

“JUSTICE MUST BE DONE”: LEGAL ENGAGEMENTS AND GENDERED HARMS
FOLLOWING PEACEKEEPER-PERPETRATED SEXUAL EXPLOITATION AND ABUSE
IN THE DEMOCRATIC REPUBLIC OF THE CONGO

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A DISSERTATION SUBMITTED TO THE FACULTY OF GRADUATE STUDIES IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF DOCTOR
OF PHILOSOPHY

GRADUATE PROGRAM IN SOCIO-LEGAL STUDIES
YORK UNIVERSITY
TORONTO, ONTARIO

MAY 2023

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Abstract

Attention to peacekeeper-perpetrated sexual exploitation and abuse (SEA) has developed importantly in recent years. However, there remains a dearth of empirical research bringing forward perspectives of those directly affected by this form of sexual violence. This dissertation uncovers the experiences and needs of survivors of SEA in the Democratic Republic of the Congo, contributing to improved understanding of how women experienced gendered harms, represent their needs, and explain their conceptions of justice following SEA. I compared these priorities to official UN accountability approaches and supports, contextualizing both within a highly militarized and legally plural context complicated by ongoing conflict and deep structural violence.

Sexual exploitation and abuse perpetrated by peacekeepers complicates distinctions between atrocity, and ‘everyday’ injustices. My research has uncovered instances of ‘SEA’ that do not neatly distinguish it from conflict-related sexual violence in perpetration or impact. Community participants insisted on linkages between structural violence, sexual violence by state and non-state armed groups, and sexual abuses perpetrated by peacekeepers. ‘SEA’ is, however, typically relegated to a low rung on international actors’ hierarchies of harm that prioritize weaponized rape by state and non-state armed groups. ‘SEA’ operates in a liminal zone between war and peace, with jurisdictional challenges often preventing legal accountability.

Analysis of survey and interview data, collected from six communities in eastern DRC, revealed high material needs of SEA survivors, barriers to effective reporting, and a lack of systematic support or investigations into SEA. No woman in this research achieved a formal legal response and legal mechanisms are made inaccessible in cases of SEA. This represents a recession of law and reveals a serious SEA accountability gap. Beyond technical issues of implementation, my analysis further revealed an important disconnect between what survivors of SEA want and need and what the UN currently offers. Their experiences reveal deeply gendered conceptions of harm that are not legible within current UN approaches to SEA.

I argue for contextualization of SEA as perpetrated in structurally violent contexts and for understanding SEA as occurring on a continuum of sexual violence within conflict. Serious revision of current approaches to redressing SEA are necessary to achieve a rights-based response that meets survivors’ needs and secure justice following peacekeeper perpetrated SEA.

Dedication

In memory of Mambo Zawadi.

Zawadi was the first to lead me to many of the questions driving this project and always supported me to move toward answers. She also gave me the most impactful lessons in holding love, beauty, and joy close. Je n'oublierai pas les boutons floraux ni le petit lapin. Merci, toujours.

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Acknowledgements

Thank you to the Social Sciences and Humanities Research Council, the Nathanson Centre, and the Ontario Graduate Scholarship for their generous support of me and my research.

My deepest appreciation to Sofepadi. Without the contributions of Mambo Zawadi, Sandrine Lusamba, Aimee Masika, and Jacqueline Alinga this project would not have worked. Thanks also to the team at Marakuja for your partnership, and especially to Ibrahim (Coach) Kasereka for your translation work and your friendship. Thank you to Claude Munazi and Congo Nouveau for organizing the focus group, answering my many questions, and keeping me informed of happenings in and around Goma.

My supervisor, mentor, and friend, annie bunting, has been a limitless source of inspiration and support. Annie, from the first time I emailed you to inquire about the possibility of working together for my PhD, to bringing me through to defense, you have encouraged me and believed in me. You have opened so many doors and, when necessary, given me gentle nudges through them. Thank you for everything, as always. As you would say- onward!

Thank you to Amélie Barras and Mohamed Sesay, truly the best committee members anyone could ask for. Thank you for bringing your expertise, interest, and encouragement to the project. To Drs. Sylvia Bawa, Milli Lake and Margaret Boittin, thank you for reading and engaging. It was a true honour to have you all involved.

To Susan Bartels, thank you for welcoming me onto this project and being such a huge source of support and inspiration throughout the process. Your generosity, encouragement and trust has meant everything. I'm excited to see what we do next!

I started this project adjacent to and inspired by my work with the Conjugal Slavery in War partnership project. To my CSiW friends and colleagues, you have taught me so much. It is a true privilege to work alongside each of you and I look forward to continuing our partnership for many years to come. To my dear friends, Katrin Roots, Jessica Templeman, Ali Malik, Chika Maduakolam, Rahina Zarma, Sylvie Bodineau, Ketty Anyeko, Meredith Evans, and Bruno Veras, thank you for your encouragement, commiseration, and for many laughs (and a few tears) along this journey. Connor, thanks for telling me to stick it out. I miss you. Emily Lockhart, I couldn't and wouldn't have done this without you. Thanks for calling me in 2015 to tell me you were getting married, somehow ending the call by convincing me to go back to York, and for being by my side every step of the way ever since.

Mom, Dad, Jen, Geoff, Ancelene- thank you for all you've done. I couldn't ask for a better family to stand behind me through this process. Mom, thanks for encouraging me to go back to school and never doubting that I would.

Paul, you have been beside me through it all. Thank you for always listening to my half sentences and half-baked thoughts. Thank you for being genuinely interested, for caring deeply, and for believing in me always. Eamon and Eleri, you are my rays of light through sometimes dark places. Thank you for always making me smile.

List of Abbreviations

ADF: Allied Democratic Forces (a non-state armed group)

CRSV : Conflict-related sexual violence

MONUSCO: Mission de l'Organisation des Nations Unies pour la stabilisation en République démocratique du Congo

FARDC: Forces armées de la république démocratique du Congo (Congolese state military)

FDLR: Forces démocratiques de libération du Rwanda (a non-state armed group)

ICC: International Criminal Court

ICL: International criminal law

IHL: International humanitarian law

IHRL: International human rights law

M23: The March 23 Movement (a non-state armed group)

MOU: Memorandum of Understanding (establishes legal agreement between troop-contributing country's terms of service to the UN)

SEA: Sexual exploitation and Abuse

SOFA: Status of Forces Agreement (establishes legal agreement between the UN mission and the host country government)

TCC: Troop Contributing Country

Chapter 1: Introduction

It was the time we were living close to the camp of SemiSemi. We used to go there to pick some water bottles those people were throwing. At a given moment, a certain MONUSCO soldier sent a guy to come take me that I am a robber. They put in the house, then that man said that he was longing for me, but he never had that opportunity, so he raped me. From that rape, I had a child-- this one. My mother started pursuing the man, but it was difficult, so the Head of our Quarter advised not to continue following up lest we get problems. We shifted from that place and went to live with my grandmother. (Woman, 18-24, Bunia)

Poverty, insecurity, and sexual violence intersect to produce devastating outcomes for people living in conflict-affected regions around the world. In the Democratic Republic of Congo (DRC), these connections are most often recognized in the form of conflict-related sexual violence and rape committed as a weapon of war. Within these narratives, impoverished and vulnerable women are strategically raped by combatants of non-state armed groups to terrorize the population and gain access to land rich with mineral wealth. The hyper-emphasis on rape as a weapon of war can, at times, serve to detract from a myriad of other forms of gendered violence and to flatten the deeper personal and political implications of sexual violence. As a result of the re-production of one type of story related to sexual violence in the DRC, other modes of sexual violence are invisibilised or minimized when compared to weaponized rape, including those that are as equally and inextricably linked to ongoing conflict. Peacekeeper-perpetrated sexual violence has been recognized as a problem since the early 1990's, and yet responses have been slow, fragmented, and often ineffective in securing accountability or preventing future violence. In contexts where displacement is widespread and the peacekeeping mission is a well-armed source of authority and governance, reporting such violence often feels inaccessible to victims and investigation and accountability measures are insufficient when they occur at all.

Termed ‘sexual exploitation and abuse’ and often shortened to ‘SEA’ by the United Nations ranging from¹, sex work, children fathered and then abandoned by peacekeepers, child sexual abuse, and violent rape have been recorded in every peacekeeping mission since the 1990s when tracking of these offenses first began (Westendorf, 2020). The context in which these challenges are arguably most prevalent is the Democratic Republic of Congo where the United Nations has had consistent engagement since before decolonization in 1960 and an active peacekeeping mission since 1999². Beyond merely its extended duration, the mission is also unique in both levels of mandated combat engagement and the specific focus on preventing and responding to conflict-related sexual violence as part of the Protection of Civilians (POC) mandate. The DRC missions have also consistently reported the highest numbers of ‘SEA’, rivalled only by MINUSCA in Central African Republic. Despite the UN’s zero-tolerance policy on this issue developed in 2003, ‘SEA’ continues to be a huge but often underappreciated problem in the DRC overshadowed by sexual violence by armed groups.

In this dissertation, I intersect institutional, policy and legal analysis of the United Nations’ approach to peacekeeper sexual exploitation and abuse with perspectives from Congolese community members, including survivors of ‘SEA’. The UN has invested significant resources into combatting ‘SEA’, enhancing reporting, and refining and promoting the zero-tolerance policy. Despite this, ‘SEA’ is widely known to be underreported and, as uncovered in my research, propagates serious and long lasting harm for survivors.

¹ Transactional sex and sex work are often conflated. Here, I follow Stobeneau (2016) in considering transactional sex to include exchanges of sex for material goods including gifts, payment of rent, school fees, etc. In the data that follows, this often occurred over an extended period of time, sometimes in the context of a dating relationship, and the exchange was often not established upfront but there was an expectation on women’s part that they would receive material benefit for engaging in sex. Sex work refers to direct payment, usually of cash, sometimes of food, in exchange for sex.

² More on the development of this mission and the longer, more complex history of UN involvement in DRC follows in chapter 3.

Why has the UN's investment in tackling 'SEA' failed to prevent peacekeeper-perpetrated abuse and exploitation or provide justice for survivors? To explore this central question and these relationships and lived experiences of 'SEA', UN policies approaching it, and community perspectives, the dissertation engages with a series of inter-related questions, each of which helps us move toward understanding this problem.

1. *Law, Policy, Rights*: How is law understood and mobilized in relation to SEA, and when and how does law recede? When and by whom is sexual abuse by peacekeepers understood as a legal issue and when is it not? How do different actors mobilize in relation to 'SEA' within legally plural contexts?
2. *Structural Violence, Sexual Violence, and Governance*: How does the context of conflict, poverty, and insecurity intersect with peacekeeper SEA, particularly in a space that international politics has made nearly synonymous with conflict related sexual violence? How does peacekeeper SEA contribute to or challenge UN considerations of conflict-related sexual violence as an international security issue and one mediated through a combination of international law and militarization?
3. *Conceptions of Harm and Justice* Where are the gaps and where are there frictions between UN and community approaches and perceptions of acts labelled by the UN as SEA? What harms are omitted within the UN's framing and to what effect?

Through this research, I found there is a widespread ambivalence around the role of law and human rights paradigms in relation to sex with and violence by peacekeepers. This is despite the emphasis on policy and internal disciplinary approaches upheld by the UN and the emphasis on anti-impunity and legal accountability by activists and academics. In the context of Eastern

DRC, marked by extreme poverty and ongoing insecurity, victim-survivors were often less concerned with naming how their rights had been violated and ought to be redressed and more so with how they would feed their children and whether the interaction with the peacekeeper may impact their economic security. Further, what was considered violence by community members did not always neatly coincide with what the UN categorizes as sexual abuse, and what the UN considers exploitative was often deemed necessary or even positive by respondents. In this dissertation, I attempt to disentangle different notions of violence, exploitation, and justice within contexts of ongoing violence and insecurity to develop responses better attuned to the needs and priorities of survivors.

Exploring and Explaining ‘SEA’

United Nations peacekeeping policy developers have attempted to decrease SEA while increasing child protection efficacy, enhance reporting and support for sexual violence, and improve relations with civilians generally by including more women as peacekeepers. The logic behind these developments rests on the idea that women are unlikely to perpetrate sexual offenses, and children and other women will feel more comfortable with women peacekeepers (discussed further in chapter 4). These moves further represent attempts to shift the culture of peacekeeping from masculinized and militarized, to multifaceted and more community focused. This, in part, is representative of the shift toward longer term and more dynamic peacekeeping missions, further evidenced by the “triple nexus” approach to international intervention. These developments also rely on specific, and essentialized, conceptions of gender, gendered relations, and gender roles (Henry, 2018).

Through my research, I have endeavoured to build on these conversations to better understand how community members hosting the longest and largest peacekeeping mission in

history understand and respond to abuses by peacekeepers and to explore the frictions between UN policy on ‘SEA’ and survivors’ experiences of violence. In this dissertation, I trace the activities of the peacekeeping mission in the DRC alongside increased international attention to conflict-related sexual violence to explicate connections between UN attempts to prevent and redress conflict-related sexual violence (CRSV) even while its own agents are responsible for committing sexual violence, highlighting the often-false distinctions between these categories of sexual abuse. While the UN has invested considerable energy into differentiating peacekeeper perpetrated sexual abuse from CRSV committed by state and non-state actors, we can see a similar distinction made in the academic literature. Few researchers studying SEA have directly drawn on and learned from insights gathered through the larger body of literature devoted to the causes and consequences of CRSV. In this way, within our conceptualizations and responses to ‘SEA’, we have collectively missed opportunities to intersect and compare valuable existing research that has the potential to increase understandings of how ‘SEA’ relates to CRSV and how to better prevent and respond to it³. This is a gap I attempt to fill by drawing directly on empirical studies of CRSV and exploring how these may relate to ‘SEA’. Peacekeeper violence is explored in both historic and contemporary developments, from the shift in approaches by the UN from a veritable shrug and dismissal to a zero-tolerance policy that moves to prevent exploitative interactions but contains few avenues for redressor opportunities for meaningful incorporation of survivors’ priorities.

While there have been important analyses and studies aimed at uncovering and critiquing accountability gaps for peacekeeper SEA, there has been less engagement on questions of

³ While there is a significant and growing body of empirical literature on CRSV (See Nordås and Cohen, 2021) there is of course no definitive answer to why CRSV is prevalent or how to best respond. Debates and conflicting findings are rife through the literature.

whether a legalistic approach is appropriate for addressing peacekeeper abuses. During discussions with MONUSCO personnel in Goma in 2020, I encountered genuine bewilderment at the low levels of reporting of SEA: personnel accepted that their official numbers do not capture the entire scope of the problem and have made concerted attempts to increase accessibility of reporting measures (discussed in chapter 4). There was not, however, any consideration of whether filing complaints and pursuing allegations through the UN system coincides with how Congolese community members make sense of SEA and what it would mean to reconsider these approaches. Postcolonial feminist frameworks (Martin de Almagro and Ryan, 2019; Nesiah, 1993) make clear that expecting survivors of gendered violence in the Global South to pursue redress through mechanisms and avenues that were not designed in their image runs counter to building a sense of justice for harms committed. In cases of ‘SEA’ it is necessary to consider how existing legal mechanisms may be illegible or inappropriate to address lived harms, but also to extricate the ways in which legalistic justice is pulled away from ‘SEA’, how law and justice recede.

Feminist theories of harm elucidate the simultaneously structural, personal, and communal effects of sexual violence: sexual and gendered violence is produced through structurally violent and systemically unequal conditions, with the harms being felt first at the individual level but also radiating outward to the victim’s family and community (Aoláin, 2009). In contexts of ongoing conflict and insecurity, this harm is especially acute and increases risks for further compounding harms related to worsened poverty, illness, and displacement. These factors contribute to vulnerability to violence while simultaneously being effects of this violence. This bidirectionality of violence produces a complicated subject position for survivors of ‘SEA’ who struggle to navigate contexts of ongoing conflict and structural violence. This occurs all the

while their experiences of harm go largely unrecognized by the UN. Throughout this dissertation, I argue that women's experiences of harm and expectations of justice (and lack thereof) come into tensions with UN approaches to accountability and victim support for 'SEA', challenging the definitions themselves and demonstrating the insufficiencies of current procedures and protocols.

Key Contributions

I focused my analysis on conceptions of harm, justice, and access to redress following 'SEA'. My questions were inspired in part by Holly Dunn's work on emergent legal consciousness in the DRC, Milli Lake's research into engagement with law following gendered violence in contexts of limited statehood, and Sahla Arrousi's findings that women often prioritize economic over legal justice following sexual violence in the DRC. These authors provide valuable insight into legal engagement, legal disengagement, and relationships between law and justice following violence in the DRC. In this project, I was interested to see what overlaps and divergences exist when we specifically consider abuses committed by UN peacekeepers, rather than community members, non-state combatants, or Congolese soldiers. Scholarship on human rights and legal pluralism has provided critical insights into the operations of the institutions, logics, and systems survivors are forced to navigate to achieve accountability following SEA. Transitional justice and feminist security studies provide much of the conceptual underpinnings and analytic framings for the project. I brought these literatures into conversation and used them to help analyze my fieldwork observations from Goma and Kinshasa, a focus group discussion with 10 women, 72 interviews with survivors of SEA and mothers raising

PKFC and analysis of 2856 community derived SenseMaker narratives⁴, 215 of these from women personally affected by SEA. Through this process, I have developed insight into how women experience SEA and the effects stemming from it. I uncovered what women were asking for and what they needed, and then juxtaposed this with UN policy approaches and legal avenues available to them. Through this, I found important disconnects between what women need, what the UN is supposed to offer, and what is made practically available to survivors. This research and analysis led me to develop 3 key arguments that I advance through subsequent chapters:

Firstly, and foundationally, participants clearly linked ongoing insecurity, poverty, and displacement, which I have positioned as structural violence (Farmer, 2004; Schepher-Hughes, 1992) to sexual exploitation and abuse by peacekeepers. ‘SEA’ cannot be understood, prevented, or redressed without clear understanding of the intersecting impacts of these myriad forms of violence.

Secondly, acts classified as ‘SEA’ include many forms of violence and exploitation. The umbrella term ‘SEA’ glosses over the specificity of these experiences and the egregiousness of many acts. While UN personnel most often identified consensual sex work and transactional sexual relationships as the most common form of ‘SEA’ and were indeed prevalent in this study, my research uncovered what I consider to be high rates of rape, child sexual abuse, ‘survival sex’, and abandonment of children to extreme poverty. Each of these acts resulted in serious harms that are not easily addressed by the current UN approach to ‘SEA’. Women in this research were unable to secure support for their children, improve economic circumstances, or restore their status in the community following incidents of ‘SEA’. Many expressed deep

⁴ please see the Methods section below for a detailed description and discussion of the SenseMaker tool

emotional hurt that has gone largely unrecognized by the UN. The UN, however, has consistently and insistently distinguished sexual abuse and violence by peacekeepers from acts they recognize as conflict-related sexual violence (CRSV). This produces a hierarchy of harms (Onen, personal communications, 2019; Aroussi, 2018; Westendorf, 2021) and relegates peacekeeper-perpetrated violence to a low rung on this hierarchy. This is based exclusively on the status of the perpetrator, rather than the nature of the act or the inextricability of the violence from the conflict context it is committed in. By instead considering sexual exploitation and abuse, and the harms both leading to and resulting from it, on a continuum of gendered and sexual violence within larger contexts of structural violence, we can better grasp relationships between sexual harm and everyday gendered injustices (Riaño-Alcalá & Baines, 2012).

Lastly, despite extensive and important legal developments in the DRC, including in response to widespread sexual and gender-based violence (Lake, 2018), legal accountability remained elusive for women in this research. Women described attempting to make reports through official channels but never hearing a response following their allegations, of being passed between offices and personnel until they became frustrated and gave up, or of receiving small amounts of money upon attempting to report but without having their allegations properly recorded or investigated. In other cases, women did not attempt to report abuses, sometimes because they did not expect anything to come of it, or because they were benefitting from ongoing engagement with peacekeepers. This demonstrates complex legal decision making within a legally plural context (Chua & Engle, 2019). While there seems, at times, to be an abundance of law concerned with SGBV, and there have been important and progressive decisions related to sexual violence in the DRC, these mechanisms largely recede in relation to

‘SEA’. This demonstrates the constructed exceptionalism of so-called SEA when compared to other forms of gendered violence.

Even in cases where women try to follow the official channels for reporting to the UN, including for cases of child sexual abuse and rape, they most often experience discouragement and disappointment. This “pulling back” or recession of law and law-like responses operate on two levels: first, it blocks survivors from accessing formal justice or achieving a sustainable response (including systemic child support or participation in UN programming through the Trust Fund, elaborated in chapter 6 and the conclusion). Effectively, the system that the UN itself has designed and promotes is being made inaccessible. Secondly, it represents a recession of the *possibility* of justice. The mission is effectively communicating that what happened to these women is not worthy of attention, that these experiences are not important and thus not a priority. This is interpreted as itself a distinct harm, layered on top of the harms already undergone through the abusive interaction with the peacekeeper, exacerbated by community stigma, and carrying the cyclical effect of both being driven by poverty and worsening poverty. It is these layered experiences of harm and injustice that law is pulled away from, despite the abundance of legal mechanisms circulating in the DRC.

The UN has engaged in preventative and response reforms fairly consistently since 2003. Most of these operate within a policy framework that involves training peacekeepers in ‘zero tolerance’ and working to socialize communities on the importance of reporting ‘SEA’ (ST/SGB/2003; UNGA/2017). These approaches fail to capture the complex socio-political dimensions of sexual violence in conflict and insist these do not apply to peacekeepers despite ‘SEA’ being directly and inextricably linked to contexts of armed conflict, international interventions, and structural violence including displacement, poverty, and gender inequality.

Due to the internationalized character of the peacekeeping mission, jurisdiction lying with TCCs, and regular rotation of mission personnel (Henry, 2019; Freedman, 2018), responses are varied and fragmented even in cases where reports are made. As such, the policy and response approach operate largely ‘on paper’ only and has failed to meaningfully permeate communities affected by ‘SEA’.

History of Peacekeeping in DRC

The DRC is an important site for the study of peacekeeping, as the current mission is in its second iteration, is the third peacekeeping mission in the DRC, and all missions have been marked by unique developments for the practice. There are several reasons why the UN mission in DRC is an important case study for understanding the chronology and development of peacekeeping more broadly, beyond their coincidence with, or perhaps driving influence for, what has been retrospectively described as distinct waves of peacekeeping.

The legal positioning of peacekeeping missions is tenuous. Peacekeeping was not conceived of at the time of drafting the UN Charter, nor was the practice part of the Geneva Conventions and other central conventions in international humanitarian law delineating the parameters of legal international and internal armed conflict. International law has, therefore, engaged with and positioned the actions and mandates of peacekeeping missions on an ad-hoc basis (Whittle, 2014).

The DRC hosts the longest running and largest UN peacekeeping mission in history, marked by several ‘firsts’ within the broader history of peacekeeping. One of the first peacekeeping missions following the establishment of the practice by the UN was The United Nations Operation in the Congo (ONUC). Following official independence from Belgium in on June 30th, 1960, the country experienced a surge of conflict and regional power struggles and

was subjected to Belgium deploying troops to maintain order and protect Belgian nationals within the country. The DRC requested help from the UN to protect emerging national interests from Belgian interference, considering it to be an external aggressor. The United Nations developed and deployed the United Nations Operation in the Congo (ONUC) from July 1960 to June 1964 (Boulden, 2018). From this, ONUC was mandated with facilitating the removal of Belgian troops, preserving the territorial integrity of the Congo, and minimizing threats from internal secessionist and rebel groups. After the reintegration of Katanga province into the DRC, ONUC was disbanded in 1964 but the UN maintained a presence in the country which included activities by military observers to monitor peace accords and ceasefire agreements.

In what is often referred to as the first phase of peacekeeping, peacekeepers rarely engaged in armed conflict of any kind, and indeed their role was centred around keeping a fragile peace: monitoring demilitarized zones, maintaining ceasefire agreements, and furthering security during peace talks (Weiss, 2015). Despite these prevalent understandings that early peacekeeping missions solely kept the peace, ONUC did in fact engage in armed combat to prevent Katanga, a mineral rich region in south-central DRC, from seceding from the rest of the country (Larmer and Kennes, 2014). There was a powerful secessionist movement that fought to extricate Katanga from the rest of the country and were supported by Belgian military factions and a mining company. The UN engaged in combat activities alongside the Kinshasa government to prevent secession from occurring⁵. From this early mission forward, we see the exceptionalist approach taken by the UN within the DRC.

⁵ While outside the scope of this project, the historical links between armed UN activity, mineral resources, and mining company should not be overlooked and indeed are contemporarily relevant and important, if for no other reason than these connections are made explicitly by numerous participants in the SenseMaker survey, described in my Methods section.

The United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) was established in 1999 during the second Congolese War. When fighting resurged in the late 90s, the UNSCR set a mandate for a formal peacekeeping mission to be developed. This mandate intensified in 2010 followed heightened violence, characterized as extreme, in the eastern regions (Whittle, 2014). MONUC then became MONUSCO.

The United Nations Security Council (UNSC) mandated a formal peacekeeping mission due to a resurgence in fighting. After the fighting between non-state armed groups and the government intensified, MONUC was re-established as MONUSCO in 2010, a stabilisation mission mandated to increase security and reduce armed combat, rather than keep a non-existent peace (De Coning, 2018; Whittle, 2014).

MONUSCO's Force Intervention Brigade (FIB) was developed in 2013 after an armed group, March 23 Movement (M23), seized Goma, the provincial capital of North Kivu. The FIB was the first peacekeeping contingent mandated to pre-emptively engage in combat activities with non-state armed groups, rather than limited to defense of civilians from imminent threats. The FIB continues to operate in the Eastern region of the DRC. Peacekeepers are deployed to fight alongside the Congolese military (FARDC) and participate in intelligence and reconnaissance missions with the aim of "neutralizing" armed groups (UNSCR 2098). This development moved the mission mandate from 'peacekeeping' to 'peace bringing' (Whittle, 2014). These activities arguably shift the role of peacekeepers from protection of civilians and humanitarian personnel to being party to the conflict through direct participation in the conflict, a crucial distinction with international humanitarian law (Whittle, 2014; ICRC).

Peter (2015) argues that so-called enforcement peacekeeping missions, of which MONUSCO was arguably the first, act in direct contrast to the core principles of peacekeeping:

consent, impartiality, and non-use of force. MONUSCO's mandate states that peacekeeping troops will aid the Congolese government in fighting non-state armed groups, specifically naming M23, FDLR, and the Lord's Resistance Army, as examples of such groups. This is in direct support of the Congolese state and works toward state expansion and strengthening, thus not upholding the principle of impartiality. Similarly, the principle of consent relies on consent of warring parties to the presence of the peacekeeping mission; this is either not established or is withdrawn when the mission actively fights against named armed groups (Peter, 2015; Whittle, 2014). Far from a neutral force monitoring ceasefires and aiding peace negotiations, MONUSCO has explicitly aligned itself to the state of the DRC and against the forces the state is fighting.

As non-state armed groups increased attacks, partly in response to the FIB, insecurity grew for Congolese civilians. There has been a recent resurgence of armed conflict in the Eastern region with deaths from attacks by non-state armed groups tripled in the first six months of 2020 when compared to the same time period in 2019 (UNJHRO report, August 2020). This context of insecurity leads to widespread displacement and lack of trust in the government of DRC and in MONUSCO. This is evidenced by large protests in Beni in December 2019, a general strike in Goma in 2021, and violent protests in Goma and other cities in the East in August-December 2022. These actions were largely led by young people fed up with attacks by the non-state armed groups, most notably the Allied Democratic Forces (ADF) and M23. Protests were in response to the perceived inability or unwillingness of MONUSCO to take appropriate action to prevent further violence. May 2021 saw the imposition of martial law, known as the "state of siege" across the East whereby formal power was handed over to military commanders from elected officials. The state of siege continues, despite a worsening security situation since its implementation and widespread condemnation of rights abuses associated with the suspension of

normal civil governance. These operations were conducted to partnership with MONUSCO, renewing questions for some of my colleagues about the role of MONUSCO in not only peacekeeping and combat, but also its influence on local governance. Indeed, MONUSCO's activities have reached widely in Eastern DRC and include support for military tribunals and rule of law building activities, and intersections with development programming.

