

A PROBLEM of RULES: Sexual Exploitation and UN Legitimacy

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Twenty years ago, the UN adopted a zero-tolerance policy on sexual exploitation and abuse (SEA) by its personnel. After prohibiting sex with children and the exchange of sex for “cash, food and things,” it “strongly discourages” sexual relationships with beneficiaries because “they are based on inherently unequal power dynamics” and undermine the UN’s credibility and integrity. Taking inspiration from the critical feminist project of understanding what happens when feminist ideas and projects become institutionalised, I consider the effectiveness and unintended consequences of the policy’s discouraged relationships standard. I argue that by centring an “inherent power imbalance” between peacekeepers and local people, the policy undermines the UN’s capacity to meaningfully address that imbalance in practice. Moreover, the discouraged relationships standard diminishes the policy’s perceived legitimacy among staff, with ramifications beyond the prevention and punishment of sexual misconduct. Based on research in Bosnia-Herzegovina, Timor-Leste, Geneva, and New York, this article generates insights about the persistent challenges to preventing and punishing SEA and situates them in relation to broader questions around how international missions view and interact with local populations, and how this affects the integrity and effectiveness of their work.

Hace veinte años, la ONU adoptó una política de tolerancia cero con relación a la explotación y el abuso sexual (SEA por sus siglas en inglés) por parte de su personal. Después de haber prohibido tanto el sexo con niños como el intercambio de sexo por «dinero en efectivo, comida y cosas», la ONU «desalienta fuertemente» las relaciones sexuales con los beneficiarios porque «se basan en dinámicas de poder inherentemente desiguales» y socavan la credibilidad e integridad de la ONU. Tomando como inspiración el proyecto feminista crítico consistente en comprender lo que sucede cuando las ideas y proyectos feministas se institucionalizan, tomamos en consideración tanto la efectividad como las consecuencias no deseadas del estándar en materia de las relaciones desalentadas de la política. Sostenemos que la política socava la capacidad de la ONU para abordar de manera significativa ese desequilibrio en la práctica al centrar un «desequilibrio de poder inherente» entre las fuerzas de mantenimiento de la paz y la población local. Además, el estándar en materia de las relaciones desalentadas disminuye la legitimidad percibida de la política entre el personal, con ramificaciones que van más allá de la prevención y el castigo de la conducta sexual inapropiada. Este artículo genera, basándose en investigaciones realizadas en Bosnia-Herzegovina, Timor-Leste, Ginebra y Nueva York, información acerca de los desafíos persistentes para prevenir y castigar la explotación y el abuso sexuales y los sitúa en relación con otras cuestiones de mayor calado relacionadas con la forma cómo las misiones internacionales ven a las poblaciones locales e interactúan con ellas, y cómo esto afecta la integridad y la eficacia de su trabajo.

Il y a vingt ans, l’ONU a adopté une politique de tolérance zéro de l’exploitation et la violence sexuelle (EVS) s’agissant de son personnel. Après l’interdiction des relations sexuelles avec des mineurs et des échanges de faveurs sexuelles contre de « l’argent, de la nourriture ou des choses », elle « décourage fortement » les relations sexuelles entre bénéficiaires, car « elles se fondent inévitablement sur des rapports de force inégaux » et nuisent à la crédibilité et l’intégrité de l’ONU. En m’inspirant d’un projet féministe critique visant à comprendre les conséquences de l’institutionnalisation des idées et projets féministes, je m’intéresse à l’efficacité et aux conséquences indésirables de la politique de découragement des rapports physiques. Selon moi, en se focalisant sur les « rapports de forces (fondamentalement) inégaux » entre les forces de maintien de la paix et les populations locales, la politique remet en cause la capacité des Nations unies d’y remédier dans la pratique. De plus, la politique de découragement des rapports physiques nuit à sa légitimité perçue au sein du personnel, et les conséquences vont bien au-delà de la prévention et la punition de l’inconduite sexuelle. En s’appuyant sur des recherches menées en Bosnie-Herzégovine, au Timor oriental, à Genève et à New York, cet article nous renseigne quant aux défis persistants relatifs à la prévention et la punition de l’EVS. Puis, il les recontextualise par rapport à des questions plus larges sur la perception des missions internationales par les populations locales, mais aussi leurs interactions avec elles, et sur les effets qu’elles engendrent sur l’intégrité et l’efficacité de leur travail.

In 2003, the UN Secretary-General launched what has become known as the organisation’s zero-tolerance policy on sexual exploitation and abuse (SEA) (“the Bulletin”

(UNSG 2003). The policy was adopted after revelations about sexual violence and misconduct perpetrated by peacekeepers and humanitarians led to global outrage and contributed to the growing crisis of confidence in the UN’s peacekeeping efforts. The Bulletin articulated for the first time a set of specific standards related to sexual conduct for UN personnel, and demonstrated to the world that the UN was taking sexual misconduct seriously and was committed to preventing further abuses by its personnel against the already vulnerable populations they had been sent to protect and support (Kanatake 2010; McGill 2014). The Bulletin centres on three rules. First, it strongly prohibits all sexual activity with children. Second, it prohibits the

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exchange of sex for money, employment, goods or services (or, as the zero-tolerance posters say, “no sex for cash, food, or things”¹). Third, the Bulletin strongly discourages sexual relationships with beneficiaries of assistance because “they are based on inherently unequal power dynamics,” and “undermine the credibility and integrity of the work of the UN” (Article 3.2(d)). I argue that by taking all sexual relationships into its scope in this way, the policy simultaneously centres concerns about power imbalances between UN personnel and local people and undermines the UN’s capacity to meaningfully address that imbalance in practice, creating a conceptual and practical minefield for officials, investigators, and staff to navigate while attempting to do the important work of preventing and holding perpetrators accountable for SEA. In addition to undermining the implementability of the whole policy, the discouraged relationships standard diminishes its perceived legitimacy among staff, with ramifications beyond the prevention and punishment of sexual misconduct.

This article critically reflects on the past 20 years of implementing the zero-tolerance policy as the cornerstone of global efforts to prevent SEA in peace and humanitarian operations. Taking inspiration from the critical feminist project of understanding what happens when feminist projects responding to issues of sexual violence become institutionalised (Halley et al. 2018; Engle 2020), I consider the effectiveness and unintended consequences the zero-tolerance policy has had, twenty years after its promulgation. How well has the policy grounded efforts to prevent and ensure accountability for sexual exploitation? What tensions lie in its framing of (un)acceptable sex? How does it deal with issues of consent, power, and ambiguity in the regulation of consensual relationships between UN personnel and local people that are (or may be) transactional, exploitative, or characterised by abuses of power?

I focus on the standards regarding sexual exploitation, rather than those regarding sexual abuse, for two reasons. Firstly, allegations of sexual exploitation are more prevalent than those of sexual abuse by a large margin (UN 2022). Secondly, the standards regulating sexual exploitation are more complex and have been subject to more criticism, contestation, and opposition than those related to sexual abuse, which is a criminal behaviour with near universal recognition. In considering how the policy attempts to deal with the spectrum of exploitative or potentially exploitative sex, I document the practical effects of attempts to balance obligations to prevent sexual exploitation with respect for the rights and capacity of adults to make choices about how they navigate power imbalances in their own sexual relationships. This yields insights not only into the persistent challenges to preventing and punishing sexual exploitation by peacekeepers and how they might be addressed, but also situates these issues in relation to the broader and deeper issue around how international organisations and missions view and interact with local populations, and how this affects the perceived legitimacy and effectiveness of their work.

