yes
Pakistan	31 August 2018	Yes	Yes
Paraguay	10 July 2017	Yes	Not provided
Peru	18 April 2019	Yes	No
Romania	28 November 2016	Yes	No
Rwanda	13 December 2016	Yes	No (only disciplinary cases can be handled at unit level, by the Unit Disciplinary Committes)
Senegal	05 October 2016	Yes	Not in peacetime
Serbia	23 December 2016	No	No
Sierra Leone	31 October 2018	Yes	No
Slovak Republic	9 October 2018	No	No
Slovenia	14 September 2016	Not in peace time	Not in peace time
South Africa	05 November 2018	Yes	Yes
Spain	22 October 2018	Yes	Yes
Sweden	17 November 2016	No	No
Switzerland	30 November 2016	Yes	Yes
Thailand	08 December 2016	Yes	Yes

Togo	13 July 2017	Yes	No
Turkey	10 November 2016	Yes	Yes
United States of America	1 November 2016	Yes	Yes
Uruguay	7 October 2016	Yes	Not in peace time
Vietnam	9 March 2017	Yes	Yes

TCCs which have not submitted a legal framework are 58: Belarus, Benin, Bolivia, Brunei, Burkina Faso, Burundi, Cambodia, Cameroon, Chad, Chile, China, Colombia, Congo, Croatia, Cyprus, DR Congo, Fiji, Gabon, Gambia, Georgia, Guinea, Guinea-Bissau, Honduras, Indonesia, Iran, Ireland, Jamaica, Kazakhstan, Kenya, Kyrgyzstan, Liberia, Madagascar, Malaysia, Mali, Mauritania, Moldova, Mongolia, Montenegro, Mozambique, Myanmar, Namibia, Niger, Philippines, Poland, Portugal, Republic of Korea, Russia, Samoa Solomon Islands, Sri Lanka, Tanzania, Tunisia, Uganda, Ukraine, United Kingdom, Vanuatu, Yemen, Zambia and Zimbabwe.

Looking at these legal frameworks, it is necessary to consider that in 2005 the aforementioned Zeid Report advised TCCs to establish military court-martial tribunals in the host country to prosecute wrongdoing so as to show clearly the commitment of the affected TCCs in the fight against SEA, while enabling the participation of the victim and other witnesses. Indeed, prosecuting a crime in the contributing country and not in the host country presents some shortcomings: the witnesses and most of the evidence are in the host country, further the prosecution of the perpetrators remains invisible to the actual victims and to the host country itself (Vojdik 2019, 12). This commitment would also make it possible for the persons affected by SEA to have a more active role, a direct participation and the possibility for their voice to be heard. A major point in the feminist struggle to give voice to the subjects who are normally silenced, not only in terms of oppressed groups, of which victims of SEA are a clear representation, but also in terms of empowering them as protagonists in the narrative.

Of the countries which submitted a legal framework, 43 have a Military Justice System, while 18 countries do not have a Military Justice System (such as the Slovak Republic which affirms that: 'There is no military justice system, all is part of the Slovak legal system'), however four of them, Argentina, Belgium, Finland and Slovenia, do not have this specific justice system only in peace time, but it may be activated during wartime if civilian courts do not function (Finland) or just established in wartime according to the Constitution (Slovenia). In Hungary and in the Netherlands a form of Military Justice System works within the civil justice system.

In all the other countries some forms of separate jurisdiction in the military sector exist. The level of autonomy from the common legal system can vary, from the case of North Macedonia, where a Military Justice System works only for disciplinary procedures, to the case of South Africa which reports that:

> The military justice system of the South African National Defence Force (SANDF) functions is mandated by, functions within and is regulated by:
>
> (1) The Constitution.
> (2) The Defence Act, 1957, as amended.
> (3) The Defence Act, 2002.
> (4) The Military Discipline Supplementary Measures Act, 1999.
> (5) The First Schedule to The Defence Act, 1957, as amended.
> (6) Rules of Procedure to the Military Discipline Supplementary Measures Act, 1999.
> (7) South African Criminal Law and Law of Evidence.
> (8) South African Common Law.
>
> The abovementioned sources also provide the legal parameters within which members of the SANDF execute their official duties. It further strives to regulate the military justice system by providing for unique offences, investigation procedures, military courts, court procedures, unique punishments and other nonjudicial processes.