The operations of the FIB and related enforcement mandates place them in liminal territory in regard to international law. Peacekeepers have traditionally not been considered parties to conflict as, in conception, they were to monitor ceasefire agreements and prevent a return to hostilities. As established, current operations of some factions of MONUSCO demonstrate a sharp departure from these activities. The FIB actively fights alongside the Congolese military (Forces Armees Republique Democratique du Congo- FARDC) and provides intelligence about positioning and activities of non-state armed groups, most notably ADF. These developments contribute further to an already complicated internationalized political context, with MONUSCO peacekeepers occupying an unclear legal role. Whittle (2014) and Spijkers (2015) have argued that the participation of peacekeepers in active combat brings them under the purview of international humanitarian law.

Legal Landscape

Sexual crimes allegedly committed in the DRC were the first prosecuted by the International Criminal Court (*Prosecutor v. Katanga*) and the UN peacekeeping mission has contributed to military tribunals in the DRC, helping to secure convictions for sexual and gender-based crimes committed by non-state armed actors (monusco.org). The UN further works in partnership with local organizations to enhance legal accountability for civilian perpetrated

gender-based violence and sexual crimes. These approaches to legal redress for conflict related sexual violence contribute to a pluralized legal environment complicated by ongoing conflict. While emphasis on combatting impunity has dominated UN approaches to addressing CRSV (Houge and Lohne, 2016; Engle, Miller and Davis, 2017), peacekeeper SEA exists in something of an accountability vacuum: policies are in place but lack enforcement mechanisms, impunity is rampant (Jennings, 2014; Freedman, 2018). This is partially a problem of jurisdictional limitations built into Status of Forces Agreements and Memoranda of Understandings between Troop Contributing Countries and the United Nations⁶, and partially an issue of insufficient reporting mechanisms and follow-up (O'Brien, 2011; Freedman, 2018). These explanations alone, however, do not explain the continued prevalence of SEA, nor do they help us understand or grasp the impact SEA has on communities in the DRC. Further, while the avenues for legal redress of these harms are certainly limited, they are underexplored and underemployed rather than non-existent.

Circulating around and through issues of SEA is the UN official policy approach of “zero tolerance” (the ZTP). Outlined in the 2003 Special Bulletin, the first official UN document to engage with and define ‘SEA’, the ZTP establishes that no instances of sexual exploitation or abuse will be tolerated within the UN. No excuses will be accepted, and it is the responsibility of all staff members and peacekeepers to ensure they do not violate the policy. Diane Otto (2007), and Rosa Freedman (2018) have both engaged at length with the ZTP. These considerations

⁶ Elaborated in chapter 4, Status of Forces Agreements are developed between the United Nations and the host country for peacekeeping missions. These determine what activities peacekeepers will and will not be permitted to engage in within the country and determine the legal basis for their operations. Each is based on and only slightly adapted from the template Model Status of Forces Agreement. Memoranda of Understandings detail arrangements between the United Nations and the Troop Contributing Country, including number of troops, nature of activities, legal protections including functional immunity, etc. MOUs establish the retention of jurisdiction for prosecution of peacekeeping personnel by the TCC, and SOFAs relinquish host state prosecutorial powers.

range from concern about what zero tolerance can mean in contexts where women and girls have few opportunities and consensual relationship are considered invalid (Otto) and arguing for widescale reform in accountability approaches (Freedman). Higate (2007) has conducted important work with peacekeepers on their understanding of sex, exploitation, and violence within conflict contexts, arguing that social masculinity, power relations, impunity, and socio-economic structures intersect to produce and propagate sexual exploitation by peacekeepers. Razack (2002; 2004) has elucidated the historic linkages between colonial and racist violence and ongoing abuses by peacekeepers deployed to postcolonial contexts. Both public/journalistic and scholarly attention has been paid to the supposed hypocrisy of those being sent to keep/build peace as committing violence against those they are supposed to serve. While an eye-catching hook, these observations fail to capture the militaristic nature of peacekeeping, the socialization of soldiers and how this differs, or not, between national armed forces and non-state armed groups, complex views and experiences of gender and sexuality, and the role of race, ethnicity, poverty, and privilege in relation to sex and violence.

Henry (2017, 2018), Jennings (2015, 2016, 2019), and Karim & Beardsley (2016, 2021) have engaged these questions in relation to sexual abuse but also gendered relations within peacekeeping and peacekeeping missions more broadly. To date, however, there has been limited research directly engaging with survivors of SEA and less still that centres their conceptions of harm and justice following this abuse. Similarly, while significant attention has been paid to how specific legal systems could be invoked to better address impunity gaps for ‘SEA’ (Freedman, 2018; Mudgway, 2018; Burke, 2014), a consideration of how the overlapping and competing legal systems already in circulation within the DRC and how these complicates both notions of and access to justice has not been explored. This is one goal of my dissertation.

Conceptual Framework

Feminist Conceptions of Harm and Justice

While often associated with legal processes, justice extends well beyond the law and cannot necessarily be achieved through a court decision. This is not to discount the potential power of formal law to legitimate experiences and feelings of retribution associated with punishing perpetrators in some contexts. Justice cannot be limited to law, however, as the process of securing a conviction is largely divorced from direct engagement with many victims and is no guarantee that material needs may be provided for, nor community status restored. In research conducted with the Conjugal Slavery in War Partnership project (2017-2021), we found that among community-based justice workers⁷ legal accountability was important, but only insofar as it could influence lived experiences of survivors through, for example, compensation payments or reparations, and to demonstrate to community members the culpability of the perpetrator. When compared to healthcare, education for children, livelihood/economic support for survivors, and meeting psycho-social needs, legal accountability was relatively less important. As will be explored in chapter 6, these findings are distinct from those of community members in DRC in that it was uncommon for participants to frame experiences in relation to formal law at all: law was rarely mentioned, was discussed less frequently by women than by men, and no participant offered a detailed discussion on law's utility in relation to SEA. This does not mean there was no sense of in/justice, however; many women and men framed SEA as unfair to women and girls, as having detrimental impacts on individual lives and broader communities, expressed strong beliefs that children should be cared for and that MONUSCO has a responsibility to respect and engage ethically with communities. While not explicitly legalistic, these perspectives all depict a

⁷ Community based organizations in the DRC, Uganda, Rwanda, Sierra Leone, Liberia, and Nigeria were surveyed.

sense of justice and injustice, rights and wrongs. Most notably, survivors of SEA emphasised the need for financial supports for themselves and their children. When asked what survivors wanted from the peacekeeper and/or the UN, all but one stated that they needed financial support.

Whether this demonstrates a sense of financial compensation as justice, rather than a material need to alleviate extreme poverty and constrained social circumstances, is unknown but will be explored throughout (and queried as to whether these are necessarily distinct in this context).

Conceptions of harm justice both circulate within and supersede discussions of accountability and impunity. One must have a sense that a wrong has been committed in order to demand accountability for the action, and this further requires a belief that there is a way and a need to achieve a sense of justice, to atone for and at least partially right the wrong committed. Many experiences of harm are not legible within a criminal justice framework, even if the act leading to the harm may be illegal. Within international politics, the emphasis on rape as a weapon of war within the UN Women Peace and Security agenda has occluded other forms of gendered harms, both sexual and non-sexual in nature (Aroussi, 2011), producing a hierarchy of victims that prioritizes forms of gendered violence most legible within militaristic and masculinist frameworks: weaponized and tactical rape (Aroussi, 2011). This has failed to sufficiently capture the interconnections between different forms of violence: gender-based violence, sexual violence, structural and militaristic violence.

Feminist theories of harm emphasize the interconnectedness of personal and structural harms, individual, community and intergenerational effects (Aoláin, 2006). Rather than focusing only on the acts committed, feminist approaches to harm explore the lived impacts of myriad experiences of violence, how these interrelate, and the effects they have on survivors and their communities. By drawing forward the complexity and affective elements of gender-based and

sexual violence, this approach to harm is at once deeply political and personal. In conflict affected contexts, justice often represents healing and reparation, both through its addressing of material needs and the recognition of suffering (Anyeko, 2021; Aoláin, 2012; Schulz, 2018; Aroussi, 2018). Redress of harm and achievement of justice is a multifaceted and complex process. I do not argue here that law or policy must tailor its offerings to each individual; however, by uncovering commonalities in experience, needs, and asks, a more survivor-centric view of harm and justice can develop and moves can be made toward making these more accessible.

Law and Legality

Through this research, I am centrally concerned with exploring how community members in eastern DRC understood and engaged with law and formal justice measures in response to peacekeeper abuses. Early in the project, it became clear that a more expansive and fluid understanding of law was necessary to understand conceptions of harm and justice and the simultaneous plurality and recession of law for ‘SEA’. I explore the legal framings and relevant systems in chapters 4 & 5, but throughout I centre questions of normative orderings, how policy intersects with community-based understandings of right and wrong, and how this is influenced by the complex context survivors are forced to navigate. I am equally interested in formal law (criminal law, civil law) and informal or ‘soft’ law, including human rights principles and the operation of UN policy. The latter operates in unique ways through the peacekeeping mission in that it is the common arbiter of behaviour and conduct across peacekeeping personnel. It applies to military, police, and civilian peacekeepers regardless of where they come from and is intended to set and uphold mission-wide standards. While lacking the same authority and consequences of formal law, it intersects with legal systems by delineating the conditions under which

peacekeepers are permitted to serve and when they are not, and when formal law may be invoked. This includes in cases of sexual exploitation and abuse via referral to national authorities (elaborated in detail in chapter 4).

Further to intersections between law and policy, hard and soft law, legality circulates through communities. This is evidenced through how community members express desire for justice following abuse or exploitation, utilization of legal authority to advance particular aims, even when these may not be technically applicable, and engagement with how the peacekeeping mission disrupts social organization and community norms. Each of these issues are taken up throughout the dissertation to explore how community members express a form of emergent and developing legal consciousness (Dunn, 2016) even when they do not explicitly invoke the language of law. Ewick and Silbey's concept of legality (2002; 2003) is relevant here in that it makes clear the normative impact of law-like thinking and social organization even in the absence of direct legal engagement. Within legality, the direct application of formal law is less important than how law is used and lived. The context of eastern DRC complicates this formulation to some degree, as rule-of-law building processes are still in development with limited success and community members both in my and others' research have at times turned away from law or rejected its potential for achieving justice (chapter 5 & 6; Lake, 2018; Arroussi, 2018). Law is then simultaneously present and absent, pluralized and receding through peacekeeper SEA. Through engagement with the legal pluralism literature and analysis of overlapping, competing, and receding legal systems, I trace where, when, and how law is available for 'SEA'. I further uncover how these systems are made inaccessible or deemed inappropriate at times for these same offenses, positioning this as law's recession.

Structural Violence

Within this dissertation, I contrast rape and other forms of sexual assault within conflict contexts classified as ‘violence’ by the UN and other international actors with abuses and exploitation by peacekeepers. The distinction in nomenclature belies a sense of the fundamentally different nature of peacekeeper ‘SEA’ and conflict-related sexual violence. In my discussion on violence and harm in chapter 6, I demonstrate why this distinction is not always accurate or representative of experiences within mission hosting communities in the DRC and elsewhere.

In engaging with questions of legality, reporting, and justice, it is necessary to position interpersonal violence and exploitation within a larger context of structural violence, or, as Farmer described in 2004, “the social machinery of oppression.” Research has demonstrated connections between structural and interpersonal violence in numerous contexts (Scheper Hughes 1992; Bourgois 2002; Gready et al. 2010; Montesanti & Thurston, 2015; Gamlin & Hawkes, 2018), with authors demonstrating that manifestations of structural violence such as poverty, marginalization, lack of access to essential services like healthcare and education, lack of social and political mobility, and racism lead to increased interpersonal violence including gendered violence. Engaging in activities discursively linked with or considered to be sexual exploitation, such as sex work or transactional sex with peacekeepers, has been demonstrated as being directly driven by poverty (Fraulin et. al 2021). Drawing on the same SenseMaker data I analyze here, Fraulin et al demonstrated that girls (age 13-17) are more likely to perceive sex work and transactional sex with peacekeepers as protective and are driven into these relations through poverty. This intersection of age, poverty, and protection is a strong demonstration of the structural violence faced by young girls living in contexts marked by armed conflict.

In some regions where this research was completed there is increasing armed conflict, with 1.7 million people displaced in Ituri province alone (Norwegian Refugee Council, February 2022) and increasing attacks on IDP camps and temporary settlements (UN News, February 4th 2022). This direct treat of violent attacks both directly increase poverty and disenfranchisement through displacement, lack of access to workable land, reduction or elimination of opportunities to engage in formal economic activities, and lack of access to necessary services. Displacement, armed conflict, and poverty are often positioned within literatures as humanitarian issues which is certainly accurate; however, the process and politics behind the production of these lived experiences is occluded in focusing solely on humanitarian needs at the expense of drawing out the culpability and contributing factors that produce them. This includes the identification of poverty as a driving factor of SEA without deconstructing what produces this poverty or identifying the exploitation of poverty for sex as itself violent and interconnected with economic exploitation and destabilisation of the DRC writ large.

Central to questions of sexual exploitation and abuse are entrenched gender relations, relations that cannot be extricated from the contexts in which they are negotiated. Not captured in the zero-tolerance approach is an understanding and consideration of how gendered identities, performativity, and expectations inform how peacekeepers engage with community members where they are stationed. Peacekeeping was initially conceived of and is still largely considered as a benevolent and protective force, paternal and superior in many ways, with an emphasis on protection of vulnerable civilians, especially women and children. In this way, peacekeepers are constructed as benevolently masculine in relation to a feminized population in need of protection (Jennings 2017). Jennings explored how notions of respectable womanhood influenced the behaviour of peacekeepers in Liberia, with community members performing normative

femininity considered more sympathetically by peacekeepers and more likely to receive support. Women who were deemed sexually immoral, aggressive, etc., were less likely to incite protectiveness from peacekeepers and likewise more likely to be blamed for violence they experienced or to be subject to exploitative or abusive treatment by the peacekeepers. In contexts such as Eastern DRC where deep poverty and long-term insecurity has made populations more transient, eroded nuclear family structures, and pushed many women into sex work and transactional sexual relationships, peacekeepers motivated to do so find many opportunities to legitimate exploitative or abusive behaviour against women living outside normative codes of feminine behaviour. The question of how gendered expectations influence SEA must be foregrounded and constantly considered; I have endeavoured to do this throughout the dissertation.

Language and Terminology

Multilateral organizations like the United Nations are notorious for liberally employing acronyms and abbreviations. In many cases this shorthand is simply annoying to outsiders trying to understand the workings of the organization; in other cases, it can serve to dilute the gravity of acts and problems, to reduce complex suffering to a short series of letter that are easy to write and say but do nothing to elucidate the experiences of those most directly impacted by the acts captured in the acronym. ‘SEA’ is a prime example. Sexual exploitation and abuse is a long and somewhat unwieldy descriptor, especially given the wide number of acts included under the heading (much more on this in chapter 4 and throughout). Shortened to SEA, the violent and exploitative acts contained within the abbreviation feel even less tangible and the victim-survivors less real. ‘SEA’, then, presents as more of an institutional problem rather than a descriptor of violent, interpersonal acts with long-term and often devastating impacts. From a

policy perspective, there is real utility to using a catch-all, easy to read and write term like SEA: it avoids the need to specify the myriad ways United Nations personnel may abuse and exploit community members. For the purposed of this dissertation, I try to be more specific. I have aimed to, whenever possible, name the acts classified as SEA. If the stories shared by community members describe transactional sex, rape, sex work, I name it as such⁸. When discussing UN policy specifically, I use the term ‘SEA’ intentionally to coincide and not extrapolate from their terminology and with what they describe and prohibit.

I use the term victim-survivors when I discuss groups of people impacted by peacekeeper abuse and exploitation, and the term ‘survivor’ when referring to specific participants. This distinction is because, tragically and not unlike victims of other types of gendered violence, not all those who have been abused or exploited by peacekeepers survive. Within the community-derived data, there are instances described where girls and women died from AIDS and other illnesses following sexual encounters, consensual and non-consensual, with peacekeepers, as well as cases of women who say they are starving and do not know how they will survive. To label these women as “survivors” is disingenuous toward their deep suffering and also discounts women who have died.

Methods

Community Relations with MONUSCO

Upon telling my supervisor, Annie Bunting, that I wanted to conduct my dissertation research on peacekeeper sexual exploitation and abuse, she presented me with a wonderful opportunity.

Annie was a co-applicant on a recently awarded grant on peacekeeper fathered children and

⁸ These terms are also not to be taken-for-granted; I discuss different experiences shared and how I have classified them in the methods section of this introduction and in more detail in chapters 3, 4, and 5.

community relations with MONUSCO in the DRC. The principal investigator on the grant was Dr. Susan Bartels at Queen's University, and she was interested in compiling a team of researchers at the master's, PhD, and professorial levels to help design, collect, and analyze the data. I was fortunate to be included as one of the PhD students on the team. The project development was significantly aided by contributions from Mambo Zawadi, program coordinator for Solidarité Féminine Pour La Paix et le Développement Intégral (Sofepadi). Sofepadi is a non-governmental organization committed to advancing the rights of women and girls in the DRC and preventing gender-based violence. Founded and directed by Julienne Lusenge, Sofepadi has been a long-time partner to the Conjugal Slavery in War partnership (CSiW), directed by Annie Bunting and which I have contributed to since 2016. It was through Annie's ongoing collaboration with Sofepadi that they became involved in this research, from design, through data collection and data analysis.

The project builds on earlier research on Haiti on the same subject matter. Joining the DRC research at the launch of the project provided the opportunity to participate at each stage of the process. In September 2017, a large group of us gathered in Kingston Ontario to develop the SenseMaker questions (see detailed discussion of SenseMaker beginning on page 30), decide on research locations, and plan for data collection. In May 2018, I travelled to Goma with Annie Bunting, Susan Bartels, Kirstin Wagner (a PhD student at University of Birmingham) and Annie Dube (Susan's undergraduate research assistant), meeting Zawadi in Goma, to train the Congolese enumerators and monitor early data collection.

The research assistants/ enumerators were employed through MARAKUJA, a Goma-based research centre that contracts with international NGOs, government agencies, and researchers. Tablet based SenseMaker survey data were collected by a team of 12 Congolese

research assistants/enumerators (hereafter RAs), contracted through Marakuja. One research assistant was from each community data were collected in, and all spoke French and either Kiswahili or Lingala. There was a wide range of academic and professional backgrounds among the RAs, including a woman who is a lawyer, folks trained in social work or psychology, economics, and business. All travelled to Goma for the 5-day training and then spent 6 weeks moving between different communities to collect the data. We were in contact throughout by use of WhatsApp and data were uploaded to a secure server at the end of each day.

There are definite strengths in this approach, but also serious challenges. In both the strengths and limitations, it is necessary to foreground the politics of this arrangement. While the relationship with Sofepadi researchers was deeper and long-term, beginning with the project design and culminating in shared publications and conference presentations (along with plans for future shared research agendas), the interactions with Marakuja were more transactional. They were contracted for the duration of data collection only, paid an agreed upon salary and per diem (itself a topic of intense negotiation between RAs, Marakuja staff, and the project P.I.). Many left families or other more routine jobs to pursue this opportunity and were exposed to various risks while travelling across the east of the country, a region that, as established, hosts simmering insecurity. RAs collected SenseMaker data for full days, 5 days a week, for 6 weeks. As will be shown, many of these stories detail violence and contain descriptions of serious harms and injustice. Hearing these stories day in and day out would undoubtedly affect the RAs. I attempted to provide some emotional support, but given the distance, both literal and figurative, between myself and the RAs, this was not taken up. I developed closer relationships with the Sofepadi researchers, but beyond the occasional message on holidays I am no longer in touch with the RAs, all of whom moved on to other projects and back into their normal lives at the end of data

collection. Still, they remain present through the stories they gathered and the contributions they made to this project.

Sofepadi researchers, Aimee Masika and Jacqueline Alinga, also participated in the training and data collection. Ms. Masika and Mrs. Alinga were responsible for conducting the qualitative interviews, described below, and providing psycho-social support to any participant, SenseMaker or interviewee, who required it. Sofepadi as an organization further contributed by setting up a hotline, the number for which was provided to all interview participants and any SenseMaker participants who needed it. Support was available, as was information on reporting sexual exploitation and abuse. As a professional social worker (Masika) and nurse (Alinga), the Sofepadi researchers have specialized training relevant to this project. Their work with Sofepadi well equipped them to conduct interviews in a compassionate and sensitive manner and they made certain to refer women to the hotline for any needed follow-up. Again, this work brought significant weight to them. Their task was not easy, in that they would move from collecting SenseMaker data, to setting up and conducting interviews, to providing support to both survey and interview participants.

For both Marakuja and Sofepadi collaborators, the division of labour and politics of knowledge production must be centred. While Mambo Zawadi, then program director for Sofepadi, was involved in the design of the survey and interview guide, choosing locations, and planning data collection, the people who actually collected the data did not have significant say in where they went, when, or how they did their work. The decisions were largely left to the academic researchers, all of whom are from Canadian and United Kingdom universities. The data could not have been effectively collected by us. Given my experiences in the DRC, described below, it is very likely that we would have been assumed to work with the UN or

perhaps have motives for collecting these stories that are ulterior to research. This, along with very important language barriers, would have significantly limited the research. While this exact project would not have been possible without the contributions of the Congolese RAs, the larger economies of Global North researchers contracting RAs from the Global South must be interrogated. As stated, some of the RAs have high levels of education, deep knowledge and investment in the issues explored by the project. Working in a collaborative rather than contractual relationship may have shifted project design and yielded different and important results. Further, it must be acknowledged again that RAs left their homes and families to conduct this research. In a project that strongly centres lack of economic mobility and constrained economic choices, the difficulty of this decision for at least some of the RAs is meaningful. I direct readers to The Bukavu Series (<https://bukavuseries.com/>) and Bunting, Kiconco, and Quirk's 2023 edited collection for important insights and reflections into Global South-North research practices and power discrepancies.

There have been numerous publications out of this project, elucidating issues of identity and stigma for peacekeeper fathered children (Wagner 2020, 2022); the spectrum of exploitation experienced by girls and women (Gray et al. 2021); and adolescent perspectives on sexual exploitation and abuse (Fraulin et al. 2021). The project is a good example of ethical research practices with vulnerable people in that, by making the data accessible to a larger team, we avoid the need to re-interview and thus risk further discomfort or harm to participants (Boesten, 2017). The methodology itself prioritizes participant agency and choice, as will be shown, using a combination of the SenseMaker approach and qualitative, semi-structured interviews.

SenseMaker®

Cognitive Edge's SenseMaker is a proprietary, mixed-methods research tool. Originally designed for market-based research, it has more recently been used for social science and public health research for its usefulness in providing both a “snapshot” of public perceptions and more personal, story-based data. The data is considered a “snapshot” in that it provides a view into concerns and priorities of communities at a given moment in time. It is a valuable approach to collect large volumes of data, includes people from many different backgrounds and positionalities, and re-weights some of the power imbalance between the researcher and the participants.

The SenseMaker approach utilizes tablets to record spoken stories⁹ (narratives) and the participant's analysis of their narrative. Participants are approached in public spaces, including markets, community centres, outdoor events, and on the street, and asked if they would like to participate in the research project. In this study, RAs were to approach men and women in equal numbers. The participant chooses one of three prompts and are then asked to audio record a narrative. For example, in this research one of the prompts was “Please tell a story about the best or worst thing for girls and women living near this UN base”. The stories are open-ended and non-directive: participants were never asked specifically about sexual relationships or abuses by peacekeepers. They could choose to tell a story about themselves, someone they know, or something they have only heard about. Stories could be negative, positive, or neutral and about any topic the participant wants. While participants were ‘prompted’ to tell a story about women or girls, they were not stopped or redirected if the story centred on different concerns.

⁹ As a research team, we prefer the use of the term ‘narrative’ over ‘story’, as ‘story’ sometimes carries the connotation of being fictitious.

After recording the narrative, participants are lead through a series of questions asking them to explain the most important elements and to interpret the events they shared. As shown below, these questions are presented on the screen by asking participants to place a ‘marker’ showing how closely their interpretation aligns with different concerns/explanations. The parameters they can place their marker in is called the ‘canvas’. Because the tablets are touchscreen, participants can place a marker anywhere on the canvas to indicate how strongly they feel their response aligns with the options given. They can also select not applicable. A key strength of this approach is that the narratives are self-analyzed: participants tell the researchers what their story is about, what the central concerns are, what would have helped, and what drove the events in the story. Rather than a Likert-scale or ranking approach to survey questions, SenseMaker allows for significant nuance in presenting the important considerations for the story. Because markers can be placed anywhere, the exact positioning is unique to each participant and, in analyzing responses, we can see how the relative weighting of different factors varies by participants and the stories they told.

There are three question types: Triads, Dyads, and Stones¹⁰, followed by a series of multiple choice and demographic questions.

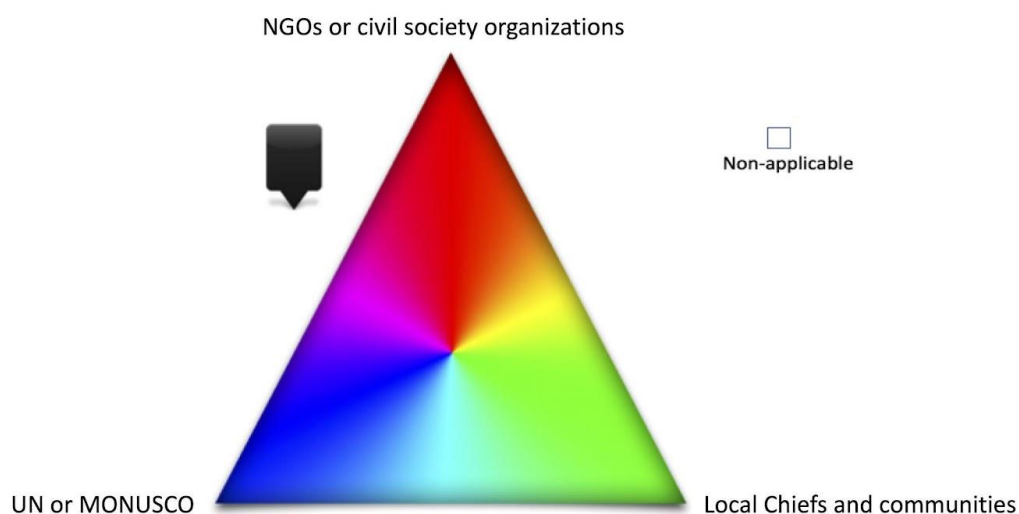
Each “pole” for the questions is meant to be an extreme: either the events in the story were, for example, entirely transactional, for example; provided the woman or girl with absolutely no protection or too much protection; were entirely unjust and unnecessary or just and necessary. Participants can then choose some degree of agreement with the options. Within the

¹⁰ I do not engage with the ‘Stones’ question type, as I am not convinced they were well-understood by participants. This is because the positioning of the ‘stone’ by participants often did not seem to coincide with their other responses. Taken in isolation, they often seem to tell a very different story than what is presented in the other data. Rather than making claims or basing interpretations based on this anomalous question type, I chose to disregard it for now especially given that my use of the SenseMaker data beyond the narratives is limited.

Triad example, an interaction could be halfway between ‘sexual’ and ‘transactional’ or closer to transactional but also include elements of the ‘sexual’, etc.