I begin with an account of how the Bulletin came to be adopted and the standards it promulgates, which gives insight into the confusion and contestation over the policy’s intent and implementation. I then consider the challenges to the policy’s implementation and argue that these can be broadly understood in terms of the comprehension, application, and perceived legitimacy of the rules. I argue that the Bulletin represents an attempt to disambiguate conceptually

between two types of behaviour that defy disambiguation in practice, which has resulted in a policy that is unenforceable and internally incoherent. This undermines the prevention of sexual misconduct and, consequently, the perceived credibility of UN efforts to safeguard local populations from misconduct. The final section considers the broader effects these failings have on perceptions of the UN’s legitimacy among staff, and the ramifications for the organisation’s ability to fulfil the missions entrusted to it. Throughout, I draw on research conducted in Bosnia-Herzegovina, Timor-Leste, Geneva, and New York. I interviewed over 100 individuals who worked with 63 international and local organisations involved in peacekeeping and humanitarian operations or were involved in responding to SEA by those employed by or associated with those operations. Although this analysis touches on some of the racial dimensions of the Bulletin’s implementation as noted by respondents, a fuller treatment is beyond the scope of this paper and warrants further scholarly attention.

Towards the Zero-tolerance Policy: When Policy and Politics Collide

The first time UN peacekeeping was faced with widespread allegations of SEA by personnel was in 1993 in Cambodia, when the number of sex workers in the country grew from 6,000 to over 25,000 within a year of the peacekeepers’ arrival (Whitworth 2004, 67). The patronage of brothels by UN personnel involved violence and the sexual abuse of girls; these behaviours prompted a collective of women working in brothels to write to the UN that “UNTAC customers could be more cruel” than Cambodian customers and requesting that leadership ask peacekeepers to behave less violently (Whitworth 2004, 68). The UN response focused on reputation management and harm minimisation for peacekeepers: The head of mission declared that “boys will be boys” (Ledgerwood 1994), peacekeepers were told not to wear uniforms when visiting brothels and to not park UN vehicles outside them, and an extra 800,000 condoms were imported to prevent the spread of HIV/AIDS among UN personnel (Simić 2012, 41). In the late 1990s, peacekeeper misconduct again attracted international attention, this time in relation to Bosnia-Herzegovina, where whistleblowers revealed that women from other countries in the region were being trafficked and forced to work in brothels that UN personnel visited, and moreover that peacekeepers were complicit in sex trafficking, including buying women and girls as young as 12 as sex slaves (Simić 2012, 41; Simm 2015, 88). The UN was initially reluctant to accept and deal with peacekeepers’ involvement in trafficking (Simić 2012, 42), and when it finally did respond, the UN failed to adequately protect victims and excluded women who were trafficked in the knowledge that they would work in brothels in Bosnia on the pretext that they were “migrant prostitutes” (HRW 2002, 41–43). This foreshadows the challenges in addressing exploitation in the context of consent that continue to hamper accountability efforts.

A few years later, independent consultants revealed that UN and humanitarian NGO staff had abused and exploited women and girls in West African refugee camps. The UN subsequently investigated and documented the prevalence of SEA, which included not only violent abuses perpetrated by uniformed peacekeepers, but also extensive transactional sex and rape perpetrated by civilian UN staff and NGO staff in refugee camps (UNSG 2002, 9–11). When releasing the report, Secretary-General Kofi Annan declared “[SEA] by humanitarian staff cannot be tolerated. It violates everything

¹Image available at <https://conduct.unmissions.org/sites/default/files/un-values.pdf>

the UN stands for.” (UNSG 2002, 1) The General Assembly then adopted a Resolution “[e]xpressing its grave concern at incidents of SEA against vulnerable populations,” and directing the Secretary-General to extend remedial and preventive measures to all peace and humanitarian operations, ensure that reporting and investigative procedures are in place in all such operations, and maintain data on SEA. It “encouraged” all UN bodies and NGOs to do the same (UNGA 2003, 1–2). This coincided with a period of more general crisis for the UN and the Security Council in particular, given global perceptions of its failure in the wake of the US invasion of Iraq and highly publicised peacekeeping failures in Bosnia-Herzegovina and Rwanda.

After a series of negotiations within the secretariat and between UN leadership and member states, the Secretary-General issued the 2003 Bulletin on *Special measures for protection from sexual exploitation and sexual abuse* (“the Bulletin”) which outlined a zero-tolerance policy on SEA for all UN staff as well as all non-UN entities or individuals working in cooperation with the UN. Its development was informed by the newly-adopted Palermo Protocol on human trafficking, which advanced a strongly anti-sex work position (Bys 2022). The Bulletin has become the cornerstone of SEA policy across the UN and humanitarian sectors; the standards set out in the Bulletin were codified for the aid sector in the *Six Core Principles* of the Inter-Agency Standing Committee, which was established as the peak coordinating body for humanitarian/aid organisations in responding to SEA (IASC n.d.). The Bulletin begins with definitions:

“[T]he term “sexual exploitation” means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Similarly, the term “sexual abuse” means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.” (Sec.1)

It affirms that these behaviours “violate universally recognized international legal norms and standards and have always been unacceptable behaviour and prohibited conduct for UN staff.” (Article 3.1) It then promulgates six specific standards to clarify and reinforce expectations of UN staff conduct already articulated in international legal norms and UN Staff Regulations and Rules.

Of the six standards, three regulate the sexual behaviour of personnel, while the others provide scaffolding for the policy’s implementation. Articles 3.2(a), (e), and (f) assert the gravity of acts of sexual misconduct and the potential disciplinary measures, establish mandatory reporting obligations, and outline the responsibility of all staff to create and maintain an environment that prevents sexual misconduct. Of the standards that regulate sexual behaviours, Article 3.2(b) addresses child sexual abuse and is explicitly clear: Sexual activity with children under 18 years is prohibited, regardless of local laws about the age of consent or mistaken beliefs about a child’s age. Article 3.2(c) addresses sexual exploitation, specifically what Westendorf and Searle have classified “transactional sex” (2017), prohibiting the “exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour.” This standard clearly responds to the patterns of sexual exploitation exemplified in the scandals noted above.

Article 3.2(d) addresses the trickier issue of exploitation and abuses of power in relationships, and is to my knowl-

edge, the only instance of a UN policy that discourages but does not prohibit certain behaviour. Article 3.2(d) states that:

“Sexual relationships between UN staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the UN and are strongly discouraged.”

This rule appears to be an attempt to ensure that sexually exploitative behaviours beyond direct transactions remain within the policy’s purview. It builds on the prohibition of transactional sex—where exploitation is assumed to be evident by virtue of the material exchange of goods/services/opportunities for sex—to address exploitation and abuses of power that may occur within the contexts of sexual relationships but that may not be solely or directly transactional. The policy deliberately stopped short of a blanket non-fraternisation rule because of deeply divided opinion around whether such a rule would be ethically and politically acceptable given that not all such relationships would in fact reflect abuses of power. According to one insider, the drafters of the policy knew that there were people having “normal, consensual relationships with local women,” which led to the messy wording around fraternisation.²

The discouraged relationships standard, and the blurred boundaries between the behaviours it applies to and those covered under the transactional sex standard, are at the heart of the challenges facing efforts to prevent and ensure accountability for sexual exploitation. It introduces ambiguity into the regulation of sexual exploitation, which undermines enforcement efforts and perceptions of the credibility of the UN’s commitment to ending sexual misconduct and holding perpetrators accountable. The policy’s origins help explain this incoherence: it was reactive, designed, and adopted in hasty response to inadequate existing codes of conduct and a growing number of misconduct scandals that had deepened the legitimacy crisis facing UN peacekeeping and the UN broadly. During an interview, a UN official who worked in West Africa during the early-2000s SEA scandals described the frustration many felt when the scandals broke: “We couldn’t get roads built, we couldn’t even get water to villages. And then they go and rape kids.”³ He suggested that this frustration underpinned the sense of urgency, which drove the development and adoption of the Bulletin “on the run” and resulted in the unresolved tensions in the discouraged relationships standard. Kanetake (2010) has further shown that the Secretary-General deliberately promulgated a broad prohibition of sexual interactions to appeal to “the general public’s non-tolerance of sexual misconduct of peacekeepers” and rebuild public trust in the organisation, its policies and its determination to prevent unacceptable behaviours by personnel.