The report proceeds by recalling that:

> Since the commencement of the RSA's participation in UN peacekeeping mission, the RSA has been conducting military trials in the mission area to ensure that justice is realised where the alleged offence has been committed. Accountability and transparency of the judicial process is further made visible to local population and the UN.

Whilst South Africa expresses a clear dedication to the recommendation of the Zeid Report, most of the other countries do not. Indeed, of the 61 countries which submitted data on the legal frameworks, 21 have a deployable court martial. In the case of Bulgaria, if necessary, a prosecutor may be deployed to the mission area and in Jordan a military prosecutor is always sent within the mission. For what regards Ethiopia and Rwanda disciplinary cases can be handled at the unit level. Finally the report of Finland states that courts martial may be established during war time if civilian courts do not work in the interested area, so as for Uruguay; similarly Hungary declares that there is no deployable court martial in peace time, except in legal cases of declared special legal order, so also Italy, Norway, Romania, Senegal and Slovenia.

The Netherlands affirms that by law it is possible to have deployable courts martial, but that in practice it never happens.

Particularly important to notice, it is also the fact that while the majority of TCCs, in order to provide the required information, have made use of the specific template provided by the UN, other countries, that is Argentina, Nigeria and Paraguay, have not. Moreover, Argentina did not report the legal framework by means of the English language but in Spanish, similarly Morocco employed French. This lack of coordination in the delivery of the legal frameworks create difficulties in comparing the relevant data.

Another issue is linked to the shortcoming of framing SEA into legal categories which are strongly different from country to country, not only the legal provisions vary according to the national legal frame of reference but also the categorization of the crimes of SEA: while in most cases SEA is not considered as a specific military offence, but the related offences are usually considered crimes under the Penal Code, in some limited cases, such as South Africa, SEA has been criminalized as a specific military offence.

It is, in spite of these deficiencies, easy to observe how the vast majority of TCCs present forms of NIO (National Investigation Officers) to investigate cases of SEA committed by their personnel in the course of a UN mission. Even when there is not a specific body named NIO, TCCs have anyway provided military investigators, military or civilian police forces, judicial police officers, regimental police or other forms of specialized police forces, members of the gendarmerie, legal advisors, magistrates, judge advocates, disciplinary commissions or commanding officers directly responsible for investigating SEA. In the specific cases of Mexico, Switzerland, the USA and Vietnam there is no NIO (but in the latter three countries it becomes available if needed) because no contingents are currently deployed in PKOs, only specific individuals from these respective countries, selected for being staff officers or experts, are participating in PKOs.

Especially considerable is the very detailed report of South Africa which informs that:

> i. Since the adoption of UNSCR Resolution 2272 the UN requires TCCs to embed (NIOs) in the deploying contingents to investigate SEA/Serious Misconduct speedily and effectively. However, when an allegation has been received directly from the Mission HQ or through a diplomatic note from the UN Headquarters (HQ), the RSA sends standby NIO Teams to the mission area as a matter of urgency, subject to the necessary operational and financial authority processes of the SANDF and the UN.

> ii. The reason for not embedding NIOs is that the RSA Contingent has in the past encountered that the investigators themselves had been implicated in allegations and therefore impartial NIOs are deployed.

For what regards the police personnel the situation is even more complex because according to their domestic legal provisions they can be considered either as civilian personnel or as military personnel. Thus, only police personnel whose status is equalized to that of military peacekeepers benefit from the immunity granted on the basis of the Memorandum of Understanding (MoU) between the TCC and the UN.

Additionally, PCCs which have submitted a Police Legal Framework are only: Austria (2019, no Police Justice System), Bhutan (2019), Bosnia-Herzegovina (2019, no Police Justice System), Canada (2019, no Police Justice System), Chile (2019, no Police Justice System but Carabineros is subjected to the military legal system), Finland (2019, no Police Justice System), France (2019, no Police Justice System; gendarmes, though, are under the military justice system), Japan (2020,no Police Justice System), Norway (2019, there is a Special Entity that investigates crimes committed by Norwegian police officers in Norway), Romania (2019, no Police Justice System but in the case of military personnel, such as the Romanian Gendarmerie, the cases are managed by the prosecution / military courts) and the Slovak Republic (2019, no Police Justice System).