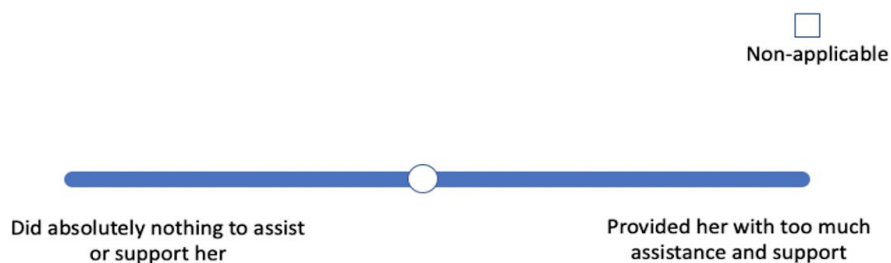
Triad Example

In the story, it would have helped the woman or girl most to have had support from...



Dyad Example

In relation to the woman or girl in the story you shared, those in power...



This approach allows for the generation of quantitative data based on who places their markers where; this information can then be disaggregated by age, gender, location, etc., and we can both

visualize and quantify the relative importance of different factors. For example, we could compare the relative weight given to ‘Local Chiefs and communities’ by urban versus rural dwellers or compare how education level impacts concerns about poverty. While my project was qualitative, statistical analyses can be performed to determine significance levels of these variations between participants and locations (see, for example, Bartels et al. 2019).

The complete survey was designed to take approximately 15 minutes, though this varied based on length of story, how long participants thought about where to place each marker, and how much support they needed with the tablet. While it would be appropriate to assume that community members with a higher level of education would be more likely to participate in a tablet based survey, the demographics show that this was not the case. Of 2868 participants, 765 had not received higher than a primary school education (including 614 who either received no formal education or had only some primary school), 725 had some secondary school but did not complete their studies, 534 completed secondary school, and 842 had at least some technical training or had attended university. Approximately half of participants had less than a secondary school education, which aligns with statistics reported by UNICEF¹¹. 1574 participants were women, 1092 were men, 161 were community leaders (gender not specified), and 38 identified as ‘Other’. These and other demographic details, including income and age, provide important context for the narratives told and the relative priorities narrators shared.

In addition to the data generated through the SenseMaker questions, the method also allows for analysis of the narratives themselves. These can be considered in relation to the research questions, by, for example, limiting the data to only include responses from participants

¹¹ See: <https://www.unicef.org/drcongo/en/what-we-do/education>. Primary school education has increased in recent years, but, given these data were collected in 2018 and participants were not children, it makes sense that the numbers align most clearly with the numbers from early 2000’s.

who shared a certain experiences or demographic characteristic: women who told stories about themselves and who are raising a child fathered by a peacekeeper, and/or disaggregated by age, location, education level, etc. The transcribed narratives also provide important insight into community experiences with MONUSCO. I read each of the 2,868 narratives collected and pulled any mentioning sex, violence, conflict/insecurity, law, human rights, or humanitarian aid by peacekeepers. These were then organized by theme, location, and identity of participant (age, gender). I additionally collated and systematically coded all 215 first-person narratives (stories told by women and girls about themselves) from women that mentioned sex with a peacekeeper or raising a peacekeeper-fathered child. I coded these using first a deductive then inductive method, combined with a structural approach aimed at uncovering conceptions of justice possibly threaded throughout the data. I utilized this approach as per DeCuir-Gunby, Marshall & McCulloch (2011): I initially coded for reference to types and outcomes of exploitation- I generated these codes from my initial read through of the narratives and interviews (deductive, or data-driven approach); reference to impunity/lack of accountability, type of abuse/exploitation, and reference to UN responsibility as these are prominent themes in existing literature (inductive or theory-driven approach) and based on specific questions I wanted to answer regarding conceptions of justice, utility of formal law and UN policy (structural approach). After initially generating my codebook, I re-coded for transactional sex, sexual violence, formal law, systematic UN support, ad-hoc/informal support, UN policy, reporting to the UN, and poverty. I later added codes for abortion and HIV due to the prevalence of these topics in the data.

Qualitative Interviews

Participants¹² who completed the SenseMaker survey and indicated they had sexual interactions with a peacekeeper and/or were raising the child of a peacekeeper (who they may not have given birth to) were invited to complete a longer, semi-structured interview with one of the two Sofepadi team members. There were two versions of the interview guide¹³: one for women who were raising a peacekeeper fathered child and one for women who had sexual interactions with a peacekeeper (either consensual or non-consensual) but did not have a child with the peacekeeper. Both guides asked about the woman's experience with the peacekeeper, about reporting and knowledge of reporting avenues, support provided by the peacekeeper, the mission, or others, and how the woman was currently living (challenges, supports, needs).

The interviews with mothers of PKFC (n=58) were coded in collaboration with Katie van der Werf¹⁴ and Annie Bunting for description of interaction (violent, consensual, transactional, romantic relationship), age of participant, reporting, knowledge of how to report, systematic support, informal/ad-hoc support, age of child, needs of mother. I coded the sexual interaction, no child, interviews (n=12) myself using the same codes (minus age of child), along with engagements with law and human rights. I read specifically for these additional themes.

One of the central challenges in this approach is the impossibility of following up with participants to gain further insight or ask for clarification. I made extensive use of related

¹² No men or boys shared that they had experienced sexual exploitation and abuse. Abuse of boys by peacekeepers is not uncommon and has been identified in numerous recent or ongoing peacekeeping missions, including in Haiti and the Central African Republic. Particular attention to the needs and experiences of these boys and young men is necessary, and their gendered experiences and perceptions of justice would be an important site for future research, though one not without serious challenges both logistical and ethical

¹³ There was an additional interview guide and series of interviews conducted with young people fathered by peacekeepers. Please see Kirstin Wagner's (2022) work for analysis of this data.

¹⁴ Huge thanks to Katie for all her efforts and the many important conversations and insights shared during the research process.

research literature to cross-check findings and interpretations. This was helped by numerous people working with and publishing from the data¹⁵. I also remain in close contact with colleagues in Eastern DRC who have generously answered my questions, provided background and framing information and have shared their own experiences supporting victim-survivors of ‘SEA’ and living in peacekeeper-hosting communities. This long-term, collaborative approach has been highly valuable to this work and important to me personally.

I quote from both the SenseMaker narratives and the interviews throughout. The narrative quotes are distinguished by participant sex, age range, and location (ex: Woman, 25-34, Bukavu). Interviews are distinguished by interview number and location. Not all women shared or knew their age, so I could not consistently include this information for interview quotes.

Focus Group Discussion

The results of one FGD is not enough to consider a unique ‘data set’, but I use the information shared in the FGD to contextualize SenseMaker and interview findings and as a site where important questions, challenges, and perspectives were raised. I do think, however, that an entire chapter could be devoted to this particular FGD. Organized by a collaborating civil society organization in Goma, women who were known to the organization as having children fathered by peacekeepers or had otherwise disclosed that they had at some point had sexual relations with peacekeepers were invited to attend the FGD. Ten women attended. It is important to note that I did not ask to speak specifically with women who had experienced SEA/sexual interactions with peacekeepers. Rather, I requested women living in or near Goma who were likely to regularly come into contact with peacekeepers. The goal behind the FGD was to present summary findings

¹⁵ Research studies drawing from the same data or a subset of the data are identified as such throughout.

from the SenseMaker research to contextualize and provide different perspectives on the results. One staff person from the CSO, who had not been my main point of contact prior to arriving in Goma, was responsible for inviting women to participate. He told me after the FGD that he only invited women he knew had sexual interactions with peacekeepers. The women were told before agreeing to participate, at the beginning of the FGD, and were reminded throughout that they were not expected to disclose their own experiences, that we did not know or need to know details of their personal lives. With the exception of one woman who proudly showed me photographs of her young daughter fathered by a Ukrainian pilot, no other woman disclosed any personal details of her life, and indeed went out of their way to emphasize that not only had they never had sex with a peacekeeper, but no woman in DRC had ever had sexual relations, consensual, paid, or non-consensual with a peacekeeper. They emphasized that anyone who says differently is lying. This, of course, directly contradicts the large amount of data collected on SEA in DRC, both this project's and others, as well as MONUSCO's own statistics and those of NGOs including the FGD collaborating organization. Following the FGD, both the CSO staff member and our interpreter emphasized that all the women in the group had engaged in sexual interactions with peacekeepers and all but one had a child. They had made a conscious choice prior to speaking with us to tell us that SEA does not happen. This was supposedly out of a belief that we were in fact working for the UN and wanted to arrest their peacekeeper "boyfriends". This context is further complicated by the involvement of a local chief who helped organize transport of the women, attempted to gain access to the FGD, and became extremely angry when he was not properly compensated for what he perceived to be his contributions. In all, the FGD was an ethically dubious experience and all results derived from it must be interpreted with caution. I am convinced, however, that what was shared by the women in the FGD and which

they gave informed consent to write about is uniquely valuable in demonstrating the complexity of accountability systems for SEA, engagements with law, violence, and, what Verweijen (2015) terms, “popular justice”. The content of the FGD is analyzed in some detail in chapters 5 and 6 with key contextual details reiterated.

Meetings and Presentations

This dissertation centres on gaps, frictions, overlaps, and divergences between Congolese community members and the United Nations as an organization in conceptions of SEA, and what accountability looks like for these offenses. While much of the UN’s ‘perspectives’ are derived from content analysis of official reports, special bulletins, news releases, and policy documents, fieldwork in 2020 allowed for consideration of how these official approaches are lived by MONUSCO personnel tasked with upholding and enacting the zero-tolerance policy, organizing investigations, and supporting survivors.

Fieldwork observations from Goma and Kinshasa helped to contextualize both the community derived data and official UN approaches to ‘SEA’. While these were not formal interviews, they were also not private conversations. Indeed, MONUSCO staff made a point of requesting certain anecdotes or information be treated as “off-the record”, indicating to me that I was free to write about more official perspectives and approaches discussed. I do not identify anyone by name with the exception of the Head of Mission who, by nature of her role, is in a forward-facing position and had two staff members present during our discussions who interjected if she started sharing something they felt she should not.

Meetings, formal presentations by, and informal conversations with staff of the Conduct and Discipline team, child protection and human rights officers (these individuals are members

of UN agencies, not MONUSCO), the lead military focal point on SEA, the head of MONUSCO police, the deputy Head of Mission, and the Head of Mission provided insight into how these different individuals understand priorities related to SEA, nuances in how these instances should be addressed, and challenges with enforcing the ZTP and holding perpetrators to account.

Jane Connors, the Victims' Rights Advocate for the UN, helped organize our engagement with MONUSCO during the March 2020 trip and her office advocated for our meetings and support from the Field Victims' Rights Advocate. This intervention was central to the insights gained from mission staff. This support was directly prompted by a series of media articles covering research by Susan Bartels and Sabine Lee on 'SEA' in Haiti (Lee & Bartels, 2020). Following this coverage, Connors' office was in touch, research plans for DRC were shared, and we were offered support for the project.

I also met with lawyers working with two NGOs, one local and one international, and staff working with another local NGO. These meetings were, again, not formal interviews but I did receive express permission to write about these discussions herein. These engagements were valuable in nuancing perspectives and providing an "in-between" the UN and community members. Lawyers well understood the jurisdictional and legal challenges of pursuing SEA cases and were able to explain who attempts to pursue legal redress and also confirm the widespread nature of abuses and complexity of survivors' needs.

In addition to these, I conducted one semi-structured interview (over Zoom) with a recently former MONUSCO Conduct and Discipline staff member who held a senior leadership role and has also worked within other peacekeeping missions. This interview provided the opportunity to clarify questions related to the development and operation of the ZTP, comparisons between the DRC and other contexts, and practical challenges related to combatting

SEA within peacekeeping. I tried repeatedly to secure additional interviews but was passed off or not responded to in all instances. Part of this was likely due to timing: I was attempting to secure interviews during the height of the pandemic when most activities not deemed strictly crucial were suspended. This was likely compounded by a general reluctance to speak to a researcher, particularly a PhD student, about an issue as reputationally fraught as ‘SEA’.

Limitations

The data I use in this dissertation is diverse and rich, but also has limitations. In such a large volume of data, it is difficult to avoid “cherry picking” stories and information and to remain attuned to what is unexpected or falls outside my own frames of understanding. I attempted to mitigate this tendency by systematically coding subsets of the data (women’s first-person stories, interviews), but, as researchers, we still make choices about what to focus on and what to sideline, sometimes at the cost of engaging with meaningful and important content. Likewise, the SenseMaker approach prevents follow-up with participants and does not allow for clarifications on meaning or interpretation. While intended to provide a community snapshot of perspectives, being prevented from gaining additional depth of understanding alongside the breadth the methods provides has been frustrating at times. Further, while the narratives are self-interpreted, we still provided the elements participants considered. For example, the first Triad question type asks whether the events in the narrative were about poverty, gender inequality, or lack of protection/governance. While participants could choose ‘not applicable’, those who did are not given an opportunity to share what their story is actually about. Participants are still asked to interpret their narratives within the parameters and framings we provide. The approach is, in my opinion, most useful when augmented with community-based focus groups to better

understand the stories and interpretations shared. While the Covid-19 pandemic interrupted that part of the project, I hope to continue it in the future.

With the exception of the meetings and presentations with UN personnel, all of the data analyzed herein has been translated from Lingala or Kiswahili into English. Nuance, specificity, and meaning is likely to have been lost through this process. This is especially true for the SenseMaker narratives and interviews, which were translated from one language to another and from spoken words to written transcripts. As I was not present for these, I can only infer tone and sentiment expressed in what participants shared. There are significant assumptions built into how I interpret and make sense of community members' stories. While I did my best to mitigate issues of misunderstanding and mistranslation by regularly checking in with colleagues and trying to limit my interpretation to what was actually stated by the participant, my analysis may well have shifted had I been capable of working with the original transcripts.

During March 2020, I returned to Goma from Kinshasa, where I, alongside Dr. Susan Bartels, had met with the then MONUSCO Head of Mission and Special Representative on the DRC to Secretary General, Leila Zerrougi. We had presented the team's SenseMaker survey and interview findings, discussed the problem of SEA, and secured permission to extend the survey research to civilian UN staff. We had a meeting in Goma immediately after landing that provided permission for surveying military personnel. We came out of this meeting to the news that the United States was closing its border to the European Union, Iran, China, and a number of other countries. Canada wanted all citizens overseas to immediately return home. I carefully rolled up the focus group discussion posters and told colleagues that I looked forward to seeing them in May. I have not been able to return to eastern DRC since. As a result, my fieldwork has been limited but I have done my best to adjust. I have been privileged to contribute to a large research

project, led by Dr. Susan Bartels, since 2017, from which the data I use in the dissertation derives. None of the data I discuss here is exclusively “mine”, it comes from the larger project and I have analyzed a subset of it. I completed the coding and analysis of all data by myself in most cases and have indicated where others participated. I draw on SenseMaker and interview data collected in 2018, a focus group discussion with 10 participants conducted in March 2020, document analysis, along with online interviews and ongoing conversations with two community-based research/practitioners, one in Goma and one in Beni. These are augmented by fieldwork observations, formal presentations, conversations, and meetings with UN personnel from Goma in 2018 and Goma and Kinshasa 2020 and extensive engagement with relevant literatures.

Positionality

Sitting to one side of the small room while women in the FGD discussed sex, violence, international interference, and economics in Kishwahili, Fallon, one of our two interpreters, whispered in my ear so I could follow the conversation. It was painfully apparent to me how I was read, how I was apart from these women who came to speak with us despite their mistrust of our intentions. Even though the mistrust was clear and the FGD was tense in the beginning and throughout, when it ended I was hugged and many selfies were requested. Although the women did not trust me or my Canadian colleagues, we were still interesting and anomalous enough to prompt many group photos, compliments, and requests that we visit again. This may have been due, in part, to the small envelope of money given to compensate women for their transportation and time. The financial component of the FGD was laboured over, with the supporting NGO, with the chief who accompanied the women, and with some of the women themselves (through the supporting NGO, they did not broach the subject directly). In the end, the participants seemed

pleased with the compensation they received, but especially given how the FGD turned out, I was and am still left wondering what they think they were “paid” for.

Our assurances that we were not affiliated with the UN fell flat, as explained, and indeed I am routinely asked if I work for MSF or the UN while I am in the DRC. Such is the omniscience of international humanitarianism in Goma, a central hub for aid, rule of law building projects, and, of course, MONUSCO. As a White woman, assumed to be American or sometimes British, travelling in eastern DRC, the assumption is that I am there for work. The unspoken part of this assumption is that the work has an aim beyond asking questions and learning about people’s experiences: there must be a ‘goal’ behind these questions. When I explain I am a researcher I am often met with skepticism. When the subject of the research is explained, the reaction is one of two: interest and stories of wrongdoing by MONUSCO, or an abrupt end to the line of conversation.

The divides in that room- language, race, socio-economic background, and education- are replicated throughout this research. While mitigated by working with Congolese researchers, the labour divide remains. Some of this inequity is helped through the ongoing involvement of Sandrine Lusamba, of Sofepadi, Claude Munazi (the colleague who helped organize the FGD), and the earlier involvement of Mambo Zawadi. These collaborations are part of doing good quality work, they do not correct for the larger political inequalities that allow White women researchers from the global North to fly in and then fly out of the DRC, work with data collected from communities there, and advance our careers through it. The FGD was one attempt to return findings to communities, albeit not a very successful one. I will prepare a summary of the findings detailed in this dissertation, have it translated into French, Kiswahili, and Lingala to be made available to and through local organizations in the DRC. I am also committed to using the

findings to advance advocacy efforts to improve the UN's understandings of and responses to sexual exploitation and abuse. I am not able to shift the historic and ongoing global inequalities that privilege my voice and perspectives as a White PhD candidate over those living in affected communities, but I am deeply committed to engaging as ethically, collaboratively, and helpfully as I can to leverage my privilege in support of affected communities in the DRC¹⁶.

Chapter Overview

Chapter 2 offers an overview of key areas of literature on which I draw. While I engage with relevant literature throughout, chapter 2 provides the foundation for the theoretical and conceptual approaches driving the project. Research in the fields of transitional justice and feminist security studies frame the conceptual elements of the research, helping me understand and uncover nuanced engagements with justice, harm, and intersecting violence. Human rights and legal pluralism scholarship provide targeted insights into and critical approaches toward the paradigms survivors of sexual violence engage with, along with helping me contextualize their options for redress, and prominent framings by the UN and other international actors. Together, these bodies of literature have been central in my engagement with the data I analyze and have allowed me to develop my scholarly contributions.

While my dissertation draws on numerous sets of data and source material, the content that is at the core of the majority of the analysis and prompted me to ask the questions I attempt to answer comes from the SenseMaker community data. While providing less depth than the qualitative interviews, this data offers a “snapshot” of community perceptions of MONUSCO in

¹⁶ For an example of long-term, engaged, and collaborative partnership, please see Bodineau and Lipandasi (2023).

May-July 2018. Central themes arose from this data that helped me understand what community members considered most important, and these micro-narratives offered valuable points of comparison to the narrower groups (mothers of PKFC, women who had experienced sexual exploitation, official UN approaches to SEA). For this reason, chapter 3 is devoted to presenting the strongest themes and concerns that were present throughout the 2856 SenseMaker responses. The other chapters engage with some or all of these themes, sometimes focusing more UN documents than the narratives, but always I endeavour to juxtapose these with what community members shared.

Chapter 4 has the strongest focus on UN approaches to ‘SEA’. Here, I explore the history and development of policy approaches, explain the complicated legal terrain of ‘SEA’, and critically engage training material designed to prevent ‘SEA’. The goal of this chapter is to present the official UN approach and to contrast this with their own statistics and data tracking: I compare the policy on paper vs. in practice. I offer analysis of key UN documents, official tracking of allegations, dominant prevention approaches within the UN, NGOs, and academia, and include information shared during meetings and presentations with MONUSCO officials in Goma and Kinshasa. I draw out the key explanations the UN offers for why SEA continues and I use critical analysis and secondary literature to evaluate these claims. This chapter provides insight into how the UN understands ‘SEA’, and endeavours to address it, while simultaneously pointing out the limitation of these approaches.

Chapter 5 continues with the theme of design vs experience, but through the interview and SenseMaker data. Here, I focus on the complicated legal landscape of sexual violence in the DRC broadly, and for SEA specifically. While chapter 4 focuses on UN policy approaches and statistics, this chapter brings forward lived experiences of survivors, demonstrating a serious gap

not only in accountability, but in opportunity to report, investigations, and interim supports. I focus this chapter on the plurality of legal systems operating within the DRC in relation to sexual violence, demonstrating how these recede for sexual exploitation and abuse, in part because of the UN's insistence on differentiating 'SEA' from other forms of sexual violence in conflict contexts. Through this, I draw out women's experiences in attempting to navigate the UN's system, how the UN's approach compares to other forms of law including customary and international criminal law. I centre questions of legality and law's operations, and the lack thereof. Therefore, while chapter 4 established the UN's approach, chapter 5 contextualizes this and draws on women's experiences with the UN and with different legal mechanisms to demonstrate both gaps and frictions.

This leads me into chapter 6, which explores what these gaps actually mean for survivors and how survivors frame their justice needs outside of the UN's lexicon. The chapter focuses on women's experiences that do not neatly fit into dominant framings of 'SEA' and who were denied proper redress for harms suffered. The chapter engages with feminist theories of harm to understand the ripple effects of sexual exploitation and abuse, drawing out tensions between humanitarian and justice-oriented responses, and querying women's engagement with these responses to their experiences. I argue here that rather than solely focusing on issues of policy implementation, it is imperative that the UN centres the harms and desired justice responses of affected women to enact a survivor-centric response to SEA. In the conclusion, I draw together the findings and threads from each chapter to establish how the context of enduring conflict in DRC, unmitigated poverty, and high levels of militarized intervention has limited opportunities for women to access justice for sexual exploitation and abuse, how harms are too-often siloed and the depth of hurt remains unaddressed, and what this means for women and communities. I

close by offering recommendations for how sexual exploitation and abuse can better be prevented and redressed, the role of different actors in securing routes to meaningful justice, and the imperative of centring women's voices and rights in these endeavours.

Chapter 2: Literature Review

My dissertation is multidisciplinary and draws on numerous bodies of literature to understand issues central to sexual exploitation and violence by, and interactions with, peacekeepers.

Circulating around and through issues of SEA is the UN official policy approach, which is one of “zero tolerance”. Diane Otto (2007), and Rosa Freedman (2018) have both engaged at length with the ZTP. These considerations range from concern about what zero tolerance can mean in contexts where women and girls have few opportunities and consensual relationship are considered invalid (Otto) and arguing for widescale reform in accountability approaches (Freedman). Higate (2007) has conducted research with peacekeepers on their understanding of sex, exploitation, and violence within conflict contexts, arguing that social masculinity, power relations, impunity, and socio-economic structures intersect to produce and propagate sexual exploitation by peacekeepers. There has also been important research pertaining to the legal status of peacekeepers and peacekeeping missions, including in relation to sexual abuse (Freedman, 2018; Burke, 2014; Otto, 2007)¹⁷, geopolitical power relations within peacekeeping operations (Henry, 2017; Razack, 2004; Agathangelou and Ling, 2003), and constructed masculinities in peacekeeping (Zalewski, 2017; Higate, 2007; Whitworth, 2004; Enloe, 2000).

Research on peacekeeper SEA is multidisciplinary and includes studies in International Relations, Gender studies, Public Health, and Law. I situate my project within feminist international legal studies and feminist security studies. By putting these bodies of literature in conversation with one another, junctures of gender, violence, and humanitarian action are made clear and positioned complementarily to studies of law and the international.

¹⁷ Please see my literature review beginning on page 14 for more detailed engagement with these scholarly contributions.

I position my research within the sub-field of global legal studies. Global legal studies scholars are concerned with examining relationships between law and social processes informed by socio-legal interactions around the world (Darian-Smith, 2015). In examining the issue of peacekeeper perpetrated SEA, my research necessarily incorporates understandings from Congolese community members, international NGOs and advocacy groups, and the UN, itself comprised of the world's states. Global legal studies has expanded in recent years as scholars look to transnational issues of law, society, and governance to help explain globalizing and multi-sited phenomena. Global legal studies, in some ways, seems something of a misnomer as global legal studies are concerned with rupturing notions of a disembodied, de-institutionalized, and de-stated globality (see Sassen, 2008; Darian-Smith, 2013, 2015; Berman, 2012; Rajagopol, 2003). Global Legal Studies contributes to understandings that divisions between the local and the global are constructed and largely fictitious, that even the most seemingly localized interactions are in fact impacted or mediated by global processes (Darian-Smith, 2015). This scholarship emphasizes actors, processes, and functions of law and legal development, and the impacts these have internationally and in specific locations. By situating the global, grounding international processes and laws to investigate their lived impacts, frictions (as per Tsing, 2005) become clear. These frictions are, at times, productive and at others a source of frustration.

Transitional Justice

The field of transitional justice, both a practice and area of scholarship (Mutua), focuses on societies in transition- transitions from armed conflict to relative peace, from authoritarianism to democracy, or from customary to liberal rule-of law (Bjorkdahl and Selimovic, 2015). A central tenet of transitional justice is that harms and wrongs must be recognized and redressed for society to heal and move forward: Grievances of the past must be brought to light and

addressed for a human-rights based state to come to fruition (Mutua, 2011). Truth commissions and reparations are positioned by scholars and practitioners as key mechanisms in this process. International criminal legal prosecutions are promoted, and local court mechanisms strengthened and engaged (Westberg, 2011; Wierzynski, 2004). There is no singular process for transitional justice; rather, it is the process itself of moving from autocracy and violence to democracy and peace that defines the field. Here, the question of how societies address past human rights abuses, mass atrocity, and violence to move toward a more peaceful future is central (Bickford, 2004). The ‘Justice’ element often requires identified responsibility of specific, individual actors and for accountability to be enacted (Roth, 2004; Waldorf, 2012). These logics are not without critique. Aroussi (2018) describes the huge investments made by the international community to establish legal infrastructure to prosecute and punish sexual violence crimes committed by armed actors in the DRC as an exercise in transitional justice.

This focus on legal justice further obscures key tenets of effective transitional justice activities, such as everyday struggles of sexual violence survivors and has not effectively centred their priorities and voices (Aroussi, 2018; Mutua, 2011). As Baines writes: “Focusing on singular acts of extraordinary violence lifts these events outside of the historical and social context that gives violence its form” (2015:2). Porter (2016) argues for the importance of paying attention to everyday life experiences to better understand gendered realities and needs within transitional justice. In this same piece, Porter promotes attending to gendered narratives within transitional justice through respecting and honouring agency is choosing to tell or not tell particular stories; both telling and not telling can be agentic acts to be understood alongside other modes of engagement and are deeply gendered. This method facilitates the uncovering of stories people share or do not share, giving insight into the day-to-day interactions and experiences that will

determine how they can live together post-conflict. This approach focuses less on spectacular and extreme violations and more on the daily injustices, structural violence and gendered inequities that mark lived reality and undermine peacebuilding processes. Similarly, Riaño-Alcalá and Baines (2012) elucidate the ‘everyday’ in processes of transitional justice, drawing attention to how individuals and communities navigate and struggle through transitional periods. These scholars call for increased attention to everyday violence and injustices. This approach is methodologically relevant to the SenseMaker study, which opened space for community members to share any story they want, giving an opportunity to talk about the everyday or the extreme, positive or difficult interactions, and for as much or as little time as they choose. The challenge here is simultaneously holding space for both personal accounts and experiences- the ‘everyday’, alongside extreme violence and atrocity; it is this balance that transitional justice is increasingly tasked with striking (Waldorf, 2012).