What’s Wrong with the Zero-tolerance Policy?

As Kolbe demonstrated in her study of peacekeeper misconduct in Haiti, “SEA is difficult to dichotomise. It occurs on a continuum of sexual interaction, which spans from emotional coercion (e.g., “guilt tripping” one’s partner into having sex) on one end of the spectrum to violent, forced intercourse on the other end. This continuum exists in SEA interactions as well as in traditional sexual and romantic

²Interview with UN Police official, New York, 31 October 2016.

³Interview with UN Police official, NY, 31 October 2016

relationships.” (2015, 44) This resonates with scholarship demonstrating the importance of not considering wartime sexual violence exceptional, but recognising it as the product of the social construction of hegemonic masculinities, which entrench the dominant position of men over women in both war and peacetime, and result in the perpetration of sexual violence regardless of contexts of militarisation (Connell and Messerschmidt 2005; Meger 2016). The Bulletin, however, in its framing of the discouraged-but-not-prohibited relationships, both defies this complexity and establishes parameters for exploitative sex that are overly broad and insufficiently clear to guide individuals and organisations as they navigate its implementation. It reflects what Engle calls structural-bias feminism, which holds that “male sexual domination and female sexual subordination constitute the greatest structural impediment to women’s emancipation,” and produces an institutional “common sense” about sexual violence that relies upon and reinforces negative images of sex and sexuality, and problematic understandings of gender, ethnicity, and war and peace.” (2020, 2) This narrative of sexual harm is reinforced by the sex-work abolitionist tendencies that were institutionally influential at the time of the Bulletin’s development, and which frame the exchange of sex for money as inherently exploitative (indeed, a form of modern slavery) and necessitating a criminal justice response (Bernstein 2010). But it also reflects a deep lack of clarity (or agreement) on where the bounds between exploitative and non-exploitative sex lie in contexts of power imbalances.

Consequently, the Bulletin’s rules around potentially exploitative sex can be interpreted in both permissive and prohibitionist ways in relation to consensual adult sex. The rules, and the various guidance documents accompanying them, leave open significant interpretive space, which is unsurprising given the dynamic and social nature of the behaviours being regulated. However, it means that individuals interpreting them (which includes not only mission/department/office leadership and investigators, but all staff in a UN or aid organisation, given that they are both bound by the rules and obligated to report on potential misconduct by colleagues) bring to bear their own personal beliefs about how consent and agency operate in the context of a power imbalance, and what the appropriate role of workplaces is in regulating consensual sex engaged in by staff. One view of the consensual adult sexual relationships discouraged by the Bulletin looks primarily through the lens of differential power and the inherent vulnerability of the beneficiary population, therefore inferring exploitation and producing the practical effect of the prohibition, regardless of consent (Murphy 2006; Freedman et al. 2021). The opposite view frames such relationships through the lens of human rights, privacy, consent, and women’s agency, arguing that the UN and other employers have no business intervening in the sex lives of employees or local populations, and leaning towards a more permissive approach to relationships where consent is present (and even where transactions occur) (Otto 2007; Simic 2012; Simm 2015; McGill 2014).

To give some texture to these positions and how they shape policy implementation in practice, one former UN official told me that it is not too much to expect that “men refrain from sex while deployed” given that the risk for exploitation is so high, suggesting that all sex between staff and beneficiaries should be assumed to be exploitative.⁴ In contrast, another senior UN official working in investigations and responsible for resourcing decisions on individual cases,

called the transactional sex and unequal relationships standards in the Bulletin “simply a case of white people regulating the sexual mores of brown people” and suggested that policy’s implementation should be limited to allegations of sexual assault and child sex abuse.⁵ In practice, both individuals could look at the same initial allegations and come to diametrically opposed conclusions about whether a full investigation was warranted. This embeds inconsistency in the system and feeds perceptions that the rules are not fairly implemented.

Furthermore, neither of these positions adequately parses the complexity of sexual and economic relationships between personnel and local populations in the context of peacekeeping economies, which shape the pragmatic choices local people make about their interactions with UN/NGO personnel. Jennings and Bøås (2015) describe peacekeeping economies as the collection of formal and informal economic activities that link international missions with local individuals through activities that would not occur in the same scale and pay rate were it not for the international presence. Jennings has further shown that these economies are “to a greater or lesser degree dependent on the exploitation of women’s and girls’ sexual labour” (2010) and Westendorf has illustrated how deeply enmeshed economies of exploitation become with other service economies, such as restaurants, entertainment, accommodation, and transport, which helps sustain them beyond the presence of large international deployments (2020, 82). It is within this complex net of motivations, individual circumstances, and economic interests that UN/NGO staff choose to exploit, and local people choose to trade sex for material benefits. In Liberia, an estimated 58,000 women aged 18–30 engaged in transactional sex in the first nine years that UNMIL was deployed, over 75 percent with UN personnel and over half for the first time before they were 18 (Beber et al. 2016). This is also the context in which the lines between exploitation and abuse blur: Rapists might “pay” their victim afterwards to suggest consensual transactions (UN 2005), women may be forced to have sex in order to secure much-needed jobs (WHO 2021), or access humanitarian aid they are entitled to (Martin 2005), and teenagers abandoned by their families because they fell pregnant after being raped by militias may actively seek sex with peacekeepers to feed themselves and their own children (Holt and Hughes 2004). But equally, this is the context in which individuals may pursue sexual relationships that are fully consensual and mutually beneficial, and which may not, in fact, be characterised by abuses of power despite imbalances of power between those involved. Simic (2012) interviewed Bosnian women who had sexual relationships with peacekeepers and shared the many reasons they entered into those relationships, rejecting the idea of an “inherent imbalance of power” or that such consensual relationships ought to have been regulated by the UN. Stern (2018) documented a case she investigated where the outcome (a prohibition on a relationship continuing) was felt by the supposedly exploited woman to be deeply unfair and harmful. Most people I interviewed recognised these complexities but found the zero-tolerance policy inadequate as the basis for a fair and sensitive approach that balanced concerns about exploitation with those of respect for the agency of women (and men) involved. That the policy currently creates room for the opposing interpretations discussed above illuminates the pragmatic and normative shortcomings of its

⁴Interview with former UN official and SEA expert, January 13, 2017.

⁵Interview with senior official, UN OIOS, NY, 4 November 2016.

current framing, particularly as it relates to the complexity of the spectrum of exploitative/non exploitative sex.

This section has laid out the conceptual challenges that flow from how the Bulletin attempts to dichotomise between exploitative and potentially exploitative sex. I will now turn to the pragmatic challenges facing the implementation of the discouraged relationships standard, as a basis for considering the implications this has for the effectiveness and credibility of the zero-tolerance policy—and the UN—broadly. My research suggests that the pragmatic challenges revolve around three aspects: comprehension (clarity of the rule); accountability processes (application and enforceability of the rule); and credibility (legitimacy of the rule). These three elements are valuable not only for analytical insights into this policy, but as a frame for thinking about rule legitimacy more broadly.

1. Clarity: Sex with “beneficiaries of assistance”—with whom and when is it permissible?

The question of who the discouraged relationships standard of the Bulletin applies to is, remarkably, one of the key areas of confusion that has plagued efforts to regulate sexual misconduct. There are two aspects: who the rules are about and who the rules apply to.