The countries which have submitted information on the legal framework applicable to their police personnel are 11. Of these, only Norway presents a specific Police Justice System, even if Bhutan clarifies that it 'has a well established Criminal Justice System', where the offences committed within the jurisdiction of the Police Act are under the responsibility of the Disciplinary Committee of the organization and criminal cases committed by police personnel are transmitted to the local police which administer them according to the Criminal Justice System of the country and the Penal Code of Bhutan. Moreover, in countries like Chile, France and Romania where the police can have a peculiar military status, such as gendarmerie forces, this personnel falls under the Military Justice System.

5. A Human Rights-Based Approach in Contrasting SEA

Dealing with the scourge of SEA, a plague which deeply affects the reputation of an institution like the UN, supposed to be the leading human rights defender on the global scene, it is fundamental to recognize that an approach based exclusively on criminal law in dealing with gender-based violence and SEA of women in post-conflict is not sufficient, even

if necessary. As a matter of fact, these acts are not merely criminal acts by individual peacekeepers but 'part of the larger continuum of conflict-related violence against women' (Vojdik 2019, 2), thus, in order to achieve a systematic understanding of the causes, implications and possible solutions for acts of SEA, it is as much imperative 'to view sexual exploitation and abuse through a human rights lens' (Oswald 2016, 156), while paying the proper attention to the concept of gender and gender relations. Indeed, critical feminist scholars criticize 'the individualisation of responsibility that follows from criminal prosecution' because it disconnects this phenomenon 'from the structural and gendered inequalities and the continuum of violence that make it possible' (Bringedal Houge and Skjelsbæk 2018, 14).

Already in 2005 the Zeid Report asserted that in the fight against SEA prosecution should be complemented by other measures, such as the provision of effective remedies for victims (including physical, economic and emotional support) and preventative measures, such as ensuring adequate training of military personnel on SEA, women's rights, children's rights and UN standards of conduct (Burke 2014, 85).

In 2015, the Secretary-General nominated an independent panel to review SEA allegations made against peacekeeping forces serving in the Central African Republic, which recommended treating SEA as human rights violations that need to be addressed within the UN's human rights framework (Mudgway 2017, 1453; Oswald 2016, 151). In the 2019 Report of the Secretary-General on "Special measures for protection from sexual exploitation and sexual abuse", this strategy was implemented by the idea of prioritising not only victims' rights but also their dignity, another core concepts in the human rights paradigm, as highlighted by the first sentence of the Universal Declaration of Human Rights of 1948, which solemnly recognizes 'the inherent dignity' and 'the equal and inalienable rights of all members of the human family' as 'the foundation of freedom, justice and peace in the world' (UN General Assembly 1948, Preamble).

While feminist scholars have pointed out fallacies in the human rights regime, such as the androcentric construction of human rights and the perpetuation of the false dichotomy between the public and private spheres (Parisi 2010), it has great potential, especially if built on women's experience, as 'foundation for the theorizing and enforcement' of the whole system (Binion 1995, 509).

The importance of addressing SEA in a human-rights framework is connected to the paramount concern of treating victims as multi-dimensional human beings and not just as flat legal subjects, but also to the reality that contrary to the humanitarian law framework, it applies both in peacetime and during conflict. Moreover, individuals are viewed as rights-holders

under the international human rights framework, thus states are directly and legally accountable for rights violations committed both by state and non-state actors (Mudgway 2017, 1459-1460). Indeed, the view of criminal law can be quite effective but narrow in its scope and understanding which cannot permit a broader vision: the subjects affected by SEA are framed only as victims, an approach which risks exactly reifying their status as victims itself.

Moreover, considering that most of the victims of SEA are women and girls[15], it is not sufficient to remain in the field of human rights, but it is necessary to start moving into the setting of women's human rights by looking at the concept of violence against women. In fact, addressing human rights in a gender perspective can help reasoning about the very discriminatory, violent and abusive structures which sustain this phenomenon.

In 1992 the CEDAW Committee issued the GR No.19, which explicitly recognized violence against women as a form of discrimination against women and within the ambit of CEDAW[16] (and thus the committee itself) and clarified that the Convention, and consequently the work of the Committee, applies to such violence when occurring during conflict or post-conflict contexts. Furthermore, violence against women was explicitly recognized as a human rights violation during the 1993 UN World Conference on Human Rights (Manjoo 2018, 76; Gardam 2019).