Transitional justice mechanisms and theories contend that for a human-rights and rule-based state to emerge following violent conflict, violations and harms must be recognized and redressed (Mutua, 2011). The ethos of transitional justice lies in recognizing past harms, exploring culpability, and moving forward in the spirit of reconciliation and peacebuilding (Mutua, 2011, 2018). Sexual and gender -based violence has increasingly been taken up within the transitional justice field, and un-redressed sexual harms recognized as important barriers to peaceful transitions (Baines, 2015; Schulz, 2020). A central element within transitional justice mechanisms, especially Truth and Reconciliation projects, is the identification of who is responsible for committing harms and what the impacts of these harms are on individuals and communities. Anania (2022) establishes that it is very uncommon for peacekeepers or peacekeeping missions to be explored in these processes. Even in large scale and long-term

missions wherein peacekeeping activities are interwoven with the conflict, they remain positioned as protective and benevolent actors and their acts are unexamined by Truth Commissions. As established throughout this dissertation and notably by Freedman (2021), Lee and Bartels (2020), King et al. (2021) and Wisner (2022), this is often not a representative positioning and peacekeepers are responsible for serious community harms. Only the Liberian and Sierra Leonean TRCs examined sexual exploitation and abuse by ECOWAS and UN peacekeepers within their consideration of sexual violence during the war (Anania, 2022). While outliers, this engagement lays important groundwork for transitional justice mechanisms to explore SEA alongside other serious sexual offences in conflict.

Riaño-Alcalá and Baines (2012) explain that transitional justice practices rely on a linear understanding of progressions from violence and oppression to peace and stability, with the transitional period as providing the remedies and mechanisms to address past harms and achieve justice (389). Stabilisation peacekeeping missions, such as MONUSCO, and sexual abuses committed by peacekeepers disrupt this notion, while simultaneously drawing into focus the frictions of international intervention in communities affected by violence. Stabilisation and enforcement mandates have divorced some contemporary peacekeeping missions from their historic purpose of ‘keeping the peace’, in that peacekeepers deploy in support of the state to bring about or enforce peace (or, rather, cessation of hostilities). The DRC, as a transitional context, has experienced international trials, military courts, institution building and security sector reform as part of its transitional justice process. The United Nations and MONUSCO has participated throughout. At the time of writing, the eastern region has devolved into conflict, with displacement rising rapidly. Through this, sexual exploitation and abuse perpetrated by peacekeepers, working in the DRC to support moves towards peace, complicates distinctions

between violence and atrocity and ‘everyday’ injustices. It further challenges the linearity of peacebuilding through transitional justice and elucidates the enduring ‘mundane’ violence that disrupts lives and detracts from sustainable peace and justice.

Human Rights

Social Sciences has had a complex relationship with human rights since the Universal Declaration of Human Rights was drafted. Early anthropologists struggled with the universalism, lack of relativism, and normative purpose of the Declaration. In more recent years anthropologists have engaged with how rights discourses operate and the ways in which different communities, embrace, contribute to, or reject human rights processes (Goodale, 2006; Speed, 2006), while transitional justice and socio-legal scholars consider how rights operate “in place” and the relative utility of emphasizing human rights and rule of law building activities (Dunn, 2017, 2021; Santos, 2018; Merry, 2006).

Wilson has argued for an ethnographic approach to studying human rights, one that “recognizes the plural and fragmentary nature of the international rights regime and the ideological promiscuity of rights talk” (2006: 77). Riles (2006) identifies legal knowledge and the primacy of legal engagement as mediating rights discourses and anthropologists. She stresses, via Merry, the importance of studying the culture of international human rights law and human rights in practice. Goodale (2007) emphasizes the importance of moving beyond local and global distinctions in considering the operations and utilizations of human rights, challenging researchers to consider the in-betweenness in rights operations: the mediated space between international organizations and ‘on-the ground’ mobilization. Merry (2006) discusses processes of translation, ‘vernacularization’, of international human rights language mobilized

locally. Recent research also explores the reverse process: how activists frame local struggles as human rights issues to be intelligible internationally (Barras; Speed, 2008). Destrooper (2017) takes this challenge one step further, arguing for reverse standard setting in human rights, whereby rights users and practitioners employ their grounded, localized knowledge to not only interpret human rights, but to develop new modes and formulations of rights thinking. Research by Nader (2002), Goodale (2017), and Rajagapol (2003) show the mobilization of law and policy by different actors working within quasi-legal, normative structures, and Hellum and Katsende (2017) further engage with how law and policy, used in pursuit of gender equality, are interpreted and engaged by actors from different positionalities.

The UN policy and approach to SEA is territorialized in that it operates ‘in place’- in specific missions and locales. It is abstracted from these operations through its development in New York and uniform application across missions and contexts. The communication of SEA policies can be understood as a process of vernacularization (Merry, 2006). The UN’s communication of the SEA policy to CBOs and community members is a clear instance of translation and vernacularization, as is the UN’s communication to peacekeepers and their subsequent engagement within communities. The scholarship engaging with conceptions and mobilizations of human rights is foundational to my project, as I discuss-how actors understand human rights and consider SEA as a rights violation, and analyse instances where SEA is not positioned in this way and is understood through different frames.

Human rights paradigms have been criticized for a lack of engagement with structural violence, socio-economic rights and for an over-emphasis on violations of bodily integrity, characterized in part by a singular focus on rape as the primary form of sexual violence (Porter, 2019). Human rights frameworks have become increasingly visible as a lexicon through which to

engage with SEA. Invocation of human rights discourse in relation to remedies for abuses has been explored by Ferstman (2020) and Sutura (2020). These authors agree that sexual exploitation and abuse by UN personnel and peacekeepers is a human rights violation. Sutura (2020) emphasizes that a key component of human rights approaches is the recognition and preservation of all humans' inherent dignity (UNDHR; CEDAW; ICRC). This is an important note in that it distinguishes human rights approaches from a sole emphasis on criminal accountability following offenses, bringing forward elements of sexual exploitation and abuse that are not neatly captured within a focus on criminal accountability. In drawing on Otto, Simic, and Kanatake, Sutura establishes that the zero-tolerance approach to SEA limits recognition of women as agentic individuals with a right to exercise choice, including choice in sexual relationships. Sutura, Otto, Simic, Kanatake, also draw attention to the limitations of the 'SEA' approach generally, which conflates many different sexual acts and experiences as discussed in the introduction. A human rights approach focused more on dignity, agency, and freedom of choice may be less concerned with this conflation if the emphasis is on human dignity rather than legal provisions preventing established crimes. Focusing on how some acts, but not others, limit agentic choice and violate survivors' sense of dignity in ways that are inherently wrong and unethical, even if they do not constitute criminality, utilizes a feminist understanding and harm and justice that draws from but extends beyond legal categorization. While providing fewer avenue for legal redress than the literature focused on SEA as a violation of international human rights, this approach nonetheless insists on rights discourse that is grounded in lived experiences and survivors' priorities. I utilize this approach throughout the dissertation, drawing into tensions discursive language around universal human rights with how a human rights approach

can be better engaged, even if the language used does not mirror that of the international human rights system.

Legal Pluralism

For my dissertation, I draw on the legal pluralism literature in a strategic and targeted way to consider the role of overlapping legal and normative orderings in the DRC and the effects and influences these have on engagement with law and policy. I further utilize literature on access to justice and legal mobilization to conceptualize how ‘SEA’ survivors navigate legally plural contexts. In this, I intersect critical human rights considerations to an examination of legal navigation.

Legal pluralism is the study of contexts in which multiple legal or law-like systems operate, sometimes complementarily and sometimes competitively. Legal pluralism research centres the intersections and interactions between these overlapping legal orderings, how community members make choices about legal engagements, and what this can tell us about law more broadly. Beyond the theoretical aspects of this scholarship, legal pluralism research has the potential to localize supposedly universal standards, offering insight into how people actually live their rights. As Provost and Sheppard write, “Legal pluralism offers an approach that translates abstract and broad human rights standards into the vernacular of everyday life, transplanting these norms into ordinary human relations where they can truly achieve their transformative potential.” (2012:1)

Legal pluralism is concerned with more than just state-based law or other forms of codified legal ordering (ex: Sharia law). In effect, modes of governance and social organization that are law-like are also considered in legal pluralism research. For example, scholarship on

‘rebel governance’ that explores the ways that non-state armed groups attempt to socially organize and govern within their ranks and in territory they secure (Arjona et al., 2015; Provost, 2018) can be approached from a legal pluralism lens. This lens reveals the competing norms of state-based and rebel law/governance are examined.

Of importance in the context of eastern DRC is the operation of customary law itself. Customary law is localized at the village or community level and is invoked to settle disputes, enforce social norms and organizing, and enhance social cohesion. Customary law is recognized as a legitimate mode of settling some disputes and “lesser crimes”, but is positioned as “below” state-based law by the state itself and international organizations (Tamanaha, 2021; Sesay, 2019).

Insights developed by scholars working on pluralistic legal regimes have been important in understanding how ubiquitous overlapping normative systems are, and how different actors engage with these systems, and when and why they do so (Tamanaha, 2008). Tamanaha writes that in studying pluralized environments, it is important to not focus only on formal law, but to also consider modes of normative ordering that may be quasi or semi-legal, or are interpreted as having a force similar to that of law’s (2008). Berman (2012) stresses the power of fictitious beliefs in law being grounded into territory and that, without clear jurisdictional boundaries, actions are out of law’s sights. However, this is shifting rapidly and we see a preference toward more universalised understandings of law among human rights and legal practitioners, arising, in part, out of the necessity for accountability in an increasingly globalizing world. This is especially salient in relation to sexual violence in conflict (Engle, 2020) For this reason, Berman considers legal pluralism important for law’s operations within and beyond borders to highlight tensions between universalistic ideals and the complicated realities of competing jurisdictions

and justice preferences. Michaels (2009) has also charted this process, considering the mutually informative process of legal globalization and legal pluralism, identifying how pluralism has increasingly been incorporated into international legal systems to address questions of globalization. Merry (1988; 2014) has engaged with these processes as well, with her work focusing on drawing out relations between both formal law, soft law, legal invocations, and non-legal normative orderings, emphasizing policy as well as law.

Institutional norms, policies, and practices operate in sometimes law-like ways to govern behaviour of internal members and external parties (Moore, 1972). Moore's (1972) concept of semi-autonomous social fields helps uncover the operations of social norms that wield considerable influence over individuals' lives, sometimes through explicit rules and ordering but often through unwritten and informal 'practices' that are difficult to avoid or escape. Normative ordering, for Moore, is more than codified legislation and state power, it lies within the myriad of influences and pressures that organize social life, systems of exchange and reciprocity, and discipline members of the social group. While less tangible than formal law and operating 'under' official government jurisdiction, these modes of social organizing have equal and sometimes greater influence on the day-to-day lives of those subject. They effectively operate as a form of customary law (Moore, 1972; 2014) within groups and organizations. This is a space in which we see important tensions between the official laws of DRC and peacekeepers' home jurisdictions, the operation of UN policy, and the institutional norms and cultural practices of the peacekeeping mission. Each of these modes of organizing are law-like in operation, and yet at times directly contradict one another in practice. Within the peacekeeping missions, different jurisdictions and legal understandings 'travel with' peacekeepers; threaded through these is the

operation of UN policy and mandates that carry the authority of the UN and their universalized¹⁸ application but fail to have the material consequences or hard power of official law.

Studies of legal pluralism are grounded in the recognition of law as spatial; law operates within and through specific spatial designations and is territorialized through jurisdictions determining what legal order are legitimate where (von Benda-Beckmann & von Benda-Beckmann, 2016). Reiz and O’Lear (2016) query these challenges in relation to peacekeeper ‘SEA’ by disentangling the jurisdictional complexity of holding peacekeepers to account. In their research on rape by peacekeepers in Haiti, the mobility of peacekeepers and the legal systems they carry with them are made apparent. Through Status of Forces Agreements (SOFAs) troops remain bound to their national laws, often military laws, regardless of the legal systems at work in the host state. Moves to enact accountability for SEA have seen court martials in Haiti and in Uruguay, but the spatial and jurisdictional challenges operating to limit access to justice resulted in limited redress. Berman argues that rather than seeking to reconcile overlapping and competing legal jurisdictions, it is sometimes important to preserve these tensions, to recognize that “multiple communities may legitimately wish to assert their norms over a given act or actor, by seeking ways of reconciling competing norms, and by deferring to alternative approaches if possible.” (2007:1164). I discuss these tensions further in chapter 5, exploring TCC model frameworks as necessarily producing legally plural contexts that peacekeepers operate within and SEA survivors navigate, at the expense of community-oriented justice and the imperative to exercise legal accountability within communities that have been harmed. Here, we see the emergence of a complex relationship between space, law, mobility, and immobility.

¹⁸ Policies and mandates are universalized across the mission in that they apply to everyone equally regardless of nationality or profession.

Dunn (2018) studied engagement and conceptions of law in Uvira, DRC, to better understand how community members engage with different legal processes and systems. Dunn positions her findings as an *emergent legal pluralism*- a legal pluralism that is still in the process of forming and solidifying in public consciousness even if operational in practice. Dunn argues that the internationalization of legal norms into domestic court systems in the DRC has increasingly produced a pluralized, rather than solely liberal, legal consciousness, wherein liberal rule of law building comes into tension and competition with customary law and norms at the community level¹⁹. Indeed, lack of efficacy and achievement of desired outcomes through courts, along with the continued prevalence of belief in process outside of formal law (such as witchcraft), foil attempts at liberal rule of law building and draw attention to the plurality of influential normative orderings in eastern DRC. Further, we can consider military tribunals in eastern DRC as a site of legal pluralism whereby national and international norms converge to try commanders and other officials within non-state armed groups. These operate alongside international criminal law investigations and domestic courts, all of which try crimes of similar natures at some points and accused move between these systems based on involvement of different actors and available resources (See the recent Muhonyo trial in eastern DRC as one such example).

The large number of military peacekeepers in DRC adds further layers into this legally plural environment. Peacekeepers carry with them the weight of their own countries' military laws while operating within a legal space that does not apply to them. In this regard, Troop Contributing Countries' (TCCs) laws move through space, attached to their service members who remain under their home country's jurisdiction despite operating in a very different social

¹⁹ See also Lake, 2018 for detailed discussion on how increased emphasis on legal accountability and criminal justice has impacted women's understandings of sexual violence in eastern DRC.

space and as part of a distinct organization, the United Nations. This legal mobility is further evidenced in the emerging practice of some TCCs holding court martials within the country where misconduct has been alleged. South Africa has held court martials for its service members accused of sexual abuse in the DRC, Pakistan held a court martial in response to rape allegations in Haiti (Reiz and O’Lear, 2016). In these instances, South African and Pakistani military law is realized and enacted within sovereign states with their own functioning legal systems. The logic behind this process relates to the sense that justice is done when it is seen to be done, alongside technical considerations relating to access to witnesses and victims. The legal plurality of systems working to redress sexual crimes is particularly salient in the DRC, which, as established, has been made synonymous with widescale rape in international narratives. And yet, as I will show, the multitude of legal systems seemingly concerned with sexual violence still often recede or are inaccessible to survivors of sexual violence committed by peacekeepers.

The legal pluralism literature serves as an important entryway into my considerations of legal and policy engagement by different actors attempting to understand and redress SEA in a pluralized context. There has been important research examining access to justice in legally plural contexts following community level violence (Helbling et al., 2015) and in advancement of women’s rights in fragile states (Chopra & Issa, 2012). Few studies, however, have taken up the concept of legal pluralism in relation to peacekeeping, or SEA. Most feminist studies examining legal mechanisms of redress for SEA, such as Otto (2007), Sweetser (2008), Burke (2014), Freedman (2018), are concerned with utilization and effectiveness of different legal systems, such as domestic courts or the International Criminal Court, but do not explore how these overlapping systems operate, or not, *in place*, therefore producing a territorialized justice system that grounds international projects in a unique configuration within DRC. Nor does this

approach consider the *recession* of law²⁰ in relation to peacekeeper SEA. In the DRC, there is arguably an abundance of legal structures competing and overlapping: community-based law, controlled and implemented by chiefs, state-based laws, international law (criminal, humanitarian, and human rights, all of which have been concerned with conflict-related situations in the DRC), and military law, both domestic and international as per the involvement of peacekeeping troops from numerous countries. Despite these numerous legal and normative systems operating, in instances of sexual abuse by UN peacekeepers there are serious challenges and limitations for legal redress; the problem does not fall neatly into the jurisdiction of any one legal system and the seeming multiplicity of options results in survivors and community-based practitioners alike being unsure where to turn for support (please see chapter 4 for a detailed discussion of this problem). How internationalization and globalization impact conceptions of sexual violence and peacekeeping as legal, ethical, and policy issues is central to this project. Equally important is the employment, by the UN, survivors and NGOs, of particular normative systems in producing and negating accountability.

Feminist Legal and Security Studies

While transitional justice, human rights, and legal pluralism centre questions of law and questions of access to and engagements with justice, feminist security studies is interested in the gendered repercussions of armed conflicts, international politics and intervention. By putting these bodies of literature in conversation with one another, I am able to think through multiple ‘scales’ (Fraser, 2009) and their interrelatedness. International politics and interventions are

²⁰ Here, ‘law’ refers to both criminal law to hold peacekeepers legally accountable for criminal acts, and also law as a normative concept. In the latter, we can consider law as beyond codified law and operating as also a concept of normative ordering with violations of this order as warranting intervention and punishment of the violator. In this way, law recedes both in the sense that criminal law is often inaccessible in ‘SEA’ cases and also that ‘SEA’ does not move for justice as forms of sexual violence.

positioned as “above” everyday lived experiences of armed conflict and its gendered impacts, and yet peacekeeping and ‘SEA’ bring into focus how these scalar notions in fact intersect in impactful ways, with law at times mediating or frustrating²¹ these interactions. These bodies of literature allow me to work through and across these relationships, while threading questions of gender and justice throughout.

My research project is situated within the field of feminist international law and security studies to bridge the gap between analysis of human experience related to sexual and gendered violence and the international political structures that contribute to this violence. In this aim, I further draw on insights from the field of critical humanitarian studies (CHS). CHS engages with histories, developments, and trajectories of humanitarianism and its relationships to unequal geopolitical power (Barnett, 2011). Important critical work in humanitarianism examines the intimate relationships between humanitarianism and colonialism (Anghie, 2006, 2007; Megret, 2006), gendered critiques of international humanitarian law and humanitarian principles (Heathcote, 2012), and the co-optation of humanitarian concerns for purposes of militarized interventions (Kurasawa, 2006).

At its core, this project is a contribution to feminist socio-legal studies. Feminist legal and socio-legal scholars disentangle relationships between gender, sex, patriarchy, and law to better understand how law is used to oppress women and query its potential to advance gender just societies (Smart, 1990). Feminist legal studies have engaged with comparative law and postcolonialism, exploring power differentials in who directs the comparison, whose gaze is

²¹ We can think, for example, of international tribunals or the operation of the International Criminal Court as ‘mediating’ between localized and regional armed conflict and international political priorities. In the case of peacekeeper abuses, law frustrates these interactions by erecting jurisdictional barriers to accountability and redress. A postcolonial perspective may consider this less a frustration and more an operation of design to protect those privileged within the international order (see, for example, Anghie, 2006)

privileged and who is gazed upon (Cossman 1997). Scholars have further explored tensions between relativism and universalism in relation to women's human rights (Merry, 2006) and have criticized imperialism cloaked in feminist politics. They have also approached the role of law-as both neo-colonial and potentially emancipatory tool to advance women's human rights (Kapur 2006).

Feminist scholars have taken up intersecting concerns of humanitarian action, international law and securitisation in work on sexual violence in conflict. Research concerning sexual violence in war has provided insights as to why rape occurs in conflict settings and offers opportunities for redress (Baaz and Stern, 2013). The identified causes of sexual violence in conflict are varied, but can be largely clustered in three areas: rape as a weapon of war (UN Action 2007); contextually contingent violence (Baaz & Stern, 2013); and militarized masculinities (Enloe, 2000; Whitworth, 2004). Baaz and Stern (2013) detail the evolution of conceptions of rape in war, from rape as an unfortunate by-product of violent conflict (Seifert, 1994, in Baaz & Stern, 2013) to understandings of rape as tactical, strategic, and a weapon of war (UN Action, 2007; UNSCR 1820). Historically, rape was considered to be a normal part of war and as such was not explicitly addressed or considered separately from other harms (Baaz & Stern, 2013). From the 1970's onward however, feminists and conflict researchers successfully pushed to have rape recognized as a separate war crime, one that specifically targets and has deeply violent impacts on women, both as a war crime and crime against humanity recognized within international criminal law.

The United Nations considers rape in the context of war through lenses of both individual accountabilities, as emphasised by prosecutions in ad-hoc tribunals and the International Criminal Court, as well as an intentional and strategic war tactic meant to humiliate, intimidate

and erode the social fabric of communities targeted by armed groups. Sexual violence has held a prevalent consideration within UN peacekeeping missions since the late 1990s missions in the former Yugoslavia, where peacekeepers documented widespread and tactical sexual violence (Enloe, 2000). By understanding rape as a tactic and method of war, space is opened for it to be addressed militarily, through heightened military engagement by UN troops, as well as through international criminal law (Henry, 2016; Meger, 2016). This process is sometimes referred to as the ‘securitisation of sexual violence’ in that rape is recognized as not only a tactic but as a threat to international security. It is therefore positioned as an imperative of the international community to address (Mertens and Pardy, 2017).

In their critical engagement with this approach, Baaz and Stern (2013) challenge readers to consider their interview data from Eastern DRC demonstrating that, despite the compelling narrative of Rape as Weapon’s capacity to clarify the pervasiveness of sexual violence in armed conflict, many rapes occur during war that are not strictly strategic or tactical and likely result from the rage and desperation of soldiers acting of their own volition in what they term the “messiness and uncertainty of warring” (Baaz and Stern, 2016: 65). In this way, sexual violence can be understood as both strategic and non-strategic depending on the context, and as a component of complex structural violence that both produce war and the atrocities committed in war. While Baaz and Stern’s work is helpful in countering the hyper-emphasis on strategic rape in the DRC, they do not offer a structural analysis to explain the pervasiveness of sexual violence committed by peacekeepers. Peacekeepers do not experience the same poverty and desperation of soldiers in the Congolese national army or non-state armed groups, and thus do not fit neatly into the explanations offered in Baaz and Stern’s research.

The scholarship on militarized masculinities provides a conceptual buffer between rape as a weapon of war and rape as context specific. Approaches considering militarized masculinity as the cause of rape within conflict describe manhood and masculinity as being taken up and utilized by and for military projects in ways that affect the subjectivities of soldiers and their relationships to the people where they are deployed (Enloe, 2000; Whitworth, 2004). Militarism transforms relationships and self-concepts so that a heightened sense of masculinity predicated on aggression, conquest, and power takes precedence. This in turn leads to an increased likelihood of violence outside of combat, including sexual violence (Whitworth, 2004). Henry (2017), Higate (2007), and Zalewski (2017) caution against a static understanding of men in the military as always already violent, and instead emphasize a socio-cultural and processual approach to understanding developments and mobilizations of particular forms of masculinity that contribute to heightened violence. Agathangelou and Ling (2003) additionally complicate notions of masculine soldier vs. feminized victim through querying how peacekeeping is gendered: peacekeepers are soldiers but often with limited combat mandates, reducing their capacity for masculine action within war. For these reasons, sustained consideration of sexual violence committed within one peacekeeping mission is an important contribution to this area.

These different clusters of literatures and approaches to understanding sexual violence in war need not be treated as mutually exclusive or considered to negate one another. Rather, we might consider how the structural inequalities and violence that propagates conflict, the constructions and circulation of norms producing particular masculinities as dominating and violent, can contribute to situations wherein rape may be strategic and tactical in the ways recognized by the End Rape Now UN campaign, the Rome Statute, and in convictions by the ICTR, ICTY, and SCSL. It can also produce instances whereby sexual violence is not an explicit

tactic to dominate or humiliate, but is still widespread, brutal, and has impacts on population that are not distinct from what we see when rape is weaponized.

Feminist (as well as non-feminist) engagement with issues of sexual violence in conflict has expanded significantly in recent years, so much so that some scholars are encouraging feminists to shift their gaze, arguing that the emphasis on sexual violence occludes other wartime harms (Henry, 2014; Baaz and Stern, 2018; Engle, 2013). Critical scholars such as Buss, Engle, and Halley argue that a focus on rape as a violation of international law serves to occlude structural causes of violence and emphasize individual accountability over systemic considerations (See Meger, 2016, for a re-centring of the structural, political, and economic factors in war-related rape). So-called International Criminal Law Feminism emphasizes combatting impunity as a key strategy for ending sexual and gendered violence in conflict (Engle, 2013) and the imposition of rule of law as crucial for post-conflict recovery and necessary re-structuring (Houge and Lohne, 2017). These are important critiques.

Recent research has developed to better understand the nuances and complexities in experiences of harm, agency, and sexual violence. Kreft and Schulz (2022) unpack the false but often presented dichotomy of victim vs. agency, demonstrating the myriad ways victims of sexual violence enact agency in constrained circumstances, both during and after conflict. Bunting, Tasker, and Lockhart (2021) engage in a similar project wherein we explore the contributing factors producing a sense of deep harm for survivors of forced marriage in war, also looking at how women enact ‘tactic agency’ (Utas, 2005) and contribute to law making within rebel groups and at the international criminal court. Stallone (2022) demonstrates that strategic submission to rape in contexts of armed conflict does not lessen women’s experiences of victimization, but does complicate their legal status in Colombia.

Studies have increasingly explored the ‘why’ question in relation to conflict-related sexual violence. Wood (2006;2009) promotes considering rape in war as a ‘practice’, one that is common but not inevitable. Approaching it as a practice allows us to reveal the patterns underlying its complexity and makes tracing and response feasible. True (2012) and Shepherd (2009;2014) have both argued for a structural understanding of gendered violence in war. They have suggested that we favour analyses that consider gendered violence, including sexual violence, as being produced through and not only aggravated by structural inequalities and systemic violence.

Bunting (2018) challenges victim-perpetrator dichotomies established in International Criminal Law to complicate notions of justice for sexual violence. In this work, Bunting shifts the conversation from whether or not criminal prosecutions have value, to what a complex and victim-centred version of justice might look like for communities. Rather than a single focus on criminal prosecutions, justice for communities must contain material supports, cessation of conflict, and long-term work to build gender equality and responsible institutions (Bunting, 2018). This work is central to my project, as I attempt to shift the emphasis from an accountability and anti-impunity approach to SEA to instead focus on meaningful modes of gendered justice through a structural analysis of the pervasive problem of sexual abuse by peacekeepers.

Buss (2014) writes that while there has been much research on sexual violence in war, there remains an important gap in studies considering the roles of institutions in this violence. Indeed, Buss states that the emphasis on rebuilding in a post-conflict context may serve to occlude continued gendered violence, sometimes committed by the same actors tasked with

providing security. It is imperative, then, to study the role of institutions and their impacts in contexts of post-and ongoing conflict marked by sexual violence.

In the report from the Secretary-General titled *Special Measures for Protection from Sexual Exploitation and Abuse: A New Approach* (2017), the issue of sexual violence committed by peacekeepers is positioned as resulting from global (read: global south²²) gender inequality, lack of screening of candidates, and logistical issues such as single-nationality deployments and weak institutional measures for reporting and investigating alleged abuse. Nowhere in the report are the instances of abuse and violence referred to as tactical, as in the rape as a weapon of war discourse, or institutional, as in militarized masculinities conceptualizations. Rather, the report seems to locate sexual abuse within the actions of *individuals* who take advantage of chaotic situations, perpetrated by those who would likely be violent anywhere (2017:5-6). This framing relies on understandings of sexual abuse as resulting from individual pathologies rather than systemic problems. This appears as a return to the original discourse regarding rape in war: Sexual violence as an unfortunate by-product of conflict, committed by a minority. Indeed, in Resolution 2272 (2016) the United Nations Security Council outlines their commitment to addressing and quelling instances of sexual abuse and exploitation by peacekeepers but clarify that they are also “*Honouring* the heroic work of tens of thousands of United Nations peacekeepers, *underscoring* that the United Nations should not let the actions of a few tarnish the achievements of the whole” (2016: 1; emphasis in original).