The category of persons with whom UN personnel are strongly discouraged from engaging in sexual relationships with are described in the Bulletin as “beneficiaries of assistance.” The term “beneficiary” has now largely been replaced in the humanitarian lexicon by “communities” or “populations affected by crisis” (Sphere 2018), but in general terms, it refers to persons receiving humanitarian protection and assistance because of conflict, disaster, or displacement. Where peacekeepers are present, personnel are advised to interpret “beneficiaries” broadly, including the entire local population (UN 2010). This interpretation has been criticised as over-inclusive (Otto 2007), and agencies and staff continue to maintain vastly different understandings of the parameters of “beneficiary” status, ranging from registered recipients of aid from a particular agency to any national or displaced person living in the vicinity of aid programmes and services.⁶ Complicating matters, some individuals may be both staff and beneficiaries of an international organisation: Approximately 40–50 percent of all civilian non-police personnel employed in UN missions are national staff (Carnahan et al. 2006, 3), and over 90 percent of international NGO staff in the field are national staff (Stoddard et al. 2011, 3).

The practical implications of this lack of clarity about who counts as a beneficiary were laid bare in 2021, when journalists revealed a sex-for-jobs scheme and cases of rape by WHO personnel in the 2018–2020 Ebola response in DRC. A subsequent official investigation showed that initial allegations of sexual exploitation made by a local woman who alleged she had been impregnated by a WHO staff member were not investigated because investigations personnel deliberately misinterpreted “the spirit and the letter” of guidance about who counts as a beneficiary to exclude her (WHO 2021, 14–16). The report indicated that the actively conservative approach to assessing whether allegations of sexual exploitation fell under the purview of the zero-tolerance policy bolstered an organisational culture that discouraged

and dismissed reports of staff sexual misconduct. This effectively laid the groundwork for impunity for a widespread sex-for-jobs scheme, whereby WHO staff coerced women into sex in exchange for promises of getting or keeping jobs. The Independent Commission directly connected the lack of SEA allegations received to the handling of initial misconduct allegations and the narrow interpretation of who constituted a beneficiary, which undermined public perceptions of the utility of making allegations (WHO 2021, 32). As a result, not a single allegation of sexual exploitation was registered during the mission, but the investigation substantiated 83 allegations retrospectively. This means that the misunderstanding and misapplication of the Bulletin’s discouraged relationships standard undermined the prevention and punishment of conduct prohibited in the sexual abuse and transactional sex standards, illustrating how this seemingly minor aspect of the Bulletin affects the robustness of overarching prevention of SEA efforts.

Importantly, the report also documented the participation of local men employed by the WHO in the abuse and exploitation of women and girls in their communities. For instance, it documented local men employed as drivers picking up young women from the roadside and coercing them into sex on the promise of jobs, which never materialised (WHO 2021, 26). The report also documented a network of exploitation whereby the local recruitment arm of the WHO’s response coordination centre would interview women and then require them to have sex with other men in exchange for a job—again, which often never eventuated (WHO 2021, 27). This highlights the multiple identities individuals might hold in their communities, being both a UN staff member and a member of the beneficiary population. It also illustrates the challenges of creating an overarching regulatory system that captures the various patterns of exploitation and abuse perpetrated by very different actors in the system, and the variety of positions and powers that peacekeepers and humanitarians hold in their everyday lives.

According to a senior UN official in the Conduct and Discipline Unit, there more allegations of sexual misconduct involve national than international staff, and an increasing number involve contractors;⁷ this trend was borne out in the WHO investigations, which found that the majority of alleged perpetrators were local Congolese staff (WHO 2021, 28). There may be many reasons for this: the WHO report found that the massive and urgent recruitment drive led to the recruitment without transparent, competitive processes (which created opportunities for SEA), or proper background checks (WHO 2021, 16–17). Furthermore, it found that the pressures of the Ebola response meant that there was late and insufficient training in the prevention of SEA, with only 13 percent of staff completing training. The prevalence of abuses by local staff may also be due to the cultures and economies of impunity for SEA established by international intervenors (Westendorf 2020, 85–90). They are likely also the product of the overlapping identities local staff hold as beneficiaries and staff, and the economic and social power they may acquire through employment in international organisations, which overlays their pre-existing positions in local networks and communities (that may intersect with economies of exploitation).

The zero-tolerance policy, however, was designed primarily in response to cases of SEA perpetrated by foreign personnel—where power differentials are more visible—

⁶Interview with gender advisor at an international NGO, Geneva, 22 September 2016; Interview, international humanitarian agency, Geneva, September 2016; Interview with senior staff from a major humanitarian organisation, Geneva, 20 September 2016; Interview with gender based violence coordinator at a UN agency, Geneva, 23 September 2016; Moira Reddick, “Global Synthesis Report” (Geneva: IASC 2010).

⁷Interview with senior staff member, UN Conduct and Discipline Unit, NY, 4 November 2016.

and its framing of the rules reflects a relatively narrow understanding of who perpetrates abuses and how. Although the intervening years have demonstrated that SEA is perpetrated by local and international personnel across all types of work associated with peacekeeping and humanitarian operations, I have observed a widely held but often unspoken assumption that the Bulletin applies primarily to foreign men, and this focus been confirmed in interviews with individuals involved in investigations. This is not the case: it applies to all staff, and the Zeid Report commissioned by the Secretary-General in 2005 to provide a comprehensive report on peacekeeper SEA strongly recommended that SEA rules be unified across all categories of personnel (2005, 94). There are, however, clear challenges in applying the rules to local staff as they currently stand, particularly around transactional sex and even more so in the discouragement of relationships with beneficiaries, because of the significant overlap between staff and beneficiaries in practice. This has become more pronounced as the localisation agenda has ensured greater employment of local staff in international organisations and amplified difficulties in identifying the line between exploitative and acceptable transactions in relationships where one partner has more money. The perceived existence of different standards for different staff categories undermines the policy's clout and credibility.

It is illuminating to consider how foreign women are considered to fit within the rules around discouraged relationships. Although men account for nearly all officially recorded allegations of sexual misconduct and all substantiated cases, during my research I heard multiple accounts of foreign women in relationships with local men. These were not spoken of in terms of potential exploitation, despite having many of the same hallmarks of the relationships foreign men establish with local women (and men) that were often seen as having an exploitative aspect or reflecting an abuse of power. Same-sex relationships were almost never mentioned. In Timor-Leste, James Scambary, scholar and long-term Timor hand, told me of the weekend socialising and relationships between foreign women and local men on beaches. He suggested that the general assumption was that the women had less power in these relationships and were at risk of being abused and harassed by virtue of being women in a highly patriarchal post-conflict environment, even though they clearly had greater financial power and were white. Similarly, in Haiti, researchers documented many foreign women personnel becoming involved in relationships with local men, and this not being viewed as exploitative in nature (Murphy 2006).

This reveals something interesting. The Bulletin's implementation seems based on an understanding of power that hinges on the intersection of financial power and masculinity and reflects the structural bias feminism narrative of sexual harm and strong focus on male sexual domination and female sexual subordination (Engle 2020). This results in assumptions that perpetrators look and act in a particular way (men with local girlfriends are likely to be in exploitative relationships, women with local boyfriends are not), which reveal a lack of clarity about why certain behaviours have been deemed unacceptable and therefore prohibited or discouraged in the first place. It is divorced from an understanding of gender as a system of power, rather than a set of characteristics, and reveals a deep-seated heteronormativity: Relationships between men were only ever mentioned to me in terms of transactional sex, and primarily by sex worker advocates; relationships between women were never mentioned. Moreover, this brings to the fore the unresolved question of which imbalances of power matter, and

how imbalances of power can be navigated by peacekeeping and humanitarian personnel in their everyday lives. The corollary of assumptions about perpetrators are assumptions about "victims"—in particular, that they are women—at the expense of responding to the vulnerabilities and experiences of girls, boys, and men as well. This is not to diminish the abuse and exploitation women experience at the hands of peacekeepers and humanitarians, but rather to highlight what is lost when systems of power are made invisible by a focus on essentialising assumptions about gender.