In 2006, the Secretary-General, in his "In-Depth Study on all Forms of Violence against Women", stated clearly that 'addressing violence against women as a human rights issue empowers women, positioning them not as passive recipients of discretionary benefits but as active rights-holders' (UN General Assembly 2006, para.40). While this is not an automatic outcome, women's rights can be better achieved in a human rights paradigm where human rights obligations hold States directly accountable for the prevention and response to all violence against women, including that committed by non -State actors.

Moreover:

> The human rights-based approach encourages a holistic and multisectoral response to violence against women. It permits an understanding of the interrelationships between women's human rights and how denial of these rights creates the conditions for violence against them (UN General Assembly 2006, para.68).

[15] For example, in the data collected in 2016 concerning 145 allegations associated with at least 311 known victims, 309 are women and girls (UN General Assembly 2017, para.8).

[16] When adopted in 1979, the CEDAW did not mention violence against women, indeed the subject was just developing as a human rights issue at the time; for many years violence against women was treated as a matter of crime control (Freeman 2019, 14).

On the other hand, in 2017 the CEDAW Committee updated GR No.19 by means of GR No. 35 stating explicitly that 'because women experience varying and intersecting forms of discrimination, which have an aggravating negative impact [...] gender-based violence may affect some women to different degrees, or in different ways' (UN Committee on the Elimination of Discrimination against Women 2017, para.12). This recommendation introduced officially an intersectional approach within the human rights paradigm[17] which the UN was building in its approach to SEA. Indeed, as recognized also in the "In-depth study on all forms of violence against women",

> The intersection of male dominance with race, ethnicity, age, caste, religion, culture, language, sexual orientation, migrant and refugee status and disability — frequently termed "intersectionality" — operates at many levels in relation to violence against women. Multiple discrimination shapes the forms of violence that a woman experiences (UN General Assembly 2006, para.361).

Moreover, in 2013, the Committee on CEDAW in GR No.30, on women in conflict prevention, conflict and post-conflict situations, explicitly connected the application of the CEDAW Convention to the Security Council agenda on women, peace and security, introduced by the UNSCR 1325[18] in a correlation which confronted the territorial and extraterritorial level and both State and non-State actors. It underlined the complementarity of the CEDAW Convention with international humanitarian, refugee and criminal law and stressed that violence against women and girls is 'a form of discrimination prohibited by the Convention and is a violation of human rights' (UN Committee on the Elimination of Discrimination against Women 2013, para 34)[19].

Looking, though, at the specific definitions of violence against women and SEA some issues emerge. In fact, violence against women is outlined as 'violence that is directed against a woman because she is a woman, or violence that affects women disproportionately. It includes acts that inflict physical,

[17] Even though this approach has long existed in Black feminism, the concept of intersecting categories of discrimination was introduced by the Black feminist legal scholar Kimberlé Williams Crenshaw, one of the founders of Critical Race Theory in the US legal academy (Carastathis 2014, 305).

[18] Which is a human rights-based document prioritizing conflict prevention (Gardam 2019, 8) and the equal participation and full involvement of women in all efforts for the maintenance and promotion of peace and security.

[19] Despite this explicit commitment, so far there have been only two instances where SEA by peacekeepers has been addressed in the context of international human rights and both by the CEDAW Committee, in its concluding observations on Côte d'Ivoire in 2011 and on Haiti in 2016 (Mudgway 2017, 1463-1464).

mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty' (UN Committee on the Elimination of Discrimination Against Women 1992) and in the General Assembly Resolution on Violence against Women (UN General Assembly 2007, para. 3) as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life". Not only these definitions lack any binding legal effect, as a matter of fact at the international level there is a gap regarding any legal response to violence against women and girls (Manjoo and Jones 2018), but also have a quite broad approach which can be found also regarding SEA.