In their strong stance on rape as a weapon of war to be addressed militarily, the United Nations draws a clear distinction between the sexual violence committed by national armies and

²² There is a significant emphasis on perpetrators of SEA contributed by countries with low gender equality throughout official UN consideration of SEA, largely identified as global south countries. There is far less recognition that global south countries contribute far more troops to active combat roles, where they are most visible and easily recognizable, and the power differentials that propagate this division of labour.

non-state armed groups from the sexual violence committed by their peacekeepers. While Hoover Green (2016) has argued that the category of 'CRSV' should include acts not associated with weaponized rape, including 'SEA', and Deschamps et al.(2015) positions 'SEA' as sometimes a form of CRSV, there has been limited literature positioning SEA and CRSV both on the continuum of sexualized violence in conflict and post-conflict contexts, drawing out the nuanced and shared experiences of harm resulting from different forms of sexual violence in conflict, or critiquing the UN's insistence in maintaining distinct and mutually exclusive categories between CRSV and 'SEA'. My research furthers the conversation by examining the constructedness of these distinctions and uncovering when and how they fall apart.

Intersections of Feminist Security Studies and Peacekeeping Research

Despite important overlap in victim-survivors' experiences and outcomes, peacekeeping researchers rarely draw directly on insights gathered by CRSV researchers and, likewise, CRSV researchers typically focus less on peacekeeper perpetrated abuses compared to violence by state and non-state armed groups. Feminist research on sexual violence in conflict informs conceptions of peacekeeper SEA most notably through the concept of militarized masculinities, which has been used to help explain SEA by a number of scholars (Enloe, 2000; Whitworth, 2004; Higate, 2007). Higate (2007) and Higate and Henry (2009) approach issues of context contingency in their work. Higate and Henry examine contexts of conflict, insecurity, and peacekeeping in robust and nuanced ways, but do not consider sexual violence explicitly in this work. Higate (2007) is directly concerned with peacekeeper SEA, but does not delve into its legal and policy parameters. Thus, this research comes closest to my own project but does not

fully tease out the complex relationship between politics, policy, law, and SEA within peacekeeping, which my project does.

Research into political economies of peacekeeping analyzes how peacekeeping missions, particularly large-scale and long-term missions, re-shape and re-orient economic and social relations within host states. Higate and Henry (2010) consider how space is re-constituted around the imperatives of the mission, demonstrating how peacekeeping reshapes not only social relations but also the physical place it operates in. Jennings (2014) has considered the economic impacts of peacekeeping through a gendered lens, showing how missions bring with them gendered labour opportunities, both formally and informally, while also at times restricting or reducing alternative means of livelihood. Oldenburg (2015) looks at questions of economic and social shifts related to love, sexuality, and intimacy, finding that in Goma, eastern DRC, the unequal economic position of foreign peacekeepers compared to local men and boys has contributed to important changes in romantic relationships; many young men reported that they feel unable to compete with the gifts and financial support provided by peacekeepers to their would-be girlfriends. Intersections between economic and sexual relations are particularly pertinent in contexts where widespread poverty and insecurity are inextricable from all facets of life. Sexual relations combine with economic shifts most obviously in relation to sex work, which was one of the most commonly discussed themes among research participants.

Nicola Pratt (2013) engages substantively with tensions in how sexual violence in conflict zones is understood in the Women Peace and Security resolutions compared to the framing of peacekeeper SEA. Pratt writes that SEA is positioned by the UN as preventable through training, monitoring, and by incorporating more women into missions, rather than being understood as a socio-cultural problem resulting from complex intersections of gender, war, and

militarized cultures. Pratt argues that the reinscription of gendered-racialized boundaries position the international community, including peacekeeping missions, as above conflict zones and thus neutral. This process serves to reinstate colonial hierarchies built on masculinist protections of racialized women from racialized men (Abu-Lughod, 2002; Spivak, 2003; Pratt, 2013). I explore a similar line of inquiry through my analysis of peacekeeper training materials and UN resolutions and special bulletins on sexual exploitation and abuse, contrasting these with UN responses to conflict-related sexual violence. Through my empirical work, I demonstrate how these distinctions are unhelpful and fail to ground 'SEA' within conflict-contexts or to position it on a continuum of sexual violence.

To date, most studies engaging with structural considerations of SEA were conducted prior to the increased engagement by Global South countries in peacekeeping. This development adds an additional and underexplored layer to issues of SEA, challenging earlier explanations of hegemonic whiteness and extreme economic disparity as direct explanations for exploitative behaviours (see Razack for important considerations of the role of Whiteness in peacekeeping; and Henry(2012) for divisions of labour along ethnic and gendered lines in peacekeeping). Henry (2017) offers important conceptual work on intersections between masculinity and race to repudiate militarized masculinities as a blanket explanatory category, and this work is helpful in teasing out connections between racialization and SEA through situating race, as well as gender and sexuality, as constructed, contingent, and relational.

Henry and Higate (2009) have explored connections between space, insecurity and peacekeeping, elucidating the ways that military bases, mobility of peacekeepers within communities, and their modes of interaction with community members impact feelings of security/insecurity. Jennings (2019), in her work of gendering peacekeeping, has researched

conditional protection through gendered scripts to uncover how expectations of how men and women should behave in specific contexts informs peacekeepers decisions to intervene in situations of gendered violence. Agathangelou and Ling (2003) further challenge researchers to examine intimate connections between sex, violence, peacekeeping, and economies, without displacing the influence of race and class on these processes. In taking up this challenge, my consideration of transactional sex, including survival sex, aims to better understand how different actors make sense of this complex matrix of differential power relations.

There is an important subset of literature engaging with legal positionings of peacekeeping (Whittle, 2014; Weiss, 2015; Grenfell, 2014; O'Brien, 2011). Other scholars explore issues of sexual exploitation and abuse and modes of redress within existing legal structures and the UN peacekeeping system (Reiz and O'Lear, 2016; Sweetser, 2008; Burke, 2014; O'Brien, 2011; Freedman, 2018; Otto, 2007). Still more research has focused on links between global inequality, economics, and sexual abuse by peacekeepers (Agathangelou and Ling, 2003; Higate, 2007). Each of these scholars contributes important empirical and conceptual insights related to the frictions and tensions within UN peacekeeping. Critical peacekeeping studies pull back the curtains on the otherwise celebrated practice of UN peacekeeping, long held to be one of Canada's most important international contributions and a way forward for nations to establish themselves as global participants and gain standing within the UN. These scholars serve to disrupt the notion that peacekeeping is a benign and benevolent process, and instead explore the power relations, impacts, and challenges within these increasingly complex and long-term missions.

Through my dissertation, I engage with each of the above bodies of scholarship to better understand and conceptualize peacekeeper perpetrated sexual exploitation and abuse, how

survivors and other community members make sense of ‘SEA’ in relation to other modes of violence, and tensions between localized perspectives and priorities and how the UN frames the issue. By drawing on human rights and legal pluralism scholarship in tandem, I am able to engage with the navigations and, at times, rejections of formal law and rights-based paradigms, drawing forward competing or privileged priorities and outcomes over legal accountability. Concurrently, legal pluralism scholarship helps to make sense of invocations of unofficial law, drawing out survivors’ legal engagements in ways that would not be obvious if one was only considering formal law’s normative influence. Transitional justice scholarship helps to contextualize these processes by situating them within a complex, conflict-affected region struggling with ongoing insecurity and intense interventionism. This body of literature further draws attention to perceived hierarchization between atrocity crimes and so-called “everyday harms” and injustices, supporting the positioning of these on a continuum of violence. Likewise, feminist security studies provides valuable framing literature on how certain modes of violence, especially sexual violence, become taken up and hyper-emphasized within international politics at the expense of other salient and pervasive abuses. This field further draws out gendered experiences of armed conflict, rejecting notions of women as passive subjects and instead insisting upon consideration of their agentic actions and strategic decision-making.

Each of these literatures has provided valuable insights and analytic tools to better understand peacekeeper perpetrated ‘SEA’. No work to date has intersected concepts from legal pluralism and transitional justice to examine access to justice for ‘SEA’. Likewise, while there has been important work on combatting impunity and increasing access to accountability for ‘SEA’, my project brings together conceptions of harm (transitional justice), research on CRSV (feminist security studies), and theoretical contributions from legal pluralism/consciousness to

advance a novel understanding of how both law and justice *recede* in cases of peacekeeper ‘SEA’: the system the UN has designed fails to meaningfully respond to the complex set of harms survivors endure, these are often indistinguishable from those faced by survivors of CRSV, survivors articulate their justice needs in nuanced ways within a legally plural context, and these are often illegible within the imposed systems for accountability. My dissertation provides both empirical grounding and analytic insight into these relationships. As such, it offers important conceptual contributions in advancing understanding of how structural violence and sexual violence intersect in cases of peacekeeper-perpetrated ‘SEA’ and demonstrates how legalistic justice recedes in these cases, despite the abundance of law circulating in this region. This helps us to better grasp the lived experiences of sexual exploitation and abuse in the DRC, moving the discussion beyond one focused only options for enhanced accountability and prevention, and toward increased understanding of ‘SEA’ as existing on a continuum of sexual violence in conflict.

Chapter 3: Community Perspectives

This chapter brings forward central issues from SenseMaker research participants: community members invited to share a story about what life is like for women and girls living nearby the MONUSCO base in their community. While later chapters focus primarily on women's stories about themselves, here I present perspectives from community members, both men and women, to discuss the most prevalent issues across the data. Many of these themes are analyzed throughout this dissertation in relation to UN approaches to 'SEA', to uncover conceptions of justice or failures of governance. Here, I describe and analyze each on their own and consider their intersections. The reasoning behind this approach is two-fold: firstly, as stated, these are the most commonly discussed concerns throughout the 2856 community-derived SenseMaker micro-narratives²³ and the participant driven analysis that accompanies them. Presenting them here gives space to share the most prevalent themes from the data to later delve more deeply into the nuances and connections within and between these themes in later chapters. Secondly, the content of what participants share deserves its own space, early in the dissertation, to be considered as valuable and important in and of itself, not only in how it relates to the UN. As such, this chapter acts as something of a SenseMaker "results" section, with later chapters providing deeper analysis and drawing out connections to and tensions with the UN's approach to 'SEA', and the existing literature. Each of the themes is introduced here, briefly positioned within the broader context of eastern DRC, but is elaborated on and analyzed more fully in subsequent chapters. Later engagement should be read with this introduction to community priorities in mind.

²³ A reminder that the short narratives were provided by community participants based, broadly, on their chosen prompt and were audio recorded on the tablet. The narratives were later transcribed and translated.

Research has found that living in a region where there were higher levels of conflict is correlated with increased interpersonal violence (Kelly et. al 2018). Poverty, worsened by insecurity, is a strong driver of engagement in sex work and transactional sex, with children born as a result. In the included quotes, we can see how participants often move from discussing one of these concerns into the next- they are interconnected. These issues and modes of violence importantly impact women's and community members experiences with MONUSCO, especially in relation to sexual exploitation and abuse.

Insecurity

The context of insecurity circulates around and through central discussions of sex, poverty, and choice. MONUSCO is in operation due to prolonged and ongoing insecurity and armed conflict, and so interactions with peacekeepers cannot be divorced from this reality. Large protests in Beni and Goma in 2019, 2020, and 2021 were motivated by anger about increased violence by armed groups and MONUSCO's perceived inability or unwillingness to prevent killings and displacement. These sentiments were prevalent through the narratives but general consensus was one of ambivalence. Some participants expressed gratitude that MONUSCO had increased security and were working to protect the people of DRC. Participants who expressed these views were sometimes willing to excuse or forgive sexual interactions/abuse of women and girls provided security was increased:

We lived with Monusco for a long time. When they settled here, they put an end to many conflicts that existed here and there in our region. The Bambouti rebels who had been disturbing us retired because of Monusco sensitization for peace. We then had peace and we started walking freely in the areas where we could no longer be going because of insecurity. One thing that hurt some of us was their hunting our sisters for sex deal. For me, this is quite normal, because we are all human beings and we all have desires and needs that we always try to respond to. You know that Monusco guys left their wives at home when they came here. So, to satisfy with their sexual desire, they were not very wrong to be courting our sisters. Despite the disease people say they have spread here,

they remain good guys, for they are going on protecting us. And there are many local people and some Monusco workers who benefited by this Monusco presence to build houses. We do not know their names, but we heard about it. Girls, especially Monusco cooks are the ones who exaggerated in having sex with those guys. But it's not very bad because most of those ladies who got the opportunity of being employed, and many of those who used go out with these Monusco guys, have had their life conditions improved to some much extent. Some women delivered children, and they are still living with those children; others did not get babies. (man, 25-34, Kalemie)

Others indicated that MONUSCO was effective in humanitarian relief, and they appreciated water and food distribution, patrols, and increased security:

First of all, let me tell you that Monusco is more advantageous than disadvantageous for us. They have come to restore peace and they fight against insecurity. Of course there are still some few cases of insecurity here and there, but Monusco is doing good job to bring remedies to those problems. They are really helping Kalemie communities, especially with their humanitarian assistance. For me, Monusco is here for the community welfare. I always see patrolling here and there in the city at night, for our security indeed. When there is security, there is peace. The community needs peace to get developed. That's my own view-point. (man, 35-44, Kalemie)

There were fewer regional differences in the responses than expected, with the exception of participants from Goma discussing insecurity less often than in the other cities. In 2018 when this data was collected, Goma was relatively secure and had seen little armed conflict in recent years. It was still a key location for displaced people to relocate to, but more often in the outskirts than the city proper. In the SenseMaker data, Goma is overrepresented in stories about sex, sexual abuse, and PKFC. Stories about in/security are retrospective, and the focus is more on economics, land, and sex rather than centring on violence or armed conflict:

When MONUSCO arrived here, they only spend time having sexual intercourse with girls and prostitutes. Truly, in my opinion, I have never seen what MONUSCO does for our country. I wish they were not staying here since they don't prevent rebels and enemies of Congolese from envading the area. We always that MONUSCO is responsible for what happens to our country in terms of security. They can never want to see Congo have peace since they take advantage of war in this country. As far as Sexual abuse and

exploitation is concerned, MONUSCO guys are really abusing little girls because they attract them with money. (man, 25-34, Goma)

As you know we note some advantages and disadvantages, advantages are rated at 10% and disadvantages at 90%, just because when Monusco arrived, the first thing they did was to use the fields of the population to build up their camps, on the other side the population should be hired and get the job in return after losing the farms they were cultivating, but it was the contrary, they hired people and gave contracts for 2 months. When the 2 months are over, you find yourself out. Mostly when they recruit, they easily employ 10 or 20 individuals for 2 month timed contract. After 2 months, the worker is sacked and replaced by a new one of their choice like people from Bangladesh. The people from Bangladesh are here but we don't know what they are doing, that is plain work that should be done by the local population is done by them. This is a big issue; you can find a vacant post displayed but the job will be given to someone from Bangladesh. Do you think the population can be happy? (man, 35-44, Goma)

In Goma, narratives that discuss security concerns are likely to reference MONUSCO's support in combatting the M23 takeover of Goma in 2012:

MONUSCO helped us, but it was not able to achieve all its missions. It started diverting some. Firstly, on the point of security, they secured us; they were intervening in some cases. They intervened alongside with FARDC to fight against M23. They were also providing soldiers of FARDC with food during war. Secondly, when Mai-Mai were about to incurse in Uvira, MONUSCO used its helicopters to prevent rebels from envading Uvira. Finally, in places like Mubambiro, they constructed schools where pygmees study and have access to education free of charge. (man, 25-34, Goma)

MONUSCO helped us so much during the war of M23. Some people were fleeing into their camps, and others were going to Goma. They were also dealing with security when M23 withdrew from Goma. Only MONUSCO was securing the population before the arrival of our loyal army. In addition, they always cook a lot of food and give to our children. When we hear that they have eaten from there, we feel okay because we are supposed to look for food for those children-- we who live from hand to mouth. As far as sexual abuse and exploitation is concerned, here no case has been reported so far, but down there at Jericho, those soldiers are abusing girls and women sexually. When they were accused to their chief, they forbade them to continue doing that. That's why that situation has decreased in terms of sexual immorality. (male, 45-54, Goma)

Here, we may assume that the narrator either does not know about the frequency of cases of SEA in Goma or is willfully turning a blind eye, perhaps out of loyalty to MONUSCO for their support against M23.

Interestingly, Kalemie had also not experienced significant armed conflict near the time of data collection, and yet it was the location from which participants spoke most explicitly about insecurity and grappled with tensions between in/security, sexual violence, infrastructure and humanitarian contributions, with participants likely to emphasize their localized concerns as the below participants does at the end of her narrative:

I have been in Kalemie since 1955. I am happy to be with you for the interview; I couldn't believe to get in touch with someone to ask me about the situation we are living. We have been here since the beginning of the war. We have assisted at different wars without getting the UN assistance. We have many problems; insecurity is increasing instead of decreasing. We were at the farms farming and were caught by perpetrators and they raped us. Monusco is not assisting us in anything. People are being killed every day and time, there is not positive evolution. We are suffering, we have been living at the country side, and all of us have been raped and chased by those perpetrators. We suffered by the former animals (Monusco men²⁴) who settled here. They are raping young ladies, women and baby girls after giving birth with them. Whenever you call up Monusco, they come with their cars very late around 10 Am after being raped at night. We are not assisted and we have no assistance. We have been chased from our houses and farms. We left our children and went to the forest. Were considered like animal workers and we got nothing from them. We are more attacked and our children are suffering a lot. Some women are forced to have sexual intercourse with soldiers, when we present those cases to Monusco, they promise to intervene but no reaction. We live by the guidance of family members. Monusco is doing nothing in DRC. They promise us peace and protection, but we have never seen their importance in Kalemie. They tell us that the case is for a moment but peace days are coming. We are talking about Kalemie not Bukavu or elsewhere. (woman, 55-64)

²⁴ The bracketed 'Monusco men' was an explanation given by the translator. Given the content of the quote I am not confident that the participant is referring to MONUSCO and not demobilized rebel soldiers re-settled in the area. Following up with the translator did not provide further clarification. I left the quote as it was provided.

In Bukavu, Beni, and Kisangani we saw intersections between in/security and natural resources like minerals.

When we go on the ground like Kamamgo crossing Virunga Park and Semliki river, we heard that MONUSCO contingents from Tanzania are exploiting minerals, but the population is not happy with that because the rebels have occupied one part of the area. Given the insecurity, the population doesn't have access to those places, yet they live from hand to mouth. When MONUSCO soldiers occupy there and rebels the other part, the population is no longer able to be self-reliant because of that. (male, 25-34, Beni)

Uruguayans were living well with girls here; when they went, they never sent money. Senegalese soldiers also were living with our girls. When they left, they never sent money. Belgians did the same. We have so many children who were left by those MONUSCO soldiers. They made many children in places where they extract minerals. Senegalese people were deflowering many girls; we pursued them to their chiefs, but they paid a little money. They went to theirs. There was a woman who had a baby with a Senegalese, that woman is struggling to send her child to school by herself. (male, 25-34, Kisangani)

And in all regions except Goma there were expressed concerns between health/disease and sexual violence, and insecurity:

The worst disorders of Monusco white people are to provide pygmies with modern shots and sexual disorders with young ladies. They supported rebels in the forests in order to make Congolese unstable. They didn't care about Congolese stabilization. They increased sexual violence. Young ladies were coming from the town and joined Monusco camp for sexual intercourse. Monusco people participated in rebels' meetings. We heard that they were equipping pygmies and rebels with war materials to fight against Congolese. They did not accomplish their mission of stabilization. They destabilized instead of stabilizing the country. In developed countries, Monusco is not accepted for people knew that they were insecurity makers. They often do sexual intercourse with young ladies and give them biscuits in return. We are fed up with Monusco people; they are destroying, destabilizing and increasing insecurity in DRC. Congolese people hate them because they do the contrary their mission. They were involved in the existing conflicts in DRC. Their mission is not to destabilize but to stabilize the country. We cannot talk only about the shortcomings of Monusco guys but we would like to mention their good will to give water to some people. Beninese staff of Monusco helped to mend the road in Kalemie, from ISP to the general hospital. We could be proud of them if they were peace providers. (Male, 35-44, Kalemie)

You can see MONUSCO agents coming from theirs with diseases. Some girls may not accept them at theirs but here they are the most welcome to every girl. They use different things to spoil even banana trees that give traditional alcohol. I can't say anything good about MONUSCO presence here; their job is to kill and destroy the well-being of the population. Insecurity is reported here and there because of MONUSCO. A couple of years ago, there were so many cases of matrix withdrawal. A member of Parliament was arrested, but we know surely that MONUSCO was the one perpetrating that in the airport. Monusco doesn't do anything, they can leave here so that we may live alone here. They are destroying everything in Congo. They are taking advantage of our natural resources as well as minerals. (female, 18-24, Bukavu)

Security concerns and links between sexual abuse and conflict were important for many community participants. From this data, we can see the complexity of security concerns, with participants moving from discussing previous conflicts to contemporary and enduring issues. Security is connected to economic exploitation and participants grapple with the role and utility of foreign soldiers operating within DRC:

People started hating them (MONUSCO) actually. And another bad thing is that they always renew their contract so that they can stay in our country for a long time. They never dream of going back to their home countries. It's our Congolese soldiers who fight alone when there is war or attack to local communities. Monusco guys go there when the attack has been mastered by our soldiers. Monusco's presence is useless here in DRC. Instead of restoring peace, they create much insecurity so that their sojourn in DRC can be lengthened. (Man, 35-44, Kalemie)

For example, if I were our Head of State adviser, I would advise him to kick Monusco out because they are doing nothing here. We Congolese people do not need the presence of Monusco actually. Better they go and I continue selling paper and get my 100 CF as I have always been doing before instead of being fooled that there is Monusco who is coming to help us. They are said to restore peace here, but we see nothing. I insist if I could be the President's adviser, I would ask him to drive them away. The head of state knows him how to organize his country, not Monusco to decide. The Bambouti rebels here in Tanganyika province have always been terrorizing and killing people and Monusco was said to come and put an end to that insecurity, but they did nothing. People went on fleeing to the bush when those rebels entered the city. Monusco has always been incapable or unwilling to assist Congolese local communities. They are useless in our country. I have no more to add, but be sure Monusco is doing nothing for us. (Man, 18-24, Kalemie)

There is a general feeling that participants have been let down by numerous actors, that support or positive outcome achieved are weighted against the cost of relying on peacekeepers and the problems they bring to their communities. At times, sexual engagement is positioned as distracting peacekeepers from their mandates:

When MONUSCO arrived here, they only spend time having sexual intercourse with girls and prostitutes. Truly, in my opinion, I have never seen what MONUSCO does for our country. (Man, 25-34, Goma)

In other accounts, sexual abuse is interwoven with the deteriorated social conditions and insecurity: MONUSCO peacekeepers are able to exploit girls and women because of social and political breakdown, caused in part by MONUSCO's actions.

The worst disorders of Monusco white people are to provide pygmies²⁵ with modern shots and sexual disorders with young ladies. They supported rebels in the forests in order to make Congolese unstable. They didn't care about Congolese stabilization. They increased sexual violence. Young ladies were coming from the town and joined Monusco camp for sexual intercourse. Monusco people participated in rebels' meetings. We heard that they were equipping pygmies and rebels with war materials to fight against Congolese. They did not accomplish their mission of stabilization. They destabilized instead of stabilizing the country. In developed countries, Monusco is not accepted for people knew that they were insecurity makers. They often do sexual intercourse with young ladies and give them biscuits in return. We are fed up with Monusco people; they are destroying, destabilizing and increasing insecurity in DRC. Congolese people hate them because they do the contrary their mission. They were involved in the existing conflicts in DRC. Their mission is not to destabilize but to stabilize the country. (Man, 35-44, Kalemie)

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²⁵ Pygmy peoples are Indigenous to what is now the DRC. The term is sometimes used disparagingly and Pygmy people face discrimination, violence, and deterritorialization. See here: <https://www.iucn.org/story/202208/new-legislation-protect-rights-indigenous-pygmy-peoples-drc>

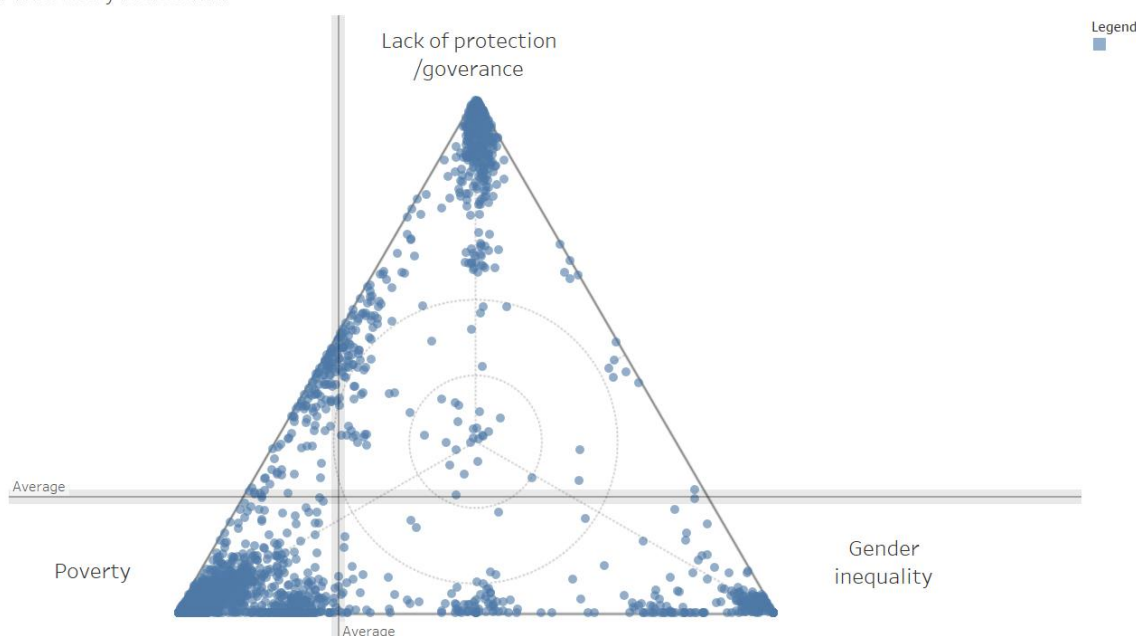
mission is not to destabilize but to stabilize the country..... We could be proud of them if they were peace providers. (Man, 35-44 Kalemie)

Most narratives that explicitly discussed MONUSCO's mandate focused on security; there was limited engagement with the other roles MONUSCO plays such as rule of law building, support to institutions, etc. This is likely due in part to the regions where data was collected: all in the east and most affected by ongoing conflict and insecurity. Despite the overlap and mutual support between their roles, the visibility of militarized peacekeepers is striking. It seems to demonstrate the prioritization of military intervention and support over other concerns, at least in optics.

Poverty

Across all data sources analyzed, the connections between poverty and sexual exploitation and abuse were paramount. 97% of mothers of PKFC interviewed explicitly stated they were in desperate need of support. Community members participating in the SenseMaker survey identified poverty as a driving factor behind sexual interactions with peacekeepers:

T1. This story is about...



T1MissingBasics-X vs. T1MissingBasics-Y. Color shows details about Legend. Details are shown for Narr ID. The data is filtered on Stone Num, Stone Num (stones voluntary help), Feelings (Sheet1 (feelings)), Nationality (Sheet1 (Nationality)), AreaCollected, Income group and Cohort. The Stone Num filter keeps 1. The Stone Num (stones voluntary help) filter keeps 1. The Feelings (Sheet1 (feelings)) filter keeps 15 of 15 members. The Nationality (Sheet1 (Nationality)) filter keeps 15 of 15 members. The AreaCollected filter keeps 6 of 6 members. The Income group filter keeps average, poor and well-off. The Cohort filter keeps 7 of 7 members.

The above Triad shows the distribution of all stories from the SenseMaker data. The ‘Average’ lines (both horizontal and vertical) cordon off the ‘average’ placement of stories. This average is derived from the unique, numerical ‘data point’ given to the placement of each marker on each canvas (see methods in introduction). We see then that incidents in stories were most likely to be interpreted as having been driven by poverty. When we filter out stories by community members who had sex with a peacekeeper, the average moves slightly upward toward Lack of protection/governance. This shows that women who had sex with peacekeepers were more likely to describe the interactions as having been driven by poverty than community members who did not have sex with peacekeepers. In total, across all cohort groups, 1317 stories of the 2248 respondents who answered this question were positioned in the ‘Poverty’ corner of the triad and are captured in the average square. 59% of narratives were about poverty.