Assuming that women experience exploitation and abuse at the hands of men *because* they are women (and therefore inherently vulnerable), and that men perpetrate it against women *because* they are men (and in the thrall of inherent masculinity and sex drives (Higate 2007))—serves to essentialise gender characteristics and obfuscate the gendered and racialized systems and structures of power that provide the context in which individuals choose to perpetrate SEA, or to exploit their power in relationships with local people (Henry 2013). Moreover, by assuming that this essentialist understanding of sex differences maps onto the bodies of the individuals involved (that peacekeepers are men and the beneficiaries of their work are women) feeds into the discursive construction of peacekeepers as "outside, and superior to, the chaotic, dysfunctional, feminized local" (Jennings 2019). And lastly, by overlaying these gendered assumptions with financial assumptions (that peacekeepers have wealth in the form of disposable income, and that local people are poor and desperate, rendering *all* sex survival sex), the realities of the wealth disparities within peacekeeping forces, the dynamics of peacekeeping economies, and the plurality of local people's relationship to wealth, class, and power are flattened. That these assumptions of power that the Bulletin rests on are out of alignment with more plural realities of the distributions and experiences of power in peacekeeping operations consequently also undermines prevention and accountability mechanisms, particularly when they are applied differentially based on the judgements and biases of those enforcing them.

Overall, the pervasive lack of clarity over who the rules around discouraged relationships apply to and why is not only a serious impediment to implementation of the zero-tolerance policy overall, but reveals unresolved questions about the analysis of power that underpins the current articulation of the Bulletin's rules on exploitative sex.

2. Accountability: who judges exploitation, and how?

This leads to the question of how effectively the rule on discouraged relationships is (and can be) applied, and in particular, what the reporting process is and who decides whether a consensual adult relationship constitutes an abuse of power and is therefore exploitative. The UN's own Office for Internal Oversight Services admits to considerable "confusion and resistance" to the discouraged relationships standard, citing repeated debate about its clarity, boundaries, and concern about the effectiveness of relying on "individual judgement" to determine whether a relationship falls within or outside of the Bulletin's view of acceptable behaviour (OIOS 2015, 33, 55).

The Bulletin gives Heads of Department, Office, or Mission discretion in applying the discouraged relationships standard, where "the circumstances of the case justify an exception" (Article 4.5). But, non-exploitative, consensual adult sexual relationships are not prohibited, therefore granting an exception to something which is strongly discouraged makes little sense and confuses the process of dealing with these relationships. Some agencies ostensibly

require staff to report any sexual relationship with a beneficiary that the staff member considers to be consensual and non-exploitative to their supervisor “for appropriate guidance” (UNHCR 2010, para. 7) although the Code of Conduct which outlines this provision is an “illustrative guide” and a “moral code that does not have the force of law” (UNHCR 2010, 1). Some mission leadership set up informal reporting expectations in their organisation, saying it was better that they at least knew some of what was happening even if they couldn’t prohibit it.⁸ Others said that this was an impossible provision: one head of office asked, with evident exasperation, “How am I to know if it’s exploitation? Do they want me to go inside their bedrooms to see?”⁹

The weaknesses of the policy’s framing on this standard come into sharp relief in relation to the question of investigations, and those responsible for implementing it have found it to be lacking in clarity with serious implications for investigating allegations and judging whether relationships with beneficiaries reflect abuses of power. Before unpacking these challenges in relation to the discouraged relationships standard, it is worth considering the challenges facing the substantiation of allegations of sexual misconduct broadly. Even where allegations are reported, there are challenges in conducting investigations in rapidly changing environments or in cases where witnesses were not present or are no longer contactable. According to the Secretary-General, the trend in recent years has been that for every two substantiated allegations there are three unsubstantiated allegations (UNSG 2017, 71)—noting that substantiation requires sufficient evidence to prosecute in a court of law. According to a senior Conduct and Discipline Unit official, three main types of cases are classed as unsubstantiated: cases filed with insufficient information to investigate; cases that received an initial review but were deemed unsubstantiated in the first instance and no investigation launched; and cases that were sent for investigation but witnesses were not located (which is apparently very common), insufficient information was collected, evidence was inconclusive, or allegations were found to be false.¹⁰ Meeting the threshold for substantiation in cases of non-criminal sexual exploitation (which most transactional sex is), is particularly difficult given that the presence of consent, which is the universally accepted standard for separating consensual sex from abuse, renders the Bulletin inconsistent with international human rights law (Simic 2012, 171). The high bar for substantiation, coupled with the realities of the environments into which peacekeeping and humanitarian operations are deployed mean that exogenous factors (displacement, distrust in authorities, stigma, and access challenges) make it very difficult to meet the evidentiary standards required by criminal courts. The well-documented case of French Sangaris soldiers abuses against children in CAR demonstrated this: French magistrates dismissed the case on the basis of insufficient evidence for a trial, particularly “differences” in the testimonies of the children involved—despite extensive evidence collected by NGOs and journalists and what seem to be deliberate efforts by the Sangaris to delay and impede investigations (AFP 2016; AFW 2016; Brabant and Miñano 2017). As Ferstman has shown, the high bar for substantiation creates a vicious cycle that discourages allegations because “victims require assistance and support in order to feel confident in the system and to lodge a formal complaint.

However, they are only eligible for the bulk of support which might exist in theory, after a formal complaint is substantiated” (2017, 32). That these challenges persist in relation to the much clearer standards of sexual abuse (including child abuse) and transactional sex sets the foundations for distrust and discontent with the system for dealing with sexual misconduct that is only amplified by the problems inherent to implementing the unequal relationships standard.

Nicola Dahrendorf, who was tasked with reporting on the challenges of addressing SEA in the UN peace operation in DRC described the difficulty faced by investigators when assessing whether relationships between peacekeeping personnel and local Congolese women were sexually exploitative in contravention of the Bulletin. Dahrendorf found that investigations highlighted the “difficulty of determining whether relationships are exploitative in ambiguous situations where staff had ‘girlfriends’”, and that investiga-

“focused on assessing whether the relationship is bona fide, i.e., in good faith, and without deception or fraud. In many cases, perpetrators paid and or provided material assistance to a “girlfriend” who “belongs” to him for the duration of their mission. In other cases, “live-in girlfriends” cook, shop, wash, and clean the perpetrator’s house and receive money to do so. These cases are usually reported...when the “girlfriend” gets pregnant, is thrown out of the perpetrator’s house, or is left behind together with her baby by a perpetrator who has departed.” (Dahrendorf 2006, 11)

These cases are particularly difficult to assess because of the intersection of transactions and consent within the context of an ongoing relationship which place them under the purview of the discouraged relationships standard. In some cases, the suspected presence of consent has been used to excuse egregious acts of abuse, including child abuse, showing how investigative personnel bring their own biases to their findings. For example, the Zeid Report described the phenomenon of “rape disguised as prostitution,” whereby the perpetrator “pays” the victim with food or money afterwards to suggest a consensual transaction and avoid punishment (UN 2005, para. 6). The *Washington Post* documented the case of a child raped and impregnated by a peacekeeper, but whose case was classified as transactional sex by investigators rather than sexual assault, for reasons unknown to her (Sieff 2016).

My research in Timor-Leste revealed investigators faced similar challenges in working out the relevance of consent to assessments of potentially exploitative relationships. Some relationships clearly reflected abuses of power—such as those between foreign men and the young Timorese women who worked for them in their homes “like a temporary wife”¹¹ and had no other choice because their livelihoods were on the line.¹² However, investigators and advocates often emphasised the particular challenges of dealing with allegations of exploitation that were made after long-term relationships were abandoned, sometimes leaving “peace babies” behind.¹³ In those cases, the relationships were

¹¹Interview with Manuela Leong Pereira (Executive Director, ACBIT, former Director, FOKUPERS), Dili, 20 July 2016.