Dealing with the standards of conduct in UN field missions, the UN defines sexual abuse as: 'Actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. All sexual activity with a minor (a person under the age of 18) is considered as sexual abuse' (UN 2019a). Sexual exploitation is described as: 'Any actual or attempted abuse of 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. This includes acts such as transactional sex, solicitation of transactional sex, and exploitative relationships'[20](UN 2019a). It is possible to observe, thus, how SEA is described in inclusive terms by "umbrella definitions" which risk blurring significant differences in the behaviours they encompass (Westendorf and Searle 2017), consequently delegitimizing the definitions themselves. Furthermore, the possibility for the local population to manifest sexual agency is completely denied, indeed, these subjects, as observed so far mostly women and girls, are exclusively portrayed as victims trapped in "inherently unequal power dynamics" (UN Secretary-General 2003, para.3.2) within the context of the UN zero tolerance policy. While the power dynamics which develop in peacekeeping operations between UN staff and beneficiaries of assistance are undoubtedly peculiar, and unfortunately often exploitative (Simić 2009, 294), what is needed in order to eradicate SEA is a deeper digging up into this phenomenon, rather than a narrow approach which looking at this reality through blinkers does not permit to actually confront it.

It is, unfortunately, possible to acknowledge how the potential brought by the human rights paradigm, and particularly the focus on women's human rights, in addressing SEA has been insufficiently embraced so far, indeed the identification of women exclusively in terms of victims offers an essentialist

[20] See also the definitions included in the bulletin which introduced the UN zero tolerance policy (UN Secretary General 2003, para. 1).

approach which is diametrically opposed both to the commitment of empowering women and to an intersectional standpoint.

6. Conclusions: Justiciability and State Responsibility

As examined throughout this paper, an approach based exclusively on criminal accountability for acts of SEA is fundamental, still it is not sufficient, indeed, 'criminal law is a valuable tool – but it is also just one tool among many' (Bringedal Houge and Skjelsbæk 2018, 14). Not only an approach which relies solely on criminal law is not adequate to change the status quo (Gardam 2019, 12), but without the integration brought by means of the broader spectrum of human rights, which focuses on victims rather than on perpetrators, this approach is unable to investigate the roots of SEA itself.

To be able to have this ample vision of the phenomenon of SEA, though, a real understanding of the concept of gender would be required: as a matter of fact, "gender" has been depoliticized and transformed in a technocratic tool in the UN bureaucracy, productive of 'measurable, short-term outcomes' (Westendorf and Searle 2017, 21). Considering that the military is characterized by a version of masculinity which is defined in opposition to the notion of femininity (Goldstein 2001), it is specifically relevant to better integrate gender into peacekeeping missions, such as through the adoption of "gender-positive peacekeeping". This notion encompasses the idea of 'plac[ing] gender at the center of the deployment, organization, and role assumptions of peacekeepers' (Ní Aoláin et al. 2011, 118, 129 as mentioned in Vojdik 2019, 14) while embracing humanitarian goals and skills and focusing less on traditional combat values (Vojdik 2019, 15). Indeed, peace operations have the potential to break with traditional conceptions of military identity, especially in terms of gender roles and a "militarized masculinity," considered to fuel violence, aggression and even misogyny (Enloe 2000; Whitworth 2004).

On the other hand, nonetheless, the importance of a criminal-law based approach in fighting crimes of SEA remains primary in order to 'make zero tolerance a reality' (United Nations Secretary-General António Guterres as in UN 2019b). Given that transitional justice mechanisms often fail to punish military troops accused of sexual violence in the course and aftermath of a conflict (Vojdik 2019, 8), it is clear how the assumption of responsibility from TCCs is a prerequisite for any accountability of SEA in peacekeeping.

State responsibility vis-à-vis SEA is framed in terms of due diligence, which refers to a standard of "reasonableness" and concerns not only the acts of the State or those of its agents, but also its omissions where it is not compliant

with the positive obligations originating from the human rights instruments it has ratified (Burke 2014, 84). In this view, though, the analysis of the legal frameworks for TCCs has showed that military contingent personnel are in the majority of cases subject to a separate form of jurisdiction which can imply risks in terms of immunities and privileges while jeopardizing not only the security but the same human rights of women and girls in conflict and post-conflict situations.

On the other hand, in order to be in accordance with the guidance of the Zeid Report and establish military court-martial tribunals in the host country to prosecute acts of SEA, a Military Justice System, separate from the ordinary one and provided with courts-martial, would be a prerequisite.