Discussions of poverty and SEA can be grouped into 3 categories:

1. Poverty as producing interpersonal vulnerability. This took multiple forms, including increasing risk to exploitation (i.e. perpetrator visible in this explanation: “they took advantage”), survival sex, connected to insecurity, conflict, state fragility:

We had a habit of going to MONUSCO camp at MUBAMBIRO when we were still prostitutes. We specifically had to go there every day to have sex with men in exchange with money because we are from poor families. Since poverty was very extreme, parents were dying. Then, we could go to MONUSCO for that. Instead of MONUSCO rejecting us and remember that mission that brought them here, they welcome us and have children with us. After making children with them, they could return to their country, and leave us with children. Eventually, we had to suffer the consequences while raising these children. This is the problem MONUSCO is doing in the lives of several girls here.

2. Amelioration of poverty through sexual relations with peacekeepers (transactional sex and sex work, marrying foreign PK and going to his country, thinking he will build house to care for child, jobs at the UN)

The fact that he was giving me money, I could be touching dollars. Due to miserable life we were undergoing, we were pushed to take that money, then, I take the money, sometimes he could give me 20 or 10\$ which helps me to go to school and feel better to buy small things and become more popular than others at school, although my parents had no means, we kept on living with him like that, whenever he needed me, he calls me to join him to the bar at any time, and he gives me money, I kept on living with him in this way.

When I was living with a MONUSCO soldier, I was good. I didn't have many problems. He was providing me with money so as to cover my needs. Since he left for his country, I have been living a serious suffering because I don't even find money to pay rent.

3. Poverty as a result or worsening because of SEA (children born and abandoned, difficulties marrying, social stigma)

Very hard times for me indeed! We were good friends actually. He got me into trouble twice and I delivered two babies with him. Now as he has abandoned me, I'm feeling serious pains in my heart to have lived with a guy who made two children with me, but he

can't take care of them. He sent me some very little money once, but now he no longer thinks of me and his two kids. Today I'm wandering here and there, sometimes going to Goma, but no way. Now I have decided to go back home, Mbambiro location, and leave everything in God's hands. One of my two kids is a girl. Her name is Neema (Grace). I'm going through critical life conditions

Within first-person women's SenseMaker data were about sexual relationships with peacekeepers who provided food, water, school fees for children, clothing etc.:

As for me, I felt in love with Monusco agent, I felt in love with him, they were bringing water here, I felt in love with that man, falling in love with him he had already taken care of me very well, I did not realize the day he went.

That is the way we were living. He used to come to my house from their camp. We were partners because he wanted to avoid having many lovers. Anytime when he had time to go out, he came home. When he had much work, I also joined him by the camp. Later on, they brought water to us. I could get water from Monuc, actually, we were partners. He used to stop, parked the car and got in my house. That's the way we were living with him

I loved an agent of Monusco. They're building a school. I got pregnant. Then they left me with my pregnancy. If they were still here I wouldn't be suffering, unfortunately they had gone.

I am talking about a MONUSCO agent I was living with. He was supporting me so much-- he was buying shoes, clothes and some Food Items. For the time being the man is not living here. I was really supported by the man. I was lucky to meet up with him.

Twelve of 215 first-person SenseMaker narratives from women who had sex with peacekeepers specifically mention the peacekeeper providing food for the woman and/or her children. 46 narratives (21%) discuss extreme poverty and inability to provide for their children; this is most often framed as "suffering":

I personally had a child with a MONUSCO agent. That man went away after he had hit a person with a MONUSCO car in the vicinity of the airport. I am suffering myself while

looking for ways to feed and raise the child. I don't receive any support from any body. I am struggling so as to send my daughter to school. Children of MONUSCO agents are growing up, but I don't have any education to give to mine. Furthermore, I was made pregnant while I was still a little young girl. I didn't study much. Whoever hears this message can assist us because we are suffering too much

The cyclical nature of poverty is apparent through these narratives and the qualitative interviews: women often engaged in sexual relations with peacekeepers as a result of poverty, and those who became pregnant then find themselves in worse poverty trying to care for a child on their own (elaborated in chapter 6).

There were also important discussions of poverty in the data that were unrelated to SEA, with community members discussing lack of opportunity and struggles to provide for their families. Economic need was a central theme throughout all sources of data, including as it relates to reporting and accountability for SEA. In 2018, the World Bank estimated that 73% of people in the DRC live on less than \$1.90 USD/day (World Bank Group, 2022). In regions where conflict is ongoing and displacement widespread, many Congolese people are struggling with chronic food insecurity, lack of safe and secure housing, and access to health care. Poverty has been directly linked to rape by armed groups, as women need to travel further from home to find charcoal or other goods to use and sell and to work in fields distant from villages (Massey, 2022). In subsequent chapters I position poverty as itself a form of enduring violence and harm, inextricably linked from suffering related to sexual abuse by peacekeepers. In this data, the suffering from poverty was compounded by the lack of opportunities and chance of securing a better life for one's children, contributing to a set of intergenerational harms that felt impossible for women to escape. Poverty is interwoven with all themes arising from the data, underpinning and exacerbating experiences described by the participants.

Violence

Discussions of violence were less explicit across data, but were embedded within the three source categories. Violence was most directly discussed in the SenseMaker narratives, most notably the first-person narratives from women. Of these 215 narratives, 20 (10.75%) contained direct description of explicit sexual violence:

He forced me to do sex intercourse; unfortunately it was a moment that I was able to conceive. He strongly grabbed me and raped me. I asked him why such sexual violence, he replied he loved me very much and he promised to leave a worthy present to me before his return to his country.

Reading the narratives and interviews for discussions of violence uncovers numerous and nuanced engagement with violence by UN personnel, as well as the violence of narrators' circumstances. Direct reference to rape, along with sexual interactions described by young girls (i.e. 13-16), sex in exchange for food or very small amounts of money ('1 or 2 dollars'), and sex that began as a consensual commercial interaction but later changed to something the woman did not previously agree to (ex: woman agrees to sex in exchange for money with one man but then there are multiple men; photos/videos taken; degrading and violent acts) were read throughout the narratives and interviews.

Particularly degrading or shocking sexual acts, along with some discussion of survival sex with children, were shared in third-person stories from community members. It was uncommon to see a third-person account of rape that was identified as such. Third person accounts of rape were most likely to be shared by a close relative (ex: sister or aunt). General discussion of sexual violence committed by MONUSCO was discussed more frequently by men and often linked to other grievances around insecurity and explaining how MONUSCO exploits people living in poverty. For example:

I don't know if Monusco exists in DRC. Monusco is increasing insecurity between pygmies and the local population by reinforcing the former and providing them with modern shots to fight against the local population. They are creating conflict between them and the local population. [...] They come with their helicopters providing us with salt, biscuits while raising conflicts between us. Here in Bukambi, many ladies have undergone sexual violence, they are forced to bring sand to their buildings and rape them. Young ladies have got many children of Monusco. In their building site, there are around 11 ladies who were raped by Monusco men. They forced them to be carrying sand and some of them were forced to walk naked along the road. After raping our ladies, they provide them some medicine and tell them to get back home. We have been pleading at Monusco concerning this case but nothing has improved up to now. Monusco is doing nothing in DRC; it is raising conflicts and increasing insecurity. We saw even policemen raping ladies here and Monusco was informed about that. (Male, 55-64, Lubumbashi)

I saw when the first team of Monuc settled, organization which was later called Monusco. At that time we had small war-like fights with armed groups here and there in province. Many boys, men, women and girls started going to the bases where the Monusco agents /soldiers were living for begging money and food of course. Because of those wars, poverty had been shaking people. Some girls in that state were victims of sexual violence. Today many families have been taking care of children that their daughters made with Pakistan, Uruguayans and others. Today those children have no one to take them in charge. All this constitutes sad aftermaths of the poor UN mission in our country. I was living in Maniema around 2001-2002 and I saw how, because of deep poverty, young girls could easily accept one dollar for sexual relations with Monusco guys. Uruguayans exaggerated in that business. They said a beautiful woman deserved 1dollar for it. Surprisingly, Monusco and the UN mission did not decry or denounce it. That ill behavior went on for years and it's only today that things begin to improve a bit, but many families still go on suffering from its aftermaths. (Male, 35-44, Lubumbashi)

In our street here, we used to live with Monusco Uruguyan soldiers. They made many children with our street girls. We know many mother-girls who delivered Uruguyan children. We are now seeing Beninese doing the same thing in many streets here. The sexual violence they are speaking of these days must have been brought by Monusco guys. It's them the authors of sexual violence. There is nothing Monusco has brought to us except the rape and sex they always have with our girl-children. We, here in Tanganyika province are plunged into serious trouble due to hat Monusco ill behavior. Many of us, especially our daughters, think Monusco soldiers are good, for they have brought much money in the area, but we forget that the same money constitutes our own hecatomb. Our daughters, because of poverty, give in for sex acts with those guys who generally give the something like 10,000CF for that business Girls easily accept it indeed. Later, you find many of them with pregnancies and babies accordingly. The babies' fathers are unknown. We should think twice and leave these Monusco guys really. (Male, 25-34, Lubumbashi)

Each of the above quotes demonstrate the interconnectedness of sexual violence not perpetrated by MONUSCO, MONUSCO perpetrated sexual abuse, poverty, and ongoing conflict and insecurity. The narrator moves seamlessly from discussing one problem to the next, they are not distinct in their minds. This contrasts sharply with how the UN approaches SEA as distinct from conflict-related sexual violence and the links to combat activities of MONUSCO (discussed in chapters 4 and 7).

The word ‘rape’ was also used relatively infrequently in women’s first-person stories (n=215); I more often coded violence through references to ‘force’: “he forced me to love him”, “he forced me”, “he loved me by force”, “he caught me and slept with me”. However, of 33 statements I coded as ‘sexual violence’ there were 10 direct usages of the word rape. All were explicitly violent and forcible:

When he meets you on the way, and he has a weapon, he cows you and does sexual relationship with you. After being cowed, you get pregnant and let the parents know at home. When you deliver he won’t help you because he had moved away. They sent me somewhere, I met a [MONUSCO], he cowed me as he had a pistol, he forced me and raped me. I got pregnant and delivered but I don’t know the father of the child, so I have no assistance from him.

You see the way leading to Simisimi Airport Guest House. Monusco camp was located over there and they used to get drunk by the guest house. One evening, around 8pm, when I was passing by that place, near Mwana Guardian School, I came across a White Monusco guy. He was very drunk. When I passed him, he came behind me and started hugging and kissing me by force. He really caught me tightly, threatened me horribly and then pulled me into a bushy place where he raped me. I am sorry actually, for if he impregnated me, I would deliver a White baby. That was my sad case.

Given the prevalence of euphemisms in discussing sex and sexual violence, the above narratives stand out for their language. Both the above quotes describe threats of physical violence

alongside sexual violence. Both also seem to have occurred out of doors and were committed by peacekeepers unknown to the women.

Women and girls who shared stories of exploitative sexual interactions and/or sex while they were very young seemed to consider their experiences as a harm or a wrongdoing, but did not refer to them directly as rape, assault, abuse, etc. This finding is elaborated in chapter 6.:

When Senegalese contingent departed, South African soldiers came here. I fell in love with one of them. We were together for a time. He rejected when he saw girls who are more beautiful than me. As I was still young at the age of 14, I wanted to accuse him, then he said if I need something, I must tell him because he was afraid. I declared my rights, then he was convinced and gave me only 100 dollars. The game was over.

Title: Violence

I had a friend of mine from Tanzanian contingent of MONUSCO. At first, we were only simple friends, but as long as time went by, we became romantic friends. In the end, we made a baby together.(female, 18-24, Goma)

I know a girl who was living with us in the same quarter where the HQ of MONUSCO was located. As those soldiers had a habit of throwing bottles and jerrycans of water that people used to call ONUSIEN. One day that girl went to pick up those bottles. Then she met a MONUSCO soldier who called her. At that time, she was still 15 years old. That man raped her; as she was bleeding too much took to the street nearby gutters. People picked her and took her to a health center where she received health care. When she was healed, her parents went to MONUSCO base to claim. The perpetrator was sent to another place. So far the girl's family has never been given anything for that. Everyone knows that that girl was raped. She has a bad name. (female,18-24, Kisangani)

Content warning²⁶:Narratives most commonly identified as sexual violence among respondents sharing third person stories were shocking and degrading instances of coerced “sex” between

²⁶ I realize it is unconventional to put a content warning in the third chapter of a dissertation. This is the only place I felt the need to flag to readers that they are about to encounter material that is likely to be more upsetting than the central subject matter of sexual exploitation and abuse. I discuss this subject here only and my engagement is limited. I choose not to include sample quotes or narratives. I grappled with the politics of including shocking and spectacularized accounts of violence, particularly when all were relayed by a third party, but this type of abuse was prevalent enough that I felt it a disservice to community members to not mention it. I do not have the ability, either politically, intellectually, or ethically, to engage with this issue further than how it is introduced here.

women and peacekeepers' dogs. There were 62 unique accounts from the SenseMaker data (n=2586) of women and/or girls being forced or coerced into this act. These were almost evenly distributed across location, with the exception of Beni where no stories of this nature were shared. Because all these stories were shared in the third-person, it is impossible to determine if some individuals are sharing stories about the same incidents but the dispersion of this act across regions make it unlikely it is only rumour, or at least less likely than if it all occurred in one city. The details of these acts varied, as did the emotional tone of the narrator. Most narrators seemed to express anger at the peacekeeper and identified the acts in the story as sexual violence. Some expressed sentiment more like shock and there was deep stigma threaded through the account, including repeated references across regions to women giving birth to puppies, or half-humans half dogs. The long-term social impact for the women in the stories and any children born to them cannot be understated, nor can the violence of the acts described. Peacekeeper nationality was identified in 59 of the narratives with Morocco and Uruguay both overrepresented: there were 10.9% more stories about peacekeepers from Uruguay in this subset of data than in the full dataset; Morocco was overrepresented by 20.1%. Uruguayan troops were accused of similar abuses while serving in the MINUSTAH peacekeeping mission in Haiti. As with all SenseMaker data, whether the facts of the story are objectively "true" is less important in these accounts than the community perceptions and beliefs underlying them.

Sex Work

UN policy responses to SEA have centred on emphasizing the zero-tolerance approach and relying on disciplinary measures for personnel accused of engaging in sexually exploitative/abusive behaviour. As will be elaborated in chapter 4, responsibility to establish criminal accountability

lies with the member state in most cases and the UN is not positioned to enforce child support payments or formally charge personnel with a criminal offense. Within research on SEA, the largest amount of attention in the literature has focused on activities that are illegal in many jurisdictions: rape, child sexual abuse, sexual harassment. These studies offer legal analyses and consider the jurisdictional challenges and limited opportunities for legal redress. Less attention has been paid to relations that are prohibited by UN policy but are considered less explicitly violent including transactional sex, sex work, consensual but exploitative relations. An examination of the UN zero tolerance policy reveals the conflation of consensual, transactional, and non-consensual sex criticized by Otto (2007) and Simic and O'Brien (2014), as well as the complicated nature of developing a policy to apply to contributed troops from many different nations and with different legal statuses.

Westendorf (2020) writes that long-term, large-scale peacekeeping missions increase demands for commercial sex, while poverty and reduced formal employment opportunities act as push factors driving community members to engage in sex work. Jennings (2014) also finds that increased entertainment infrastructures, such as bars and restaurants, associated with large peacekeeping missions are associated with increased sex work and transactional sex. In the DRC, sex work is considered to have increased during and following the two Congolese wars, and has continued to be an important source of income for many women and girls (Maclin et al. 2015; Kiernan et al, 2015). This has had impacts on family and gendered dynamics within Eastern DRC, affecting men's perceived roles within households, marriage opportunities, and family structures, as well as health outcomes and experiences of violence for women (Kiernan et al, 2015).

Sex work was considered an important issue to many SenseMaker participants, as evidenced by the words “prostitute” or “prostitution” appearing in 286 stories (15% of translated narratives). The number of stories discussing sex in exchange for money or food without explicitly labelling these acts sex work (prostitution) is much higher:

I knew a story about a girl who was living a difficult life. That girl knew that MONUSCO was providing people with food, so she went to their base to look for food. As she was living a serious suffering, she was obliged to give her body in exchange with food. She was made pregnant; when she went to look for the base, I found out that the base was already changed, so she had to suffer the consequences. She had her baby who is a girl. That child is about 8 to 9 years old. (woman, 18-24, Bunia/Bukavu)

When I was a child, I used to hear young girls had a habit of going to MONUSCO camp to have sexual intercourse with MONUSCO agents in exchange with money. That was due to poverty. Many girls were attracted because of dollars those agents were giving. Some girls became pregnant and were left with children. (woman, 25-34, Bunia/Bukavu)

Girls always go to MONUSCO camp in order to have intimate relations with MONUSCO soldiers in exchange with money. After they return back here. That is what they always do. (woman, 35-44, Goma)

Prostitution was prevalent in how community members consider relations with MONUSCO.

Indeed, many stories explicitly linked, or blamed, increased prostitution on MONUSCO:

When MONUSCO arrived here in Sake, they were based in MUBAMBIRO, where the HQ is. It was composed of different contingents like South African, Malawites and so on. Many brothels were built in that vicinity. Every weekend, many girls used to go there in those brothels. And those MONUSCO agents had a habit of getting in, and have intimate relations with many girls, who were prostitutes. According to many people here in Sake, MONUSCO has occasioned so many wrong things to happen in Sake. Some of them have babies with girls, and other girls become HIV positive because of those MONUSCO agents in Sake. What I can say, is that MONUSCO agents have been responsible Sexual Transmitted Diseases especially HIV/AIDS. Since I was born, I had never seen this kind of prostitution here in Sake, but when the MONUSCO agents arrived, there are so many prostitutes. (Male, 18-24. Goma)

There were so many prostitutes. South African people were dating with them. They were drinking much beer and usually became drunk. They made rotation, some went, and others came. We got drinks from them that we used for resale. They gave us drinking water. When South African men went back, prostitutes also disappeared. (Female, 18-24, Goma)

When MONUSCO arrived here, I was here and knew that we had to consider them as our brothers and sisters, but they used to go look for girls serve as prostitutes—i.e. sex professionals. They used to come to an agreement before exchange money to sex. A little time later, we heard that the rate of Sexually Transmitted Diseases increased considerably. MONUSCO people were said to be responsible for that because they have sex with girls in exchange with a lot of money. That is what I heard where MONUSCO agents live. (Female, 25-34, Kisangani)

Some participants expressed judgement toward women engaged in sex work generally and with MONUSCO in particular. Others recognized it as a viable way to earn income, like any other:

You love a whore, she takes you home, she won't pay you and you won't pay her either. This sounds like a failure on our side. It's very wrong in our country DR Congo, likewise here in the center of Bambiyo. Such a situation makes us sad. None should scorn another, though a prostitute. She likely did sexual intercourse to get a soap or to make interest through sexual business. As you know every individual works to get benefit. (Male, 18-24, Goma)

Maclin et al. (2015) identify shifting community relationships to sex work following decades of conflict and displacement that resulted in a collapsed economy and few opportunities for formal employment. In their research, it is clear that family member would prefer their women relatives not engage in sex work, but they are largely resigned to its necessity²⁷.

The March 2020 FGD participants expressed disdain toward the UN expectation that they report sex work and transactional relationships with UN personnel, arguing that “no one cares if a Congolese guy pays for it so what's the difference if he's MONUSCO?” (discussed at length in chapter 5). Participants also expressed that “sugar daddies” (i.e transactional sexual relationships) are common regardless of that man's background and so it makes little difference if the man works for MONUSCO, is a foreigner but not part of the UN, or is Congolese. The women in the group earned income, in part, through selling various goods in the market. One

²⁷ This resignation should not be mistaken for acceptance. Indeed, the authors identified increases in intimate partner violence and family breakdown, which is also a consequence of shifting gender roles in relation to work, economics, and household power.

woman shared that peacekeepers pay significantly more than local community members:

“MONUSCO might pay \$1 for a single banana while Congolese pay \$1 for a whole bushel.

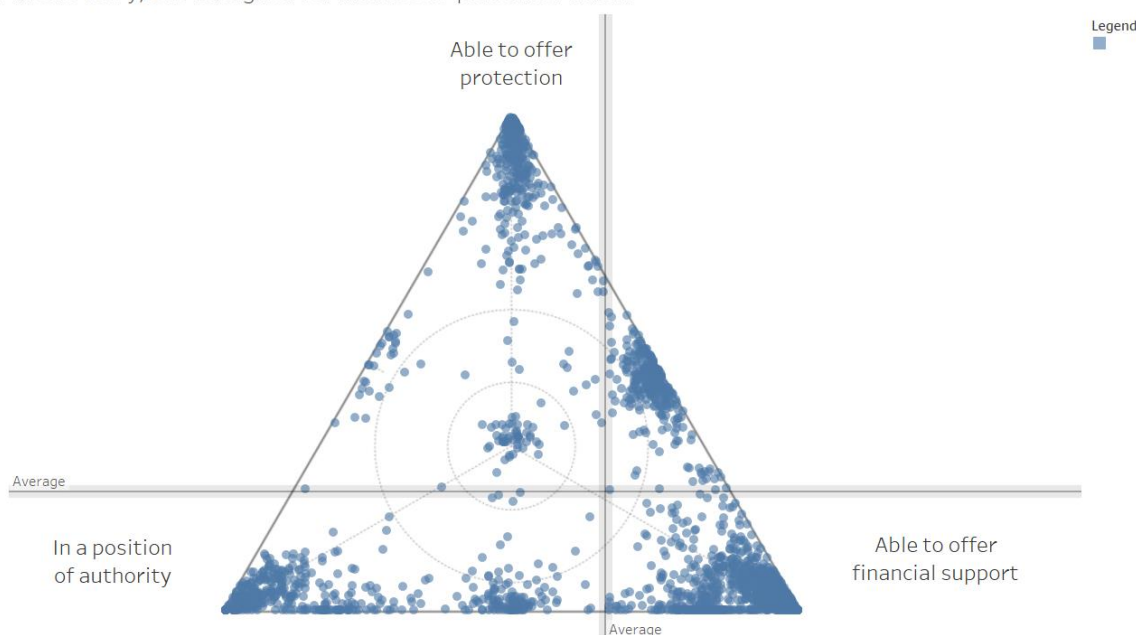
MONUSCO is good for business”. Based on the laughter of other women when this was

explained, combined with what we learned about participants after the fact, it seems reasonable

to assume that this example operated on a literal and euphemistic level.

Across SenseMaker stories shared, 1123 participants identified that the peacekeeper in the story was able to offer financial support. This was considered more important to the events described than their position of authority or ability to offer protection.

T2. In this story, the foreign UN or MONUSCO personnel was...



T2UNPersonnelImage-X vs. T2UNPersonnelImage-Y. Color shows details about Legend. The data is filtered on Stone Num, Stone Num (stones voluntary help), Feelings (Sheet1 (feelings)), Nationality (Sheet1 (Nationality)), AreaCollected, Income group and Cohort. The Stone Num filter keeps 1. The Stone Num (stones voluntary help) filter keeps 1. The Feelings (Sheet1 (feelings)) filter keeps 15 of 15 members. The Nationality (Sheet1 (Nationality)) filter keeps 15 of 15 members. The AreaCollected filter keeps 6 of 6 members. The Income group filter keeps average, poor and well-off. The Cohort filter keeps 7 of 7 members.

Interestingly, there is a cluster of 326 stories (13%) positioned between protection and financial support, indicating the narrators considered the events in the story to be driven by a combination of these two factors. Participants are generally more likely to place markers in the ‘extremes’ of

canvases; placing between two factors may demonstrate more thoughtful consideration of the question. In the case of financial support and protection, we may consider financial support as itself protective in cases of extreme poverty, though this would need further investigation.

While negative attitudes about sex work did circulate, with MONUSCO being blamed for the increase in prostitution as seen above, this was clearly differentiated from transactional sexual relationships. There was a range of emotional tones in relation to these cases, ranging from judgment, to acceptance, to pity. Pity and stigma were more pronounced in cases where women were abandoned by their boyfriends or had unsupported pregnancies. This was evidenced in first-person account from women in both the interviews and SenseMaker data when women shared that community members, other women in particular, laugh at them because they had a peacekeeper boyfriend but are still living in poverty rather than having received a job with the UN or a house:

Ok, and today how are your family relatives and the community considering you and your child you made with a Monusco agent? Well, many mock and laugh at me. Some women laugh at me because they were lucky to get much money, plots of land and houses from their Monusco boyfriends. **Ok, what words do they use to laugh at you?** They say I'm miserable and cursed for not having been offered a land plot or a house by my South-African husband. (Int. S72, Bukavu)

In the interviews, there were no consensual sexual interactions with peacekeepers that did not involve some form of material exchange. These ranged from food or small amounts of money (\$1-5 USD) to gifts like clothing or hair appointments, to land or house renovations. Young girls were most likely to receive food or cash, including money for school fees.

The context of widespread poverty is inextricable from sex work with UN personnel. While there were certainly accounts of women in their late teens and twenties seeking out peacekeeper boyfriends for material gain (See Oldenburg, 2015), more common were stories of women and girls pushed into sexual interactions out of desperation:

We had a habit of going to MONUSCO camp at MUBAMBIRO when we were still prostitutes. We specifically had to go there every day to have sex with men in exchange with money because we are from poor families. Since poverty was very extreme, parents were dying. Then, we could go to MONUSCO for that. Instead of MONUSCO rejecting us and remember that mission that brought them here, they welcome us and have children with us. After making children with them, they could return to their country, and leave us with children. Eventually, we had to suffer the consequences while raising these children. This is the problem MONUSCO is doing in the lives of several girls here. (Female, 18-24, Goma)

In these instances, pregnancy and social stigma resulting from sex work have deleterious impacts on women's attempts to escape poverty. Nuanced and anti-stigmatizing engagement with sex work is a central tenet of sex positive feminism. While I would never argue that sex work should be made illegal, it is important to draw out the contexts in which it occurs in this study. As established, many women in the research sold sex for very small amounts of money or for food/direct aid as a result of extreme poverty. As such, this mode of commercial sex is not only exploitative but violent as consent cannot be considered freely given in contexts where survival is dependent on selling sex and remuneration is so low that it necessitates women and girls continuing the practice each day. Further, girls as young as 10 described trading sex for food or cash, a clear violation of their rights and an act of sexual abuse.

Peacekeeper-Fathered Children

There is now a growing literature on children born as a result of violent and/or exploitative relations in conflict settings (children born of war), including the work of Sabine Lee on children fathered by foreign soldiers in WWII (Carpenter, 2010; Lee 2017; and see, DeLaet 2007; Mochmann and Lee 2010); recent conflicts in Colombia and Peru (Theidon 2015, 2022); the Lord's Resistance Army/ Government war in Uganda (Atim et al. 2018; Apio, 2016; Porter 2013); and the contemporary insurgency in northern Nigeria (UNICEF, 2016). PKFC have been

under-researched within the scope of this field to date, but the data analyzed herein makes clear that their needs are high, largely unmet, and they deserve recognition and support as conflict-affected children.

The needs of children were centralized in narratives and interviews with mothers, but they were also a key concern for community members in the broader SenseMaker research. Review of the SenseMaker narratives revealed some ambivalence in community members' perceptions of support needs for mothers of PKFC. Perceptions included anger and disappointment at MONUSCO for not supporting PKFC:

There is a girl in our quarter who had a peacebaby with a MONUSCO agent. We were surprised to see her having a child with a foreigner. She was left without any support. My regret is that MONUSCO agents are destroying our sisters in here. (Beni)

Conversely, some participants expressed a belief that women who have sex with foreign peacekeepers should be grateful for any support they receive:

He pays the rent for her; he provides her with everything she needs, worthy things, But later, she offended him and attributed pregnancy to him and charged him with \$5000US. Do you think he left his country and his family to DR Congo in order to help Congolese? He might have in his country his wife and children. You should be grateful to him for his modest financial support you often receive from him. (Goma).