¹²Interview with F. Reis (Timorese civil society leader), Dili, July 21, 2016; Interview with Manuela Leong Pereira (Executive Director, ACBIT, former Director, FOKUPERS), Dili, 20 July 2016; Interview with Marilia Alves (Executive Director, FOKUPERS), Dili, 20 July 2016; Interview with Timorese staff member working with UN and NGOs, Oecusse, 26 July 2016.

¹³Interview with Timorese UN official, Dili, July 19, 2016; Interview with Manuela Leong Pereira (Executive Director, ACBIT, former Director, FOKU-

⁸Interview with UNs enior diplomat, Dili, 19 July 2016.

⁹Interview with Chief of Mission of intergovernmental organisation, Dili, 27 June 2016.

¹⁰Interview with senior staff member, UN CDU, NY, 4 November 2016 2016

generally described by women involved as long-term romantic relationships, with exploitative overtones that became apparent when the relationship ended. Described as deception, or not acting in good faith, the most common examples involved peacekeepers and civilians who, after conveying their intention to remain in Timor-Leste and marry their Timorese girlfriends at the end of mission, departed suddenly, often when a pregnancy occurred or after a baby was born. One long-term foreign resident who had worked with the peacekeeping and humanitarian operations pointed to the mismatch of expectations between foreign and local individuals in negotiating consent, explaining that in the context of Timor Leste's conservative, patriarchal society "the way that relationships emerge is through courtship and the promise of marriage, and sex starts on the promise of marriage," and noting that this local expectation was often not fully understood by foreign partners.¹⁴ Investigators and senior military personnel who dealt with investigations reinforced the challenges of such a mismatch of expectations between local and foreign partners about the nature of and commitment to relationships, but ultimately suggested that because these relationships did not violate the rules, all they could do was negotiate a once-off paternity payment in cases where a child was born. While that was unlikely to satisfy the women and families involved, the real challenges seemed to lie in the in-between cases: the many relationships that fell somewhere between the obvious exploitation of a maid or secretary and long-term romantic partnerships. One Timorese UN staff member who had worked in the Conduct and Discipline Unit investigating sexual misconduct allegations noted the importance of recognising the transactional elements present even in the context of consensual, long-term relationships. He argued that the fact that the women involved in the relationships needed the money or housing that their foreign partner provided meant that "the perpetrators knew it was exploitation, even if the victims didn't."¹⁵ Furthermore, in at least one case, the capacity of the woman involved to consent to the relationship is in question: A Portuguese peacekeeper stationed in a small regional town fathered a child with a deaf and mute Timorese woman, and subsequently refused to support the child (Koyama and Myrntinen 2007, 38). Nevertheless, the Timorese UN staff member involved in investigations noted that even in such cases it was difficult to substantiate allegations of exploitation because of the context of a consensual adult relationship—and in the absence of a child born from the relationship, there was little the UN could negotiate informally in terms of compensation for harms suffered.¹⁶ These examples raise the question of intent, and highlights the reliance of investigations mechanisms on the establishment of intent to determine wrongdoing in allegations of sexual exploitation in the context of consensual relationships. Critically, even though many of the relationships discussed above did not constitute misconduct or prohibited behaviour, they had serious impacts for the women and communities involved and contributed to a loss of legitimacy the UN had in the eyes of local communities.

Despite long-standing and widespread confusion, there has been surprisingly little effort to clarify how the discouraged relationships element of the Bulletin should be ap-

plied, and those which attempt to do so are inadequate. Explanations contained in the General Application of the Bulletin merely rearrange sentences, asserting that sex with a national from the host country is acceptable if it is "not exploitative or abusive and in violation of the [Bulletin]." (UN 2010, para.12) Consent is not considered relevant, in contrast to most other similar codes or legal standards (Simic 2012). Instead, an act is unacceptable if it reflects an abuse of power, which is framed as the result of "inherently unequal power dynamics" (UN 2010, paras. 13 and 16). Lack of clarity abounds, even in official guidance which often offers contradictory advice on the acceptability of sex with beneficiaries (UNHCR 2004). Consequently, managers, supervisors, and heads of department are manifestly unprepared to provide the guidance required. In fact, a 2010 review commissioned by the Inter-Agency Standing Committee recorded that in two field missions interviewed, "there was repeated debate with agency personnel at all levels about the boundaries of the Bulletin, with individuals strongly challenging its prohibitions, and, in particular, that the use of the phrase 'strongly discouraged' allowed individual judgment to prevail." (Reddick 2010, 19) The review found that managers felt particularly ill-equipped to talk about SEA with national staff because of cultural norms. As one agency head interviewed in Timor admitted to me, "I don't feel I'm in the position to have a say regarding a relationship for grown people, adults. But I do say it is better if I am aware of this. I'm not with them 24 hours per day though."¹⁷ He later revealed that he himself had married a local woman during a previous deployment. This again speaks to the importance of positionality in the way individuals make sense of sexual exploitation and particularly, the discouraged relationships standard. People's personal experiences of life and work within peacekeeping contexts, their gender, and their personal beliefs about sex, agency and coercion in crisis contexts collectively and fundamentally shape their analysis of (un)acceptable consensual sex and their expectations of international organisations in policing it.

Taken together, these challenges to the application of the discouraged-relationships standard show that the rule is nearly impossible to implement in practice, and its inclusion in the Bulletin has furthermore undermined efforts to ensure accountability for sexual abuse and transactional sex.

3. Credibility: is the discouragement of consensual sexual relationships reasonable?

The picture that has so far emerged is of an unworkable policy that fails to establish a coherent foundation for preventing and holding perpetrators accountable for sexual exploitation, and which introduces significant confusion into the question of how to regulate exploitative relationships that do not involve direct transactions. In promulgating two standards regarding sexual exploitation—one hinging on overt transactions and the other on contexts of ongoing relationships—the Bulletin attempts to disambiguate between two types of behaviour that are not easily disambiguated, and that are in fact two points on a spectrum of adult relationships that occur in the context of unequal power. At one end lie clearly exploitative relationships where sex is traded or extorted in exchange for material benefits, at the other, adults in consensual relationships navigating imbalances of power without abuses of power.¹⁸ The lack of clarity on the boundaries of "goods and services" is

PERS), Dili, 20 July 2016; Interview with F. Reis (Timorese civil society leader), Dili, 21 July 2016; Interview with former UN Timorese staff member and current senior government official, Dili, 28 July 2016.

¹⁴ Interview with international staff member who worked in UN human rights unit and international NGOs, Dili, 19 July 2016.

¹⁵ Interview with Timorese UN official, Dili, 19 July 2016.

¹⁶ Interview with Timorese UN official, Dili, 19 July 2016.

¹⁷ Interview with Chief of Mission of intergovernmental organisation, Dili, 27 June 2016

¹⁸ Simic's interviews with Bosnian women who had relationships with peacekeepers provides excellent illustrations of this spectrum (Simic 2012).

illustrative of the problems with this framing of the markers of exploitation in the context of consensual adult relationships: Does paying for school fees for a girlfriend's children count as a transaction of goods and services? Is it acceptable in the context of an ongoing relationship, but not in the context of a once-off sexual interaction? Does covering accommodation costs when your partner moves in with you count, or would these be considered acceptable financial sharing in an ongoing relationship? In fact, ongoing relationships often involve pooling resources between partners—some countries write this into law. However, in trying to dichotomise exploitative and non-exploitative relationships on the basis of direct transactions or the presence of a power differential between partners the Bulletin takes a very broad spectrum of relationships into its scope, considering any sexual interaction between adults that is not sexual abuse as potentially an abuse of power and, therefore, exploitation. What I have shown is that this provides an insufficient basis for those responsible for implementing the policy to make assessments of the exploitative nature of relationships, and there remain significant differences in how the rules are interpreted even by those responsible at the highest levels for their implementation which reflects individuals' positionality, social and political beliefs. This has serious implications for the perceived credibility of the rules among those they governed.