In view, though, of the reasonable doubts expressed above, a possible solution could, therefore, be that of having deployable courts with jurisdiction for cases of SEA in international interventions, which could be either civilian or military courts, in order to guarantee 'transparency and accountability' and 'prevent and address the profound betrayal through such acts by UN personnel against the people they are charged with protecting' (UN 2019c). The shortcomings originated by the lack of a coordinated action by these separate courts under the direction of each TCC could, though, be overcome only by means of the ratification of specific treaties which may, for instance, give the supervision of the whole system to the UN.

A central coordination in the handling of SEA is imperative, as the analysis of the troops' legal frameworks available show: the different accounts need to be updated, make reference to a common template, use a uniform language and above all a uniform system of translation from the domestic to the international legal forum.

Central coordination is ultimately required by the fact that all the countries which submitted information about their legal frameworks, except the United States, are part both of the Convention on the Rights of the Child and the CEDAW, thus bound not only by general provisions of IHL but also by specific treaty provisions to prevent and prosecute SEA in order to be compliant with international norms on extraterritorial responsibility.

This study, thus, acknowledges the limitations connected to the still exploratory character of its research into country specific legal frameworks, an approach that is challenging not only because it requires to continuously move from the domestic to the international level and vice versa, but even more because of the consistent lack of common standard definitions within the legal frameworks provided by TCCs, not to mention the total absence of data by many of them. Nevertheless, this work is necessary in order to start a process of integration and coordination of these different levels and to assess if states are compliant in terms of international responsibility.

In addition to the required collaboration from TCCs, though, without the provision and implementation of an effective, reactive and coordinated action by the UN in prosecuting SEA, the immunity military peacekeepers benefit from the jurisdiction of the host countries risks becoming impunity (Jennings 2017) and real transparency and accountability cannot be reached.

This strategy is imperative to counteract the impact of SEA, which is huge, not only on the victims, who need to be prioritized, but on the whole UN institution, on its reputation and credibility and on its effectiveness in accomplishing its goals. Indeed, the outcome of peacekeeping efforts risk being strongly endangered by the very hostile reaction that acts of SEA generate in the local population, vis-à-vis the whole UN mission.

A further investigation, not only into the dynamics of SEA, but more specifically into the twists and turns of the T/PCCs legal frameworks is urgent but it will demand more collaboration from the latter: the countries which have not submitted any information so far and the countries which have but need to enhance the quality of it. Without such a commitment, women and girl's rights will remain unattended.

References

Bouvier, A. A. (2012) *International Humanitarian Law and the Law of Armed Conflict* 2nd ed. Peace Operations Training Institute, retrieved from: https://cdn.peaceopstraining.org/course_promos/international_humanitarian_law/international_humanitarian_law_english.pdf (accessed: 20/11/2019).

Binion, G. (1995) 'Human Rights: A Feminist Perspective', *Human Rights Quarterly* Vol. 17, No. 3 (Aug., 1995), 509-526.

Bringedal Houge, A. and Skjelsbæk, I. (2018) 'Securitising sexual violence-Transitions from war to peace', In: Fitz-Gibbon, K., Walklate, S., McCulloch, J., and Maher, J. (eds.) *Intimate Partner Violence, Risk and Security: Securing Women's Lives*, London: Routledge, 19-33.

Burke, R. (2012) 'Attribution of Responsibility: Sexual Abuse and Exploitation, and Effective Control of Blue Helmets', *Journal of International Peacekeeping* 16 (2012) 1-46.

Burke, R. (2014) 'Shaming the State: Sexual Offences by UN Military Peacekeepers and the Rhetoric of Zero Tolerance', In Heathcote, G. and Otto, D. (eds.), *Rethinking Peacekeeping, Gender Equality and Collective Security*, London: Palgrave, 70-95.

Carastathis, A. (2014) 'The Concept of Intersectionality in Feminist Theory', *Philosophy Compass* 9/5 (2014): 304–314.

Concept Note (2017) CEDAW General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 - Launch Event, retrieved from: https://www.ohchr.org/Documents/HRBodies/CEDAW/GR35/ConceptNoteLaunchGR35.pdf (accessed: 09/10/2019).

Enloe, C. (2000) *Maneuvers: The International Politics of Militarizing Women's Lives.* Berkeley: University of California Press.

Filippini, L. and Tchrian, K. (2010) 'Argentina's New Military Justice System - A Review of Law 26394' (El Nuevo Sistema De Justicia Militar Argentino - Comentario a La Ley 26394) (April 26, 2011), *Derecho Penal y Criminología*, No. 91, 2010.