She is nearer there, she gave birth with a Monusco agent, he compensates her, really, that man compensated her, he was a Malawian, He gave her a huge house with two doors, he gave her a great piece of land then after they separated without harm. When he came back, he left her 500\$ and till now the life of that lady has improved. The second I know was selling bananas, there at Monusco too and she got pregnant with a Malawian.

Through the analyzed SenseMaker narratives, there was little engagement with UN policy on SEA or the entitlement of mothers of PKFC to routine child support. While the notion that the father

should support his child comes through in most narratives it is accompanied more by a sense of kindness or an ethical rather than legal obligation:

According to me, the wrongdoings of Monusco are: the agents of Monusco make young ladies pregnant, when they deliver they don't assist them, the child is abandoned and not assisted. The child appears like an orphan whereas he has a father. He moved away leaving the child without any support. These are the wrongdoings that I can criticize. (Goma)

My mother was working at MONUSCO. A Beninese of MONUSCO fell in love with her and impregnated her. He supported her when she got pregnant. That Beninese was a kind man because he was helping us in everything we needed. He bought for us Television, chairs and all the furniture of the house. He left my mother with some money and promised to send her money and did it. My mother sent him pictures of the baby when she gave birth. (Kalemi)

44% of stories told by community members involved children born to peacekeepers (1186 stories). Kirstin Wagner (with co-authors, 2020, 2022a, 2022b) has written extensively about these children and their mothers. From this same interview data alongside interviews with young people themselves, Wagner has uncovered community stigma, needs for psychological support and relationship building, poverty and lack of access to education. Tasker et al (forthcoming) trace the barriers to effective reporting and accountability for these children, finding that none receive systematic support from either the UN or their fathers. Rather than required child support payments or enrollment in support programs, any support received by mothers is on an ad-hoc and charitable basis, rather than as an execution of legally entitled rights to support. This finding is elaborated in chapter 6 'conceptions of harm and justice'.

This dissertation does not centre on PKFC directly, but they are present throughout this work, are deeply impacted by the unmet justice needs and challenging circumstances of their mothers, and as a generation of young people who are born as a result of ongoing conflict and insecurity who live in continued precarity.

Emotional Pain

Much of the data herein focuses on violence, both interpersonal, structural, and organizational. Most of the sexual interactions described by women in the qualitative interviews were not forced; they were either transactional/sex work and/or longer-term relationships. When the men they were involved with and, in some cases, loved, left them and did not keep in contact or sometimes even say goodbye, the women interviewed were deeply hurt. This was worsened in the many instances where they were left while pregnant or with a new baby.

We had sexual relations without condom. He left me pregnant, but he promised to be sending money to me. Unfortunately, he didn't keep the promise. Presently, when I try to call him, the telephone doesn't go through. I gave birth and the child is roughly one year old, he is already one year old, he will be two years old soon. He doesn't help me; I have got nothing from him. It's heartbreaking to live in such situation.

I am suffering here. I am a widow. I fell in love with a MONUSCO agent 15 years after the death of husband. I spent with him 6 years very well. He was Congolese. He took care of me as well as my two children. He was taking my children to foreign countries--the neighboring ones. He took care of our food, children's school fees and everything. He left for an expatriation job. He told me good-bye when he left, but since he arrived there, he didn't say anything. He didn't even call. I made my best to find his phone number because he had told all his friends not to give anybody his number. As a widow, I was living with him very, but when arriving there, he finally forgot. I told my children about that, they were not happy because they trusted. See this kind of thing. Today, he has worked in Sudan, Haiti, and today he is working in Central African Republic. This is not good. It is like another disappointment. Sometimes, when my children call him, he doesn't attend to the call, or he hangs up. It means it is the second disappointment I have ever known in my life.

Senses of harm and justice are explored throughout and centred in chapter 6, but this is at least partially distinct from the emotional pain women felt at being abandoned and realizing the promises made to them would be broken. Women described calling every day with no reply, hearing from their former boyfriend for a while and then losing touch, learning that he had a wife and family at home he never told her about, and perhaps most poignantly, the knowledge that

they were now alone to raise their child without support, that this child would grow up without a father and would have to endure the stigma associated with that (see Wagner 2020). While less obviously violent than accounts of rape and ‘survival sex’, this pain is meaningful, it impacts women’s lives and is likely to affect their relationships with their children and in their communities (this would need to be explored further). In considering the data analysis, the quotes provided, and the institutional structure survivors navigate, I implore readers to keep this sense of pain and hurt in their hearts, to remember each of these women and girls as individuals who have been impacted by so-called ‘SEA’ in complex and very human ways that run deeper and last much longer than the prohibited act itself.

This chapter has established the central themes and concerns brought forward by community participants in the SenseMaker research. These themes thread throughout subsequent consideration of the UN’s policy approaches to SEA, legal and human rights paradigms, and survivors’ conceptions of justice. The context of structural violence, discussed most strongly in relation to insecurity and poverty, is foregrounded here and impacts all findings in this study. Community experiences of armed conflict, poverty, violence, and emotional pain influence engagement with law (and lack thereof) as well as conceptions of justice and experiences of harm as taken up in chapter 5 and 6. Feminist theories of harm centre the myriad impacts of violence, both interpersonal and structural (Aoláin, 2009; West, 1997). All of the above, from poverty, to violence, contexts of insecurity, children living in adverse conditions, and the hurt of being abandoned by someone who offered the possibility of an improved life, interweave in this research to produce a complex web of harms for individuals and communities, the gravity of which must be recognized and understood before it can be addressed.

Chapter 4: Peacekeeping, 'SEA', and Accountability

The problem of 'sexual exploitation and abuse' by United Nations (UN) peacekeepers was first recognized in 1993 during the United Nations Transitional Authority in Cambodia mission (UNTAC). Despite reports of rape, organized sex trafficking, and abuse of minors, the head of mission maintained that "boys will be boys" and the problem was unworthy of systematic attention or redress (Westendorf, 2020). This sentiment was echoed in later statements by prominent UN figures and was demonstrated through lack of investigation and support to victims throughout the 1990s. It was not until 2000 that sexual exploitation and abuse (SEA) began to garner serious attention, with the first official UN policy released in 2003. The 2003 bulletin recognized the extent of SEA and outlined the parameters of what constituted abusive and exploitative sexual contact.

This policy defined sexual exploitation and abuse as,

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. (ST/SGB/2003/13)

This bulletin became known as the 'zero tolerance policy' (ZTP) and remains the central document pertaining to SEA by personnel in UN peacekeeping missions, though later resolutions,

bulletins, and special statements have elaborated and clarified its contents (Lee and Bartels 2020, 179). In 2017, Secretary-General Antonio Guterres renewed the UN's commitment to combating SEA and updated prevention approaches. These new contributions include the Circle of Leadership on the prevention of and response to sexual exploitation and abuse in United Nations operations; the development of Community Based Complaint Networks which engage local organizations to prevent and collect reports of SEA, removing the requirement of reporting directly to UN personnel; and the development and expansion of the Trust Fund for Victims tasked with providing medical, psycho-social, and vocational support to victims and educational support to their children (UNSG, 2017). Despite the zero-tolerance policy remaining in practice, sexual exploitation continues.

Despite almost thirty years of attention to and policy developments on SEA, independent research, the UN's own publicly available data, and media reports all reveal that peacekeeping personnel continue to be accused of breaches of the zero-tolerance policy. These range from infringement of the non-fraternizing rules to accusations of sexual assault of minors, violence and fathering children for whom they do not take responsibility. Further to the disciplinary issue policy breaches, their offenses result in real and deep individual and community harm and have rarely been properly responded to or punished.

There has been increased scholarship on SEA in peacekeeping missions in the last twenty years (Burke, 2014; Freedman, 2018; Higate, 2007; Jennings, 2014; Otto, 2007; Westendorf, 2020; Whitworth, 2004; Zalewski, 2017; Mudgway, 2017; Lee and Bartels, 2020). Much of this literature has focused on legal responses and opportunities for accountability and redress (Mudgway, 2018; Burke, 2014; Freedman, 2018; Sutera, 2020) while others centre around contributing factors and attempt to identify causal underpinnings for continued abuse (Higate, 2007; Henry, 2018;

Whitworth, 2003; Karim and Beardsley, 2016). Virtually all consider the current system for accountability to be limited and problematic, an admission also granted by MONUSCO personnel in my March 2020 conversations in Goma and Kinshasa. There is less agreement on the cause of these continued challenges. While most would recognize the SOFA's and jurisdictional challenges discussed below as significant barriers to achieving legal redress, this alone does not explain continued perpetration or the difficulties in community engagement and increasing reporting.

This chapter explores how so-called 'SEA' is understood and addressed by the UN. I provide an overview of policy responses to sexual exploitation and abuse and trace shifts over time. I then move into an analysis of current preventative efforts and disciplinary approaches. Throughout, I juxtapose how the UN understands and responds to 'SEA' with literature and critical analysis of these approaches. Despite sustained and increasing efforts to prevent and respond to 'SEA', my research demonstrates a core 'down-playing' of the problem, focusing on disciplinary and reputational effects rather than centring the rights and experiences of victim-survivors. Responses have been largely disciplinary rather than emphasizing deep accountability for harms the survivor has suffered, indicating a lack of commitment to a justice-oriented approach. Likewise, explanations for the persistence of 'SEA' fail to draw connections between sexual exploitation and abuse and other forms of sexual violence in conflict, thus failing to capture either the gravity of these harms or the continuum of violence on which they occur.

Sexual Exploitation and Abuse in UN Peacekeeping: A brief overview of UN policy

Policy and Process

The United Nations maintains a zero-tolerance policy (ZTP) on sexual exploitation and abuse. No sexual contact or relationship is permitted if: a minor is involved (a minor is considered any person under age 18 regardless of the age of majority/consent in the host state); the sexual

contact involves physical, economic, or political coercion; or is transactional in nature, including soliciting transactional sex or benefitting monetarily from another person's sexual activity (UNSG Bulletin 13, 2003). Many missions also include non-fraternization policies for military and police personnel which positions all sexual relationships with non-civilian peacekeepers as a breach of the mission code of conduct and subject to disciplinary action. MONUSCO contingent commanders and police have enacted a mission wide non-fraternization policy, meaning that no deployed soldiers or police officers are permitted to engage in sexual or romantic relationships with local community members.

According to the ZTP and the subsequent 2017 Secretary-General's report, allegations of misconduct are actionable when made by the victim or by a witness. Reports can be made through a community-based complaint network, reported directly to mission staff, made through an NGO, or reported to the media. Regardless of how the mission is made aware of the allegation, the responsibility to investigate remains the same, though in practice different modes of reporting are easier to follow up on than others.

The UN is mandated to immediately provide support to the victim consisting of medical care and psychosocial support, as well as legal support in cases where the allegation includes a paternity claim or illegal sexual contact (i.e. sexual assault or if the victim is under 18). The UN then launches an investigation to substantiate whether the claim is credible. If the allegation was made against police or military personnel and is deemed credible, the member state is notified. The member state must notify the UN within 10 days of their intention to investigate the incident. If the member state elects not to investigate or no response is received for cases involving military personnel, and in all cases where the allegation is made against police or civilian mission staff, the UN is responsible for investigating through their Office of Internal Oversight. Allegations made

against police or civilian personnel are jointly investigated with the member state if/when the state chooses to participate. If the member state chooses to investigate military personnel, the UN is relegated to a supporting role rather than participating as a full co-investigator.

Regardless of whether the UN or the member state takes responsibility for the investigation of military or police personnel, once the allegation is substantiated the UN may repatriate the perpetrator, bar them from serving in future UN peacekeeping missions, and/or contribute the personnel's suspended pay to the Trust Fund for Victims of Sexual Exploitation and Abuse. Civilian staff are subject to disciplinary action from the UN up to and including dismissal, and referral to their home state for criminal accountability measures.

Criminal accountability and sanctions for military and police personnel, including enforced payment of child support, are the sole jurisdiction and responsibility of the member state, though the UN and/or the peacekeeping mission may contribute to further investigations.

Throughout the investigation and disciplinary process, victims are supposed to receive support through the UN Trust Fund for Victims of Sexual Exploitation and Abuse and this is to continue beyond the conclusion of the case for an unspecified period. It is important to underscore that enforcement of child support payment is not within the jurisdiction of the UN or the mission but falls in the jurisdiction of the host country or sending member state. The mission is, however, obligated to fully inform victims of their rights and of the procedure involved in obtaining child support, as well as connecting complainants with legal counsel. When possible, the UN can also assist with securing DNA test results in collaboration with member states. Some states have approved field testing for DNA, permitting UN personnel to collect and test DNA of children alleged to be fathered by UN personnel. A DNA collection protocol was established and field missions have been provided with testing kits since 2014.

Challenges in Enforcement

Inherent in the ZTP, and the problem of SEA more broadly, is the jurisdictional limitations built into the Memoranda of Understandings (MOUs) and Status of Forces Agreements (SOFAs) signed between member states, host states, and the UN at the outset of a peacekeeping mission. As explained, both the UN and the state hosting the mission are limited in their ability to prosecute or otherwise hold accountable peacekeepers for actions committed in their official UN capacity during deployment. This is noticeably acute in criminal matters such as rape, and in cases where a paternity claim is leveraged and child support is necessary. Child support claims can only be processed through the member state, not by the host state or the UN. Therefore, a Congolese woman who becomes pregnant with the child of a peacekeeper must levy her child support claims through the home justice system of the peacekeeper. There is rarely financial support available for her to travel to the peacekeeper's country, and while legal support is made available in DRC, the challenges in pursuing a child support claim across countries, often with different procedures and legal systems, is clear. The DNA sample protocol and field-testing kits are only usable in cases where the member state has approved DNA testing of their personnel for paternity claims. Member states are not legally required to participate in the paternity testing process, and so determining the identity of the father is not a certainty and securing regular and sufficient financial support is even less likely. In the few cases where paternity was determined and payment of support ordered, there are limited mechanisms in place to ensure support is given and these vary depending on the member state (CRIN and Redress, 2019). The complexity of the process combined with the length of time and lack of certainty in outcomes makes the process of pursuing paternity and child support claims inaccessible for many women, particularly those living with the most precarity and vulnerability.

The UN is mandated to provide interim support to any community member reporting SEA and/or a child fathered by a peacekeeper while the legal process unfolds. However, my research has shown a sharp discrepancy in the policy as designed and in operation. When reports are made through UN designated mechanisms allegations are not suitably investigated, resulting in women being excluded from the formal processes they are entitled to participate in. This then leads women to attempt to access ad-hoc or informal support, receiving little or nothing for their children, and without the UN recognizing their rights and claims to support.

Training Peacekeepers on Sexual Exploitation and Abuse

Overview of training structure

Following the UN Secretary-General's Special Bulletin on Sexual Exploitation and Abuse in 2003, training peacekeepers to recognize and prevent SEA has steadily developed across DPKO missions. This coincided with attention paid to training peacekeepers on gendered elements in missions (2003), training on the Women, Peace and Security agenda, and conflict-related sexual violence. Trainings have gone through multiple iterations and developments. At present, sexual exploitation and abuse is supposed to be a comprehensively discussed topic prior to deployment, during peacekeeper induction training (mission-specific training when new personnel arrive in-country), and at regular intervals throughout deployment. During induction training, CDT trainers identify an individual in each contingent to act as a focal point on SEA. This person undertakes some additional training on SEA issues and is tasked with providing ongoing training to their contingent throughout deployment. They are also the point of contact for questions or concerns about SEA from fellow contingent members and have the responsibility of reporting any allegations or concerns to the CDT. Part of the logic behind the appointment of contingent

focal points lies within the single-nationality contingents: because contingent members are from the same country, focal points are able to offer ongoing training, respond to questions in their local languages and also address ‘cultural’ barriers to preventing SEA (UNPK 2019²⁸, MONUSCO CDT presentation, 2020; elaborated below). During the March 2020 meetings, it was routinely impressed upon me how important SEA training is: “no one can claim they did not know what they did was SEA or that they don’t know what SEA is”. (personal communications, MONUSCO CDT Team, Goma). While the SEA focal point is supposed to have regular meetings with CDT leadership, it is unclear if there is routine monitoring or evaluations of focal point effectiveness during their deployment tenures. There are not established topics or materials to be covered by military SEA focal points. Police forces within MONUSCO, however, have weekly training and discussion sessions wherein a specific topic relevant to preventing, recognizing, or responding to SEA is discussed each week. The 2020 Head of MONUSCO police is convinced that this has been a key contributor to the significant reduction in allegations against serving police officers²⁹ (MONUSCO Police presentation, March, 2020)

Pre-Deployment training:

The most comprehensive materials available for analysis are contained within the general pre-deployment trainings for military peacekeepers³⁰. These materials are standard across TCC and mission and are delivered by trainers in the troops’ home country. More contextualized and mission specific training is offered during induction (CDT presentation, March 2020). Induction training materials are not publicly available, but sample schedules accessible online recommend

²⁸ <https://peacekeeping.un.org/en/minusca-military-and-civilian-focal->

²⁹ An interview with a former member of MONUSCO CDT leadership revealed a different explanation for the low numbers of allegations against police officers: she stated that police are very good at covering up evidence and making the allegations “go away” (interview #1, 2020). In her experience, MONUSCO police are highly problematic in their perpetration of SEA.

³⁰ Depending on their specific enlistment, this training would also be undertaken by some police officers.

approximately 45 minutes to the discussion of “Conduct and Discipline, including Sexual Exploitation and Abuse” (Integrated Induction Training, 2018). This is to be embedded within broader discussion of mission specific priorities, needs of the host population, and information about the context peacekeepers are serving in. Full induction training lasts between one and three days depending on mission needs and resources.

Pre- deployment training materials are newly accessible online and include Powerpoint slides and facilitator guides. There are 28 pages of substantive material in the SEA training. This includes the accompanying slides, common and possible questions, key messages, discussion points, and definitions. As will be elaborated below, the length of time it would take to deliver the training would vary widely based on the teaching style and level of engagement of the facilitator, whether they take each optional discussion topic, how long they allow discussion to continue, etc. The lesson is designed to be delivered over 45-90 minutes. There are 12 slides in the Powerpoint presentation and one included ‘learning activity’ intended to deepen understanding of SEA. There are two options for this activity, a ‘long’ option that takes 45 minutes and a ‘short’ option that takes 10 minutes. In both, scenarios are presented and participants are instructed to identify “vulnerability”, “differential power” and “trust” (each of these terms had been defined and discussed in earlier slides) and to explain how the Standards of Conduct was violated in the scenario. In the short option, small groups discuss the scenarios and answer the above questions in 5-7 minutes, followed by a 3-5 minute full group discussion. In the long option, 5 minutes is reserved for introductions, 15 minutes for small group discussions, approximately 20 minutes for reporting on the content of the discussions, followed by 5 minutes of summary and close. This is the only interactive, scenario-based component of the training.

In contrast, recently developed training for humanitarian workers by the Interagency Standing Committee includes numerous case studies, role play activities, extended discussion groups, and critical discussion of current organizational policies and their limitations. These are provided across 7 modules and 58 slides, alongside a 65 page facilitator guide, handouts, and scenario cards. The training is accessible online³¹, and regular updates and guidance notes are provided. Case studies give names to the ‘characters’, and participants are encouraged to talk through challenges and barriers they may face. During my 2020 interview with a former senior Conduct and Discipline official with MONUSCO, she expressed the belief that peacekeeping responses to and prevention of SEA was significantly more advanced than that of the humanitarian sector. The interagency Standing Committee launched the above-mentioned training in 2020; it would be interesting to compare how the UN’s humanitarian agencies have developed in the intervening two years and how this compares to peacekeeping.

The core pre-deployment training materials are organized into three modules: an overview of United Nations Peacekeeping Operations; Mandated Tasks of United Nations Peacekeeping Operations; and Individual Peacekeeping Personnel. Module 2 (mandated tasks) includes lessons on human rights, women, peace and security, and conflict-related sexual violence. In contrast, the lesson on ‘SEA’ is included in Module 3 (‘individual personnel’), alongside topics such as conduct and discipline, basic first aid, road safety, stress management and, bizarrely, HIV/AIDS. The inclusion of this last topic, along with Module 3 containing the highest number of lessons, presents the module as something of a catch-all for topics deemed important enough to discuss but without real thought given to how the lessons will or will not

³¹ <https://interagencystandingcommittee.org/iasc-learning-package-protection-sexual-misconduct-un-partner-organizations>

mutually inform one another. In this vein, both Module 1 and 2 contain ‘Integrated Learning Activities’ as the final lesson, wherein topics covered in each lesson are related to one another and key themes from across the module are reinforced. There is no such integrated learning with Module 3. Before even delving into the content of the training, it is clear from the placement of the lesson that course designers distinguish ‘SEA’ from other gendered issues such as gender-based and sexual violence, gendered risks in conflict, and human rights (all of which are covered across module 2). The goals for Module 3 are:

"To answer the questions: What does it mean to represent the UN? What individual actions and behaviours contribute to a positive UN image? How does conduct in my private and public life affect the image of the UN? How do I protect my health and safety? Individual responsibilities are covered, such as obligations to UN standards of conduct, zero tolerance of sexual exploitation and abuse, environmental protection, health, safety and security. " (Module 3 Facilitators’ Guide, Core Pre-Deployment Training, 2017)

By placing ‘SEA’ alongside Conduct and Discipline broadly, and in the same Module as lessons concerned with personal safety and road safety, SEA is positioned as a conduct and discipline problem and one that is potentially presents a risk to individual peacekeeping personnel; it is not presented as a human rights violation, a systemic problem, or stemming from and contributing to gendered inequality.

Within the pre-deployment training on SEA (hereafter ‘pre-deployment training’), there is no discussion of ‘SEA’ as a form of sexual violence. The training materials state that sexual abuse may include rape, trafficking, etc. but otherwise emphasis centres on abuse of trust, UN reputation, unequal power relations. There is mention of human rights in relation to abuse of trust, with abuse of trust identified as violating victims’ human rights. This framing is odd; abuse of trust does not itself violate any specific human right, the rights violation would, in this

instance, be the abuse and/or exploitation. And yet, the only discussion of how SEA constitutes a rights violation is in relation to abuse of trust, and then it is specifically in connection to victims. It is unclear whether these are victims of SEA or victims of another violation who are then further victimized by abuse of trust vis-a-vis SEA. In the training summary, SEA is identified as being both a crime and a human rights violation. This is important, concrete and strong language, and yet this is not substantively established and discussed throughout the training. The only mention of sexual violence is in regard to the prevalence of sexual and gender-based violence as contributing to heightened vulnerability of local population. This positions SGBV as a drive factor increasing vulnerability to SEA, rather than SEA *as* sexual and gender-based violence. This distinction between SEA and other forms of gendered violence in conflict and post-conflict contexts is consistent throughout UN engagement with SEA (and is discussed at length in chapter 6). The effect of this distinction places different forms of sexual violence on hierarchies of harms (elaborated in chapter 6), with widely recognized forms of CRSV, such as weaponized rape by armed groups, positioned as significantly worse and more serious than sexual exploitations (Aroussi, 2011; Kovatch, 2016). Including these distinctions in the training forecloses real engagement on how different forms of sexual violence intersect and exist on a continuum. Likewise, there is limited opportunity to consider the shared effects of so-called ‘SEA’ and other forms of sexual violence.

The training has significantly more emphasis on exploitation than abuse:

“Uniform standards on SEA apply to all peacekeeping personnel in the same way.

Uniform standards on SEA establish:

- _ Sexual activity with children (persons under the age of 18) is prohibited
- _ Exchange of money, employment, goods, assistance or services for sex,

including sex with prostitutes, is prohibited

_ Use of children or adults to procure sexual services for others is prohibited

_ Sexual relationships with beneficiaries of assistance as strongly discouraged”

These standards are reinforced periodically throughout the training, while there is only one mention of rape and no elaboration on other forms of sexual violence, including those that were prevalent in the empirical data (elaborated in chapter 3: non-consensual distribution of sexual images, paying for photos; grossly exploitative behaviour involving humiliating and degrading sexual acts, food/aid-for sex).

Three pages of training material is spent explaining the process for complaint registration, investigations, and follow-up. This is intended to show participants that the UN takes SEA seriously and there are important consequences for those accused. There is, however, very little discussion of criminal accountability: only three mentions throughout the training and none elaborated beyond:

“Where allegations of sexual exploitation and sexual abuse are proven, the perpetrator may be criminally accountable.”

There is no explanation of what “criminally accountable” means, how this criminal accountability is established, which acts are criminal and which are disciplinary matters, or what the associated punishments are for conviction of criminal sexual assault/abuse in the TCC³²

These mentions make clear that criminal accountability may be established and perpetrators

³² A reminder that while the training is consistent across member states, participants are often from the same country, or the same few countries. It would not be difficult to elaborate the national and or domestic military laws pertaining to sexual assault, rape, sexual abuse, etc. These could easily be presented in a ‘handout’. It is possible that some facilitators may choose to do this, but it is not a recommendation in the facilitator’s guide.

prosecuted accordingly, but this is secondary to disciplinary measures related to employment status:

The UN uses its Misconduct Tracking System to vet UN international staff. Human resources checks applications to work in field missions against records of misconduct in prior assignments to field missions. The UN similarly vets individually recruited military, police, corrections officers and UN Volunteers. Troop and Police Contributing Countries (TCCs, PCCs) vet military contingents and formed police units for prior misconduct.

To increase accountability, the UN is implementing measures from the Secretary-General's report on Special measures for protection from SEA, adopted by the General Assembly in May 2015:

- o Strengthening administrative measures against staff members found to have committed these acts, including withholding entitlements
- o Suspending pay to TCCs/PCCs in connection with suspects, based on credible evidence (UN Pre-deployment Training, Sexual Exploitation and Abuse, 2017)

The training section on remedial action and victim assistance contains no discussion on *why* the UN supports victims of SEA. A list of example supports are given (food, shelter, medical care, legal services in paternity or child support claims). There is no explanation of why these services are necessary or scenarios given that would elicit the need for different kinds of support. Instead, after one slide, the lesson moves directly into reputation repair for the UN. The publicly accessible version of the training states that individual service members, contingents, and countries are not “named and shamed”; this is false. While individuals and contingents are not listed, the country of origin of the accused is publicly available on the Table of Allegations and this information is also included in annual reporting.

The summary provided at the end of the lessons reinforces the key points of the lesson.

These are focused on definitions and expectations:

It is your duty to take action: maintain an SEA-free environment and report SEA

_ You are accountable for your professional and personal behaviour

- _ Your behaviour must reflect the UN
- _ You must uphold the uniform standards on SEA
- _ You must have personal discipline
- _ You have a duty to maintain an SEA-free environment
- _ You have a duty to report SEA

The summary contains no mention of human rights, the precarious context peacekeepers work in, criminal accountability or legal obligations. Nowhere in the training is there mention of gendered inequalities, reasons behind or effects of gendered violence, or differential gender expectations. These are covered in Module 2 topics, with no substantive links made between the two and only one mention of ‘SEA’ across all Module 2 lessons. This separation is powerful in preserving the image that peacekeepers are responsible for protecting vulnerable women and girls through their mission (CRSV lesson, WPS lesson) and that peacekeepers themselves are not a significant risk. There is no substantive discussion of how ‘SEA’ impacts survivors or communities beyond eroding trust in the mission and the UN and tainting the UN’s reputation. The training sets up a clear divide between the UN and the communities that peacekeepers work in, with the primary responsibility established as being toward the mission and the UN. While the priority of protecting and serving communities is mentioned, it is not the focus of the training and it is spoken about in relation to peacekeepers representing the UN in this role.