The broad scope of the discouraged relationships standard is already considered grave overreach by some personnel. The OIOS described a perception among some serving personnel that the current standard is “discriminatory,” an “intrusion of privacy” and a potential breach of human rights, and unequivocally acknowledges that “banning sex with the local population is ineffective.” (OIOS 2015, 23 and 27) This mirrors academic critiques (Otto 2007; McGill 2014), and was echoed in multiple interviews, including with senior UN officials responsible for the policy's implementation and misconduct investigations. Furthermore, interviewees from some key international organisations suggested that the perception that this aspect of the policy is unreasonable has diminished the credibility of the policy overall. They argued that the Bulletin can be seen to conflate rape and sexual violence with consensual sex, thereby undermining prevention efforts as it blurs messages about violence and risks, and gives a mistaken impression that all behaviours under the Bulletin's purview are equivalent in their seriousness. According to staff at one international agency,

“Because the behaviours are lumped together as SEA, it risks people not taking the whole policy seriously. Instead of raising the bar, it results in misunderstandings and misperceptions. It creates confusion and can be counter-productive, lowering the overall protective effect of the policy. SEA should be unpacked and separated out.”¹⁹

Another UN official argued that the policy should focus on sexual abuse and sexual exploitation that involves the misuse of humanitarian resources—what Transparency International (2020) calls “sextortion” to emphasise the corruption aspect of such behaviours—not consensual sex between adults even if there is an imbalance of power.²⁰ He recounted a case involving a young foreign man who was a peacekeeper and who met a young local woman and went out for dinner with her for his birthday. They later got a

hotel room because they could not go back to barracks together. They were both of consenting age and the sex was consensual, but the hotel manager reported the case to the UN, resulting in the repatriation of the young man and his exclusion from future UN jobs on the basis that the encounter was exploitative under the discouraged relationships standard. “This is not right or fair,” the official told me, and he suggested that it undermined the general sense in the staff community that the rules were legitimate. Several others I interviewed pointed to the inconsistency of punishments for very different types of sexual misconduct (consensual adult sex as compared to child rape, for example) as another reason the policy framework was perceived as unfair by staff. The outcome of the case described above certainly sits in stark contrast to the complete lack of accountability faced by the French soldiers implicated in egregious child abuse in CAR.

This is not to suggest that everyone considers the discouraged relationships standard to be unreasonable, but rather to highlight the legitimacy deficit the rule suffers. In fact, there has been growing momentum for a blanket non-fraternisation rule to be adopted to bypass the impracticalities of the implementation of the current standard—with the UK and Australia explicitly adopting non-fraternisation policies for overseas aid staff, and a number of NGO bodies doing the same (IDC 2020, 42; DFAT 2019; InterAction 2021). While replacing the discouraged relationships standard with a non-fraternisation rule may improve clarity and accountability mechanisms by simplifying the rules about exploitative sex, it will likely compound perceptions that the policy lacks legitimacy, in no small part because it promulgates a paternalistic dichotomy of “legitimate” and “exploitative” sex. Moreover, it would not address well-documented challenges including low reporting rates, lack of trust, and fear of retribution and hesitance to report on colleagues (Westendorf 2020, 88). People are more likely to follow rules if they believe those rules are legitimate: that the existing rules regarding consensual adult relationships are already seen as unreasonable by some suggests that a stricter non-fraternisation rule would likely amplify those perceptions.

Legitimacy on the Line

On a first reading of the Bulletin, the discouraged relationships standard might seem a minor provision, secondary in importance to the prohibitions on child sex abuse and transactional sex. However, I have shown that the discouraged relationships provision is inextricably linked to the application of the transactional sex standard; together they provide protections against sexual exploitation by UN personnel. The discouraged relationships standard has produced three key pragmatic challenges related to the comprehension, application, and credibility of the rule, which together undermine the effectiveness of the Bulletin as a whole and erode its perceived credibility among staff. I have demonstrated that the policy is an unstable foundation for efforts to prevent sexual exploitation and hold perpetrators accountable; this final section will show the effect this has on perceptions within the UN about the broader legitimacy of the organisation's peacekeeping and humanitarian work.

During discussions with people involved in peacekeeping missions, many said that they lost confidence in their own organisation and the broader peacekeeping project when they found out about sexually exploitative behaviours by colleagues, and particularly when perpetrators were not held accountable. One woman who had worked in Timor-Leste

¹⁹Interview with senior staff from a major humanitarian organisation, Geneva, 20 September 2016.

²⁰Interview with UN Police official, NY, 31 October 2016

since independence told me that while many international personnel cared deeply about and respected Timorese communities, they worked alongside others who did not, and who refused to recognise the exploitative nature of their interactions with local individuals, particularly sexual relationships characterised by power imbalances.²¹ Another suggested that her respect for colleagues was undermined when she saw UN cars outside brothels, and that SEA fundamentally tarnished the international community's reputation for her.²² Both characterised the processes for dealing with allegations of sexual exploitation as ineffective, and suggested it was hard to maintain working relationships with colleagues they knew engaged in SEA, which impacted the outcomes of their work. Almost every woman I interviewed recalled being aware of cases of exploitative behaviour, but many noted that they did not report them at the time because they "didn't know all the details" and were reluctant to make unfounded allegations—in retrospect many expressed discomfort at the fact that they did not raise their concerns with colleagues. A senior man at UN headquarters similarly argued that SEA is "hard to come to terms with" if you are part of the UN system: "how do you explain it to your kids, when you know the UN was supposed to be better than this?"²³

These feelings were amplified when respondents thought that their organisation did not take misconduct allegations seriously, or when perpetrators were not reliably held accountable. One interviewee in Geneva was told that she was "exaggerating the problem" when she raised issues of sexual exploitation perpetrated by staff with senior management.²⁴ When they were eventually forced to respond, she said that management was more concerned with organisational risk and reputation than accountability to victims. Other respondents employed in international organisations said staff became particularly disillusioned when senior leaders refused to believe that their employees could perpetrate SEA. One former Bosnian UNPROFOR staff member recounted her deep disappointment when the head of mission responded to allegations of peacekeeper involvement in forced prostitution and trafficking on the BBC.²⁵ She recalled that staff, particularly Bosnians, were waiting for Jacques Paul Klein to acknowledge UN Police misconduct and commit to ensuring perpetrators be held accountable and were shocked and disappointed when he denied the problem. Consequently, she said, many staff lost confidence in his leadership, the peacekeeping operation they were a part of, and the credibility of other claims he made about the broader peace process. Other respondents involved in supporting victims reported being particularly distressed by systematic victim-blaming in response to misconduct allegations—particularly where consent was taken to disprove exploitation in transactional sex cases—and in investigative processes that were considered unfair or insensitive to victims.²⁶

These experiences and perceptions in turn undermined staff morale. Many expatriate personnel noted during interviews that they were disheartened by the perpetration of and lack of accountability for SEA; many had either left a mission or the sector as a result or knew colleagues that had. A former NGO worker who had been her organisation's focal point for the prevention of SEA said that she came to realise that there was a "hierarchy of evils" whereby agencies considered the sexual exploitation of adults—particularly where transactions occurred—to be a lesser form of evil, to which fewer resources were directed and which were often not fully investigated.²⁷ She left the sector in frustration that she was unable to shift such cultures and establish robust mechanisms to prevent and punish sexual exploitation. Such views were particularly prominent among women and those who had long-standing connections with local communities after years of working and living within them, highlighting again the importance of positionality with respect to perceptions of (un)acceptable sex. Their frustration with SEA policy enforcement was acute and often rendered through a human rights and respect lens; with SEA framed as both a human rights violation and a demonstration of disrespect and lack of care towards local communities. It was amplified by their feelings of helplessness to meaningfully contribute to prevention or accountability mechanisms, and often also anger and disgust at colleagues who exploited and abused. Interestingly though, many such individuals tended to reject the simple solution—namely non-fraternisation—pointing to the problematic paternalism and assumptions it is based on; a matter beyond the scope of this paper but that warrants further attention.