Freeman, M.A. (2019) 'The Convention on the Elimination of All Forms of Discrimination Against Women', In: Reilly, N. (ed.), *International Human Rights of Women*, Singapore: Springer.

Gardam, J. (2019) 'Women's Human Rights and the Law of Armed Conflict', In: Reilly, N. (ed.), *International Human Rights of Women*, Singapore: Springer.

Goldstein, J. S. (2001) *War and Gender: How Gender Shapes the War System and Vice Versa.* Cambridge: Cambridge University Press.

Heupel, M. (2018) 'How do States Perceive Extraterritorial Human Rights Obligations? Insights from the Universal Periodic Review', *Human Rights Quarterly* 40 (3): 521-546.

Jennings, K. (2017) 'The Immunity Dilemma: Peacekeepers' Crimes and the UN's Response', *E-International Relations,* retrieved from: https://www.e-ir.info/2017/09/18/the-immunity-dilemma-peacekeepers-crimes-and-the-uns-response/ (accessed: 25/11/2019).

Kanetake, M. (2010) 'Whose Zero Tolerance Counts? Reassessing a Zero Tolerance Policy against Sexual Exploitation and Abuse by UN Peacekeepers', *International Peacekeeping*, 17(2): 200-214.

Manjoo, R. (2018) 'Normative Developments on Violence Against Women in the United Nations System', In: Manjoo, R. and Jones, J. (eds.) *The Legal Protection of Women from Violence. Normative Gaps in International Law*, London: Routledge, 73-106.

Manjoo, R. and Jones, J. (2018) (eds.) *The Legal Protection of Women from Violence. Normative Gaps in International Law*, London: Routledge.

Mudgway, C. (2017) 'Sexual exploitation by UN peacekeepers: the 'survival sex' gap in international human rights law', *The International Journal of Human Rights*, 21(9): 1453-1476.

Oswald, B. O. (2016) 'Sexual Exploitation and Abuse in UN Peace Operations. Challenges and Developments', *Journal of international peacekeeping* 20 (2016): 143-170.

Otto, D. (2007) 'The Sexual Tensions of UN Peace Support: A Plea for 'Sexual Positivity'', *Finnish Yearbook of International Law*, 18 (41): 33–57.

Parisi, L. (2010) 'Feminist Perspectives on Human Rights', In: Denemark, R.A. and Marlin-Bennett, R. (eds.) *The International Studies Encyclopedia*, Oxford Reference Online: Oxford University Press, 33p.

Simić, O. (2009) 'Rethinking 'sexual exploitation' in UN peacekeeping operations', *Women's Studies International Forum* 32 (2009): 288–295.

UN Committee on the Elimination of Discrimination Against Women (1992) CEDAW General Recommendation No. 19: Violence against women, retrieved from: https://www.refworld.org/docid/52d920c54.html (accessed: 11/10/2019).

UN Committee on the Elimination of Discrimination against Women (2013) General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations (CEDAW/C/GC/30), retrieved from: https://undocs.org/en/CEDAW/C/GC/30 (accessed: 11/10/2019).

UN Committee on the Elimination of Discrimination against Women (2017) General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 (CEDAW/C/GC/35), retrieved from: https://undocs.org/CEDAW/C/GC/35 (accessed: 11/10/2019).

UN General Assembly (1948) Universal Declaration of Human Rights (General Assembly resolution 217 A), retrieved from: https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/217(III) (accessed: 19/11/2019).

UN General Assembly (1990) Comprehensive review of the whole question of peace-keeping operations in all their aspects. Model status-of-forces agreement for peace-keeping operations. Report of the Secretary-General (A/45/594), retrieved from: https://undocs.org/A/45/594 (accessed: 11/10/2019).

UN General Assembly (2005) Letter dated 24 March 2005 from the Secretary-General to the President of the General Assembly (A comprehensive strategy to eliminate future sexual exploitation and abuse in United

Nations peacekeeping operations A/59/710), retrieved from: https://undocs.org/A/59/710 (accessed: 11/10/2019).

UN General Assembly (2006) In-depth study on all forms of violence against women: report of the Secretary-General (Report of the Secretary-General A/61/122/Add.1), retrieved from: https://undocs.org/A/61/122/Add.1 (accessed: 11/10/2019).