As von Billerbeck shows, the UN frames its identity firstly in terms of its operational role responding to conflicts and crisis, and secondly, in terms of its normative role in developing, upholding, and promoting UN norms and principles internationally (2016, 120). These narratives define how UN staff see themselves and the "worthiness and rightness of their role in post-conflict situations." (Ibid, 121) My interviews with UN staff and others associated with peace operations showed how sexual misconduct by peacekeeping and related personnel challenges both these perceptions: it undermines operational effectiveness and directly violates the norms and principles the international community claims to be motivated by. By undermining staff beliefs about how "right" and "just" the international project they are working within is, SEA results in staff attrition, causes staff to become disengaged from their organisation's mission, and consequently diminishes the capacity the international community has to respond effectively to conflicts through peace operations.

Conclusion

This article has investigated how effective the UN's zero-tolerance policy has been in addressing sexual exploitation perpetrated by personnel in peace and humanitarian operations, and the unintended consequences of the controversial standard that discourages relationships between staff and beneficiaries because of "inherent power imbalances." I have demonstrated that this standard is overly broad and insufficiently clear, particularly in its relationship to the transactional sex standard, with several consequences for its effectiveness. First, there is poor comprehension about what the

²¹ Interview with international staff member who worked in UN human rights unit and international NGOs, Dili, 19 July 2016.

²² Interview with senior UN staff member with experience in multiple peace operations and Office of the Special Coordinator on SEA, NY, October 31, 2016.

²³ Interview with UN Police official, NY, 31 October 2016

²⁴ Interview with former senior focal point for SEA for large international NGO, Geneva, September 19, 2016.

²⁵ Interview with Bosnian NGO official and anti-trafficking expert, Sarajevo, September 14, 2016.

²⁶ Interview with former senior focal point for SEA for large international NGO, Geneva, 19 September 2016; Interview with Teresa Verdial (Former director, Alola Foundation), Dili, July 18, 2016; Interview with Abel Dos Santos (Program coordinator, Fundasaun Mahein), Dili, 22 July 2016; Interview with gender based violence coordinator at a UN agency, Geneva, 23 September 2016; Interview with Bosnian gender advisor to intergovernmental organisation, Sarajevo, 7

September 2016; Interview with Bosnian NGO official and anti-trafficking expert, Sarajevo, 14 September 2016.

²⁷ Interview with former senior focal point for SEA for large international NGO, Geneva, 19 September 2016

rules mean and who they apply to. Second, this undermines the application and enforceability of not only the discouraged relationships standard but also the broader rules on transactional sex (which are deeply interconnected in practice) and contributes to the patterns of impunity for sexual exploitation. Third, the discouraged relationships standard undermines the perceived credibility of the zero-tolerance policy among staff governed by it, not just because it is an unstable foundation for prevention and accountability efforts, but because it fails to reflect the complexities of relationships that come into play when personnel engage in consensual sex with local adults and seems to equate the presence of power imbalances with exploitation.

My analysis has shown that although a concern about power is at the heart of the discouraged relationships standard, the policy does not advance a way of making sense of systems and structures of power when parsing relationships between personnel and local people; instead power is taken to be indicated primarily by masculinity and relative wealth. This perpetuates a problematic set of assumptions: that sex differences are essentialised (men are powerful, women are vulnerable); that this understanding can be mapped onto the bodies involved (peacekeepers are men, vulnerable beneficiaries are women); and that peacekeepers always have financial power (peacekeepers have disposable income, local women are poor and any sexual exchange is driven by a survival instinct). These assumptions not only belie the diversity of life, society and experiences in conflict and peacekeeping contexts—and the many ways exploitation can occur beyond vulnerable women agreeing to survival sex with peacekeepers—but fail to capture the dynamic ways power operates and is experienced by individuals who consent to sex in the context of power differentials. They obscure other sources of power (such as race, class, sexuality, education, employment, and opportunity), invisibilise desire, and negate the capacity of individuals to navigate power imbalances in their everyday lives. In attempting to address the “inherent power imbalance” between UN/NGO personnel and local people, the Bulletin established a system for regulating sexual misconduct that is unsuited to navigating the complexities of power in the situations into which peace and humanitarian operations are deployed and in which people forge relationships characterised by a complex mix of consent, negotiation, and exploitation. Moreover, it has had the paradoxical impact of compounding that power imbalance and reinforcing paternalistic dynamics that have long characterised how the global north has perceived and policed the personal and sexual choices of people of colour; this warrants further scholarly attention.

The failure of the zero-tolerance policy to provide a robust foundation for the prevention of sexual exploitation presents a serious challenge to the UN and the humanitarian community. It hampers efforts to ensure accountability for sexual exploitation and produces grievances when non-exploitative relationships are punished or prohibited in the name of protecting local women. It also reflects and reinforces a carceral governance feminism, where a focus on sexual harm and a consensus on the importance of criminal accountability has been institutionalised (Engle 2020, 2–15) placing a heavy burden on accountability mechanisms, to the detriment of addressing the more complex and often non-criminal forms of sexual exploitation. The focus on criminal accountability has reinforced the notion that SEA is a problem of “bad apples” who need to be held individually accountable in order to both punish misconduct and produce a deterrent effect against future misconduct and diverted attention from other social, political, and economic

interventions that might better address the structural and normative causes of SEA and which are particularly apparent in exploitative sex.

This raises the question of what might be done to improve the policy foundations regarding SEA. My analysis suggests that instead of doubling down on the current approach to regulating potentially exploitative sex between consenting adults and adopting a stronger non-fraternisation rule, attention should focus on (1) clarifying the parameters of transactional sex to provide a more robust foundation for accountability mechanisms, and (2) articulating more clearly the intersections of power, agency, and sexual exploitation, as the basis for a broader reckoning with the dynamics between international organisations and local communities in peacekeeping and humanitarian operations. Crenshaw described intersectionality as “traffic in an intersection, coming and going in all four directions ... If an accident happens at an intersection, it can be caused by cars travelling from any number of directions and, sometimes, from all of them.” (1989, 139) Making sense of the way systems of power and inequality collide to produce circumstances in which individuals engage in SEA, as opposed to looking only at certain characteristics inequality, would be a more robust foundation for navigating the prevention of sexual exploitation. It would redirect attention from its current heavy focus on accountability mechanisms towards prevention efforts that actively redress the power imbalances that give rise to SEA. I am not suggesting that the discouraged relationships standard simply be purged from the Bulletin. Rather, I am arguing that in order to effectively address exploitative relationships, policy responses cannot focus predominantly on codes of conduct and accountability mechanisms but need to address the power dynamics between international missions and personnel and the communities in which they work and the material conditions that shape them. The relationships that emerge in that context cannot be relegated entirely to the personal realm—they are deeply political in the way they are produced and the effects they have—but they equally cannot be governed by carceral logics, which result in rules that are unenforceable and considered illegitimate. As Jennings has argued, the Bulletin presents SEA as exceptional and a technical glitch rather than something that arises as a result of how peacekeeping works, and how peacekeeping missions relate to the communities they have been sent to protect (2010, 239).

The Bulletin holds that “sexual relationships between UN staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the UN.” This article has shown the unintended consequences of this framing: the standard itself undermines the effective implementation of the zero-tolerance policy, and diminishes the credibility and integrity of the UN, particularly among its own staff.

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