UN General Assembly (2007) Resolution adopted by the General Assembly on 19 December 2006 (A/RES/61/143), retrieved from: https://undocs.org/A/RES/61/143 (accessed: 25/01/2020).

UN General Assembly (2016a) Taking Action on Sexual Exploitation and Abuse by Peacekeepers (Report of an Independent Review on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic A/71/99), retrieved from: https://undocs.org/A/71/99 (accessed: 11/10/2019).

UN General Assembly (2016b) Cross-cutting issues (A/RES/70/286), retrieved from: https://undocs.org/en/A/RES/70/286 (accessed: 11/10/2019).

UN General Assembly (2016c) Sixth progress report on the accountability system in the United Nations Secretariat-Report of the Secretary-General. 21 December 2016 (A/71/729), retrieved from: https://undocs.org/A/71/729 (accessed: 11/10/2019).

UN General Assembly (2017) Special measures for protection from sexual exploitation and abuse (Report of the Secretary-General A/71/818), retrieved from: https://undocs.org/A/71/818 (accessed: 11/10/2019).

UN Human Rights Committee (1981) Delia Saldias de Lopez v. Uruguay, 29 July 1981, retrieved from: https://www.refworld.org/cases,HRC,4028d4954.html (accessed: 11/10/2019).

UN Human Rights Committee (2004) Concluding observations of the Human Rights Committee: Belgium. 12/08/2004 (CCPR/CO/81/BEL), retrieved from: https://undocs.org/CCPR/CO/81/BEL (accessed: 11/10/2019).

UN Secretary-General (2003) Special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/1023), retrieved from: https://www.un.org/en/ga/search/view_doc.asp?symbol=ST/SGB/2003/13 (accessed: 11/10/2019).

UN Security Council (2005) Statement by the President of the Security Council (S/PRST/2005/2), retrieved from: https://undocs.org/S/PRST/2005/21 (accessed: 11/10/2019).

UN Security Council (2013) Resolution 2106 (2013) Adopted by the Security Council at its 6984th meeting, on 24 June 2013 (S/RES/2106), retrieved from: https://undocs.org/en/S/RES/2106(2013) (accessed: 11/10/2019).

UN Security Council (2016) Security Council resolution 2272 (2016) [on sexual exploitation and abuse by United Nations peacekeepers] (S/RES/2272), retrieved from: https://undocs.org/S/RES/2272(2016) (accessed: 11/10/2019).

UN Special Committee on Peacekeeping Operations (2005) Report of the Special Committee on Peacekeeping Operations and its Working Group (A/59/19/Rev.1), retrieved from: https://undocs.org/A/59/19/Rev.1(SUPP) (accessed: 11/10/2019).

UN Women (2015) *Preventing conflict, transforming justice, securing the peace. A Global Study on the Implementation of United Nations Security Council resolution 1325*, retrieved from: https://wps.unwomen.org/pdf/en/GlobalStudy_EN_Web.pdf (accessed: 20/11/2019).

UN 2008 United Nations Peacekeeping Operations -Principles and Guidelines, retrieved from: https://peacekeeping.un.org/sites/default/files/peacekeeping/en/capstone_eng.pdf (accessed: 09/10/2019).

UN 2019a. Sexual exploitation and abuse, retrieved from: https://conduct.unmissions.org/sea-overview (accessed: 09/10/2019).

UN 2019b. Standards of conduct, retrieved from: https://peacekeeping.un.org/en/standards-of-conduct (accessed: 09/10/2019).

UN 2019c. Addressing sexual exploitation and abuse, retrieved from: https://conduct.unmissions.org/addressing (accessed: 10/10/2019).

UN 2019d. Sexual exploitation and abuse, retrieved from: https://conduct.unmissions.org/sea-data-introduction (accessed: 21/11/2019).

Vojdik, V.K. (2019) 'Sexual Abuse and Exploitation by UN Peacekeepers as Conflict-Related Gender Violence', In: Reilly, N. (ed.), *International Human Rights of Women*, Singapore: Springer.

Westendorf, J. and Searle, L. (2017) 'Sexual exploitation and abuse in peace operations: trends, policy responses and future directions', *International Affairs* 93 (2): 365–387.

Whitworth, S. (2004) *Men, Militarism & UN Peacekeeping. A Gendered Analysis*, New York: Lynne Rienner.