SEA vs Sexual Violence

The pre-deployment training’s most substantial engagement with the impacts of SEA outside the UN or for the peacekeeper is presented in the section on “Abuse of Trust”:

Abuse of Trust

Peacekeeping personnel must not abuse trust. Abuse of trust:

- _ Further victimizes vulnerable people
- _ Violates victims' human rights
- _ Disrupts families and communities
- _ Undermines the possibility of peace

Abuse of Trust is considered a 'key term' in defining and understanding SEA, along with vulnerable, differential power, and beneficiaries of assistance. This section goes furthest in explaining the impact and lived experiences of SEA, the contexts community members are living in, and factors contributing to complex and unequal living conditions. The section however is not framed as providing context or explaining 'drive' factors in, for example, sex work or transactional sex, and is instead presented as something of a vocabulary lesson wherein differences between and definitions of different categories are provided. We again see in this discussion an unspoken preoccupation with transactional sex/sex work with no real consideration of rape. It is possible that the UN does not believe that a short training can be effective in preventing violent or explicit sexual assault; they are probably right. And yet, spending so little time on criminal sexual violence fails to acknowledge its existence in peacekeeping missions and may prevent peacekeepers from recognizing rape or believing reports of rape by peacekeepers. Experiences of victim-survivors are not included in either the lesson slides or as case studies. The lived harms they endure are occluded and affected individuals are left out of the formulation.

Classifying 'SEA'

As elaborated in chapters 3, 5, and 6, rape by peacekeepers was far from unheard of. I coded 23 unique accounts of rape within stories told by women about themselves (first-person stories). This does not include the many other stories told about women known to the narrator, or

stories describing statutory rape/ sex with a person under the age of 18. The 23 accounts represent 0.8% of all stories shared (n= 2856) as being about the narrator's rape by a peacekeeper. When we only consider women's first-person stories (n- 215), 10.7% were about the narrator being raped by a peacekeeper. As discussed in the methods section, these stories were unprompted; at no point were participants asked directly about sexual abuse/exploitation/violence and they could tell a story about anything they wanted. It did not need to be about themselves and indeed the majority of participants told stories about someone else (or at least said they were about another person) or spoke generally about living conditions or situations in their community/country. As such, the fact that so many women recounted having been raped by a peacekeeper is noteworthy and undermines the UN's distinction and emphasis on exploitation over violence.

Further, the UN's own data does not support the assertion that 'SEA' in the DRC is most often transactional sex/sex work. The Table of Allegations data³³³⁴, 2015- May 2022, show that 28% of allegations against MONUSCO personnel were categorized as 'SA(Rape)', 10% as 'SA (Sexual Assault)', and 5% 'SA (Sexual Activity with a Minor)³⁵' meaning a total of 43% of all allegations against MONUSCO personnel were criminal in nature. In comparison, 19% were 'SE (Transactional Sex)' or 'SE (Solicitation)', and 32% classified as 'SE (Sexually Exploitative Relationship)'. There was one allegation of attempted sexual assault, and the rest were 'Unknown'. While serious offenses such as sexual abuse may be assumed to be more likely to be reported³⁶, recall that all MONUSCO personnel who learn of any instance of suspected 'SEA'

³³ Please see Grady, 2016, for an excellent examination of inconsistencies with how the UN tracks and classifies SEA allegations, making insights into the numbers of specific acts of SEA nearly impossible to determine.

³⁴ Accessible at <https://conduct.unmissions.org/sea-data-introduction>

³⁵ Sex with anyone under the age of 18 is considered by the UN to be sexual abuse. The differentiation between rape and sexual activity with a minor is not clear. Based on my data, I assume sexual activity refers to sexualized acts that do not involve physical contact, such as taking photos or watching a sexual activity, but I cannot be certain.

³⁶ As discussed in Chapter 6, my data does not support this assumption.

are required to make a report and said report should translate into the Table of Allegations. As such, if the perception is that transactional sex is the most common form of SEA this should be represented in the UN's own data, even if not all accounts are verifiable.

Distinctions between sexual exploitation and abuse were important in discussions with senior MONUSCO and UN leadership in 2020. A senior child protection officer with UNICEF, for example, explained in March 2020 (Kinshasa) that victims of exploitation are much more likely to want cash payouts from the UN than a survivor of sexual abuse. In his opinion, asks and expectations were much higher from someone who had been exploited than sexually abused. Likewise, the Head of Mission explained that while all acts are under the banner of SEA and are taken seriously, she later discussed different treatment for serious versus minor misconduct and spent a significant amount of time discussing sex work and the importance of girls and women being taught they do not need to “sell their bodies³⁷”. She expressed a belief that some women who claim to have had children with peacekeepers had gotten pregnant through rape, but that the perpetrator was a member of an armed group rather than MONUSCO. She wanted to ensure women across DRC knew that all children born of rape will be supported, not only those born as a result of peacekeeper SEA³⁸. Distinctions between sex work, consensual relationships, exploitation, sexual abuse, rape, are important and too often missing from discussions of ‘SEA’(Otto, 2007); the argument for specificity and nuance, however, is not addressed by only focusing on sex work at the expense of sexual violence. In instances of ‘survival sex’ or sex

³⁷ Please see chapter 6 for explanations of the circumstances that push women into sex work with peacekeepers. This framing by the HoM demonstrates a lack of meaningful engagement with structural violence and economic precarity that women live in. Moralizing aside, many women in this research did in fact ‘need’ to sell sex as it was the only viable way they had to feed themselves and their children.

³⁸ This counters research both showing that children born of rape are rarely supported and little considered within international law or support programs (Tasker et al. 2020; Wagner et al 2022), and the empirical data analyzed in this dissertation showing that no women interviewed received systematic support for the PKFC. It is my opinion, however, that the Head of Mission was sincere in her desire to support children born of rape and spoke with genuine compassion about their needs provisioning.

work that could be considered deeply exploitative (sex for food, sex for extremely low amounts of money, paid sex for degrading acts etc.), we can consider this to be on a spectrum of violence that includes rape to be positioned as a human rights violation (Mudgway, 2018), rather than distinct categories to be discussed and addressed separately, one as misconduct and one as criminal.

As with any curriculum, the value and impact of the UN's SEA training rests heavily with the instructor delivering it. A strong instructor (or their supervisor) who is personally invested in ensuring soon-to-be peacekeepers well-understand the definitions, causes, and consequences of sexual exploitation and abuse, who teach with compassion for survivors and conflict-affected communities, and who themselves have a feminist and/or human rights orientation may well be able to deliver the training in ways that are meaningful to attendees. If this is not the case, it seems unlikely that the training will significantly alter individuals' perspectives on sexual and gendered relations, violence, or power in ways that will prevent sexual exploitation or abuse. It may frighten prospective perpetrators and demonstrate to them that there are severe consequences for getting caught. And yet, when they are deployed and in active duty, they may find this is in fact rarely the case; it is more likely that they will not be caught, their fellow service members are unlikely to report them, and investigations are rarely completed:

“My family and I followed up at MONUSCO, but we got disappointed. They were only moving us around with the case.” (Int. 55)

I reported this problem to his officials, and they promised that they would relay this information to whom it might concern. They listened to us, and seemed to sympathize with us... All the ladies who had children with their employees were requested to meet quite often in order to collect our pleas... However, whenever we showed up for the meeting, it was always put off again until we got discouraged and dropped it. (Int. 28)

I know a girl at Kandurumu who was selling mangoes and bananas at the camp of MONUSCO. She met a MONUSCO soldier from Morocco who was buying fruits from her. So, they fell in love with each other. That girl became pregnant, and told the agent about that... She was left alone when the guy's mission was over. The man left to his country because he was afraid he could get a problem at work if he refused openly that pregnancy. *That girl went to visit the fellow soldiers of that man who impregnated her and the ones who knew that she was going out with that man. They promised that they would be helping her, so they supported her until she gave birth.* She started living with her baby, but she couldn't get as much support as she was expecting...." (emphasis added; Bunia)

Explaining SEA

Race, Global Hierarchies, & Cultural Culpability

In 2004, Sherene Razack published a pivotal book on peacekeeping, racism, and imperialism. In it, she identifies peacekeepers from 'Global North' countries as deeply embedded in beliefs of racial superiority and contempt for the Black community members they are ostensibly protecting. Razack traces the history of military imperialism and connects this to peacekeeping in the 1990's. Razack focuses on the so-called 'Somalia Affair' in which Canadian peacekeepers killed an adolescent boy after subjecting him to extremely degrading and treatment. This led to the uncovering of numerous acts of racially charged violence against local community members, deeply racist behaviours and language utilized, and a general culture of violence and racism within the Canadian Airborne regiment. Rather than treating this as a one-off instance, Razack explores how these horrible events are symptomatic of militarized cultures that privilege aggressive, White masculinity and dominance over those positioned as inferior. Razack argues that global inequities related to who is a 'protector' and who is 'protected' are drawn along racial as well as geographic lines, contributing to the continued dominance both interpersonally and politically of Global South countries by those in the Global North. It was a hugely influential work, but in recent years some of her causal explanations related to racism and peacekeeping

have been challenged by the rise in peacekeepers from postcolonial, Global South countries, including African countries in the DRC context (Weiss & Kuele, 2019).

A narrow view of racism that posits White individuals perpetrating explicitly racist acts against Black people fails to capture the global hierarchies embedded within peacekeeping missions and the impacts of these on peacekeepers and members of host communities (Pratt, 2013). In analyzing violence committed by Indigenous Canadian peacekeepers against Somali civilians, Razack argues against the idea of “compensatory violence” (2002). Ehrenreich proposes the notion of compensatory violence to explain violence committed by racialized individuals against other racialized individuals, arguing that because the perpetrators have long been victims themselves, when given the opportunity they adopt violent behaviour of their own to compensate for their lower social status and experiences of injustice. Razack disputes this explanation, arguing that it is more plausible that racialized individuals are equally or sometimes more invested in participating in White nation-building projects, securing their acceptance in abusive institutions they have been socialized to value despite the violence meted out against them. While Razack’s analysis was completed at a time when peacekeeping was more strongly considered a White and Global North endeavour, later work by Henry (2019) and Cunliffe (2013) position peacekeeping as imperialist, partially driven by a White saviourism and advancement of a particular (liberal, capitalist) world order. Global South states are often invested in advancing this vision, and participation in peacekeeping secures international credibility and reputational boosts. Individual peacekeepers may be interested in ‘proving’ their inclusion in this privileged positioning, with exploitation of, condescension toward, and separation from community members as helping establish the difference between those who are present to protect and those need of protection. Greenburg (2013) argues that peacekeepers from

non-western nations deployed to Haiti saw their mission as a civilizing project, simultaneously bringing Haitians into ‘modernity’ and proving their own modern subjectivities and inclusions. In this work, Greenburg explains that nationalism on the part of non-Western peacekeepers was employed to both establish ‘backwardness’ of Haitians and to exalt peacekeepers’ comparative progress toward modernity. Interestingly, there is a dearth of empirical research examining how peacekeeping from the Global South understand their missions and relate to host community members and how this intersects with ‘SEA’. These are important questions that warrant study.

Research has uncovered ‘global hierarchies’ in expectations, labour divisions, and scrutiny between Global North and South peacekeepers, with the latter more likely to consider peacekeeping ineffective after deployment (Podder & Manzillo, 2020). Henry argues that peacekeeping is “Global North-centred in its formation and operation, and Global South-centred in its personnel – and that this precisely embodies the liberal peace agenda” (2019:264). The DRC is a strong example of divisions of labour within peacekeeping and the deadly consequences of this division. Of the 392 peacekeeper deaths between the MONUC and MONUSCO missions, 10 were peacekeepers from Europe or North America: 1 from Belgium, 1 from Greece, 2 from the United States, and 6 from Ukraine (<https://peacekeeping.un.org/en/fatalities>). These deaths are not all the result of armed hostilities, they also include illness, accidents, etc. It is notable that MONUSCO has long been considered one of the most dangerous peacekeeping missions, and the current top 10 military contributors (in order) are Pakistan, India, Bangladesh, Indonesia, South Africa, Nepal, Morocco, Tanzania, Uruguay, Malawi (<https://peacekeeping.un.org/en/mission/monusco>). Labour divisions and hierarchies in peacekeeping missions often position Global South contingents in more dangerous, “front line” roles, and Global North contributions are often more advisory and technical (see, for

example, Canada's involvement in Mali). These divisions and hierarchies extend beyond mission composition and also factor into understandings of SEA responsibility and prevention.

Questions about the role of 'culture' in the perpetuation and perpetrations of sexual exploitations and abuse circulate throughout academic literature, NGO reporting, and UN engagement. As mentioned above, one of the reasons behind including an 'SEA focal point' in each contingent is to address 'cultural barriers' to preventing SEA: the logic being that a well-trained individual from the same background as other contingent members will be better able to combat stereotypes and cultural assumptions that frustrate efforts to prevent SEA (personal communications, CDT Goma, 2020).

Karim and Beardsley (2016) found that TCCs with lower levels of gender equality contributed higher rates of SEA to peacekeeping missions overall than their more gender-equal counterparts. This research effectively 'tested' an assumption built into WPS resolutions and common-sense parlance on the issue: peacekeeping troops contributed by countries with low levels of gender equality and high rates of sexual violence, especially committed by the military, are more likely to commit sexual abuse. Gender equality here was determined using two indexes from the World Bank, the first measures public visibility of women and girls (women in formal employment, primary school enrollment for girls, etc.) and the second considers rates of sexual and gender based violence against women. Interestingly, their findings demonstrated a stronger relationship between low levels of SEA perpetration and higher visibility of women in public life than they do for low rates of sexual violence³⁹.

³⁹ Of the top 10 contributing countries to MONUSCO (listed above), only Indonesia and South Africa are rated as having "high" gender equality on the UN Human Development Index, while the rest of the contributing countries are medium or low. Use of the HDI as a gender equality metric as it pertains to violence may be limited. The HDI considers formal legal equality, workplace engagement, economic empowerment of women. It does not consider rates of domestic or sexual violence, impunity vs accountability for such offenses etc. Indeed, the inclusion of South

Rodriguez and Kine (2019) divide relevant TCC factors into three categories:

Institutional, which includes rule of law and press freedoms; social, which considers gender and income in/equality; and military, which focuses on the military's adherence to or violations of human rights and international humanitarian law. When comparing these to commission of abuses (not only sexual abuse, but any human rights violation) while on mission, institutional factors had the highest protective value in preventing abuses, followed by military factors. Societal factors had no impact. The authors conclude that a country's ability to hold perpetrators accountable and the likelihood that abuses would be publicized may well be deterrents to committing abuses, as is the general socialization into a system of law/legality. Interestingly, this finding may lend support to calls for enhanced legal liability for abuses committed and the recent move by the UN to publish data naming alleged perpetrators' country of origin (so-called 'name and shame' tactics). While the deeper socialization element may not be present in UN responses, the deterrent component of anti-impunity and public shame may be effective. On the former point however, the TCC would need to have measures in place for comprehensive investigations and fair trial/court martials. This would, logically, rest on an already-effective legal system and established rule of law infrastructure, demonstrated to be protective against SEA allegations in the first place. While one study is not definitive, the circular nature of anti-impunity measures as preventative of SEA and the need for the UN to have TCC's punish SEA is difficult to escape⁴⁰.

Africa as a highly gender equal country must be challenged; South Africa has extremely high rates of gender-based violence, and lack of accountability for these crimes. A woman is murdered every 3 hours in South Africa (Human Rights Watch). South African peacekeepers have among the highest rates of SEA perpetration in MONUSCO.

⁴⁰ One way to get around this is through advocacy for broad rule of law building measures around the world, which the UN does engage in.

In the MONUSCO meetings, questions of cultural differences were often identified as a cause of SEA and at other times protective against it. This was applied to both the mission context and the cultural background of the peacekeeper. Mali was identified as having notably low rates of SEA, with the explanation given being that there was not a strong culture of sex work in Mali and there were a high number of Muslim peacekeepers deployed there. Muslim men were considered much less likely to buy sex than non-Muslim peacekeepers and there was overall less ‘temptation’ and a less permissive culture toward casual sexual relations.

Conversely, the Head of Mission shared an anecdote about two young women in Afghanistan who were found to have had sex with foreign soldiers (it was unclear if they were raped or if the sex was consensual) and were subsequently killed by close family members. The HoM was drawing on this horrific case as an example of the extreme intolerance, stigma, and violence women who engage with foreign men face in some contexts in comparison to the DRC. In the DRC, women may face some community stigma but their lives are not routinely threatened as a result of sexual interactions with peacekeepers; the HoM felt that, overall, sex work and transactional sex were more normalized. This belief coincides with findings in the empirical SenseMaker and Focus Group data in which sex work, prostitution, is considered problematic and undesirable but transactional sex is normalized and an exchange is largely expected by and for women who have sex with foreign men (please see chapter 5 for an elaboration of this finding). In discussions around culture, gender in/equality, and ‘SEA’ perpetration there is rarely a frank consideration of probability: higher numbers of peacekeepers from any one TCC increases the likelihood of ‘SEA’ by members of that TCC. This is a reasonable assumption, and yet it is rarely acknowledged by UN officials or taken seriously within the academic literature.

Nordås and Rustad (2013) found that conflicts involving high levels of sexual violence were more likely to have high rates of SEA in peacekeeping missions. The authors assume that higher rates of sexual violence in conflict lead to social breakdowns and increase vulnerability of women to transactional sex, simultaneously reducing their social protections from further exploitation and violence. Kovatch (2016) proposes that impunity for sexual violence, especially violence committed by the national military, demonstrates to peacekeepers that sexual violence is not taken seriously in the DRC and that peacekeepers can commit abuses without fear of reprisal. Here, Kovatch is arguing that the DRC operates as an exceptional space in which normal social ordering and ethics are not considered to apply.

Moncrief (2017) argues that military socialization for peacekeepers' home militaries do impact SEA rates, as often argued by NGOs like Code Blue Campaign, but individual peacekeeping missions also have a unique contexts, socialization and internal culture that is equally culpable in explaining high rates of SEA. Poverty is negatively correlated with rates of SEA: The higher the host country's GDP, the lower the rates of SEA. This finding provides some support to the argument that the higher proportion of vulnerable community members in a country, the more likely that peacekeepers will exploit this vulnerability via SEA. Moncrief further found that higher rates of non-SEA misconduct is positively correlated with rates of SEA, which Moncrief interprets as possibly indicative of difficulties with troop discipline more generally.

Importantly, rates of widespread sexual violence committed by military actors at home was not strongly correlated with rates of SEA (Moncrief, 2017). While some countries with high rates of SEA have been identified as sexually abusive peacekeeping contingents (including a contingent from the DRC which was repatriated from CAR in 2016 for having committed rape),

it is not a perfect relationship. South Africa, for example, at the time of Moncrief's writing, had some of the highest rates of SEA accusations but the national military has not been accused of widespread or systematic sexual violence (and, as stated above in footnote 10, South Africa is one of two top contributing countries identified as having 'high' gender equality). Similarly, some of the most shocking sexual violence committed by peacekeepers in Central African Republic to recently reach the news media has been committed by peacekeepers from France. Even in discussing examples of cultural differences in relation to sex work, MONUSCO CDT leadership shared examples of peacekeepers from the Netherlands who could not understand why they were not allowed to pay for sex in DRC (personal communications, 2020). These instances do not discredit or undermine rigorous empirical research associating gender inequality with higher perpetration of SEA; they do, however, suggest a cautious approach to identifying an essentialized notion of 'culture' as being the most important factor in predicting who will or will not perpetrate SEA while serving in a peacekeeping mission. Any move toward identifying cultural explanations for SEA must simultaneously consider the nationality of the peacekeeper in relation to the mission s/he is deployed in and factors such as conflict intensity, poverty and displacement, host country legal structures, and impunity vs accountability for sexual violence both in the host and troop contributing country. Given the large number of TCCs who have had peacekeepers accused of SEA, it may be more fruitful to attempt to consider what those who have low rates of SEA do differently.

Engaging Women to Prevent SEA

If cultural differences and gender inequality are often identified as factors driving SEA, increasing women's participation in peacekeeping is presented as a key remedy to addressing the problem. From the first Women Peace and Security resolution (UNSCR 1325):

Requests the Secretary-General to provide to Member States training guidelines and materials on the protection, rights and the particular needs of women, as well as on the importance of involving women in all peacekeeping and peacebuilding measures (UNSCR 1325, 2000)

through to MONUSCO's publicity campaigns⁴¹, and Canada's own Elsie Initiative⁴², the UN and PKO contributing countries have been attempting to increase women's participation as uniformed peacekeepers and in leadership roles to shift gendered dynamics within peacekeeping, better address and respond to sexual violence and offer increased supports to survivors (UNSCR 1325, 2242, 2436; Ulrich 2020) and enhance community relations (Ulrich 2020).

Some academic literature discussing sexual exploitation and abuse by peacekeepers and moves to increase participation of women in peacekeeping missions makes a direct link between the two (Simic, 2010; Henry 2019). The UN formally positioned the drive to increase women's participation in peacekeeping as motivated by the need to reduce SEA in the UN Secretary General's 2017 report on SEA:

I am convinced that greater numbers of women throughout United Nations activities, and especially within uniformed contingents, would help advance United Nations efforts to prevent and respond to sexual exploitation and abuse. We have seen that increasing the number of women across our operations has allowed the Organization to build stronger relationships with the societies we serve. We believe that these strengthened relationships, in turn, improve both prevention and the quality of reporting, as a result of greater trust developed with local women and communities. Increased numbers of women in peace operations also appear to lead to a decrease in the number of cases. (A/71/818 8-9, 2017)

Increasing women peacekeepers to reduce SEA was also a proposition in the highly influential 'Zeid Report'⁴³ (2005) in which Prince Zeid bin Ra'ad bin Zeid al-Hussein suggests that increasing the number of female peacekeepers will deter SEA perpetration:

⁴¹ <https://news.un.org/en/gallery/572861>

⁴² https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/gender_equality-egalite_des_genres/elsie_initiative-initiative_elsie.aspx?lang=eng

⁴³ The Zeid Report, titled 'A comprehensive strategy to eliminate future sexual

The fifth basic requirement is an increase in the percentage of female peacekeeping personnel. That would facilitate the mission's task of making meaningful contact with vulnerable groups and non-governmental organizations in the local community in its effort to eliminate sexual exploitation and abuse. Victims and their spokespersons tend to be female and the presence of female interlocutors, especially in senior positions, would facilitate efforts to encourage the reporting of abuse, which is the first step in eliminating it. Finally, the presence of more women in a mission, especially at senior levels, will help to promote an environment that discourages sexual exploitation and abuse, particularly of the local population. (pp 19)

On February 4th 2022, Jean-Pierre LaCroix tweeted that “Diverse Teams help build trust with communities and in turn contribute to the better implementation of the conduct and discipline policy. We work with Member States to increase the number of women in @UNPeacekeeping” and attached this image:



The image text stating that increasing numbers of women peacekeepers as important to reduce and respond to SEA aligns with the content of Mr. LaCroix's tweet in that communities that have higher trust in peacekeepers are more likely to report. The argument goes that women are less

exploitation and abuse in United Nations peacekeeping operations', was commissioned by the Secretary General following numerous serious allegations of sexual violence against children and was written by Prince Zeid Ra'ad Al Hussein, then Jordan's permanent representative to the UN. It was the first detailed analysis into the problem of sexual exploitation and abuse, then Secretary General Kofi Annan accepted its recommendations and presented it to the General Assembly. It continues to be widely cited and referred to.

likely to perpetrate SEA and are more likely to win the trust of local community members who will then report SEA to them. It is clear that this logic has long circulated and has proven influential among senior UN peacekeeping officials.

Karim and Beardsley (2015) and Henry (2019) both consider whether increased participation of women peacekeepers may “dilute” patriarchal and highly masculinized peacekeeping cultures in such a way that rates of SEA will go down and shifts toward a more rights oriented and less militarized approach to peacekeeping may be possible. Karim and Beardsley present compelling challenges to the mainstream perspective that women peacekeepers will act as a deterrent to SEA, be more likely to report, or may significantly alter the culture of peacekeeping. They point out that women military peacekeepers are currently so few that their presence is unlikely to have any major influence (an argument echoed by Henry, 2019). This approach to SEA reduction also rests on some large assumptions: that women who enlist will be normatively feminine, that they will feel more loyalty and affinity to local women than their male contingent members (who are almost always of the same nationality), that women will feel safe and empowered to report SEA and protected from reprisals, and that they will even know about incidents of SEA in the first place.

Loken (2017) presents research demonstrating that, when controlling for other factors such as political affinity/ideology, armed groups with comparatively high proportions of women enrolled are not significantly less likely to commit sexual violence than armed groups with low participation by women. Loken argues that it is an unfounded assumption that women fighters are more opposed to sexual violence than men. Indeed, sexual violence is also perpetrated by women in conflict contexts (Sjoberg & Gentry, 2007). There is little evidence to suggest that incorporating women peacekeepers into deployments will alone reduce or prevent SEA from

occurring without other measures accompanying this approach. Loken (2017) draws on social psychology research to demonstrate that organizational culture outweighs personal preferences and orientations and that women are subjected to the same socialization in these institutions as men: “Incorporating women into armed institutions does not disrupt the misogynistic, masculine culture of those groups because women are subject to the same organizational dogmatism as the men.” (2017:83; See also MacKenzie 2012, 2015). Therefore, women’s involvement with armed groups, including state militaries, does not appear to reduce rates of sexual violence and it is reasonable to extend this finding to peacekeepers, drawn from national militaries. Further, women peacekeepers are themselves often targets of sexual harassment and sexual violence. So-called ‘Blue on Blue’ sexual abuse is very common but is underreported and under researched. Among current and former women peacekeepers interviewed by Donnelly, Mazurana, and Papworth (2022), 28% had personally experienced sexual abuse and 26% had witnessed it. Relying on increased numbers of women peacekeepers to prevent and better address SEA without first or simultaneously fixing masculinist and abusive military and police cultures will not only be ineffective in preventing SEA but may put women service members at risk.

Female Engagement Teams, sometimes called Community Engagement Teams, have been developed in some missions, including MONUSCO, in attempts to directly connect women into peacebuilding processes and to combat and respond to CRSV (CIVIC 2020). Researchers found important challenges within missions that employ FETs, with numerous MONUSCO military officials admitting they did not really understand what FETs were supposed to do or whether they were effective or not (CIVIC 2020). In this research, CIVIC also found that peacekeeping officials sometimes confused CRSV, gender equality initiatives, and combatting SEA and had difficulty explaining how they differed or related. There is also little evidence that

female peacekeepers are necessarily better trained or more knowledgeable about CRSV or other forms of sexual violence than their male counterparts, whether they are deployed as part of an all-women contingent, an FET, or a mixed-gender contingent (CIVIC 2020).

Official Data and Incomplete Stories

The UN has committed significant resources to combatting SEA in peacekeeping missions and has a complex infrastructure for reporting, monitoring, and investigations. The Secretary-General issues an annual report on efforts, progress, and continued challenges, and meetings with MONUSCO CDT personnel impressed upon me the genuine commitment of many UN staff members in ending SEA. Since 2015, the UN has increased transparency about numbers of allegations, who is involved, and the status of investigations. Despite this commitment however, analysis of this data reveals serious limitations in both the approach and execution of collecting, collating and following up on allegations. The reporting of such statistics is often misleading and does not ascribe to the survivor-centred approach espoused by the Special Coordinator and Victims' Rights Advocate (Connors, 2019 and elaborated in chapter 6). The Conduct in UN Field Missions website provides data on SEA allegations, official numbers, and descriptive data concerning the alleged perpetrator's home country, whether the victim is an adult or a child, if the allegation pertains to sexual exploitation or sexual abuse, if a paternity claim is being made and/or is established. Information about the status of investigation and action is also given. Data can be filtered by year, mission, nationality (of alleged perpetrator), type of allegation, status of victim (adult or child), category of personnel and result. As of June 2022, it is possible to download the data as an Excel sheet for analysis. This is an important development and move toward data transparency, as it was not previously possible to conduct

analysis on the data through the online site, and requests for the data from the UN went unanswered.

Exploring the UN's reported data on SEA reveals a number of important findings:

1. Extended length of time involved in each stage of the investigation
2. Few completed investigations leading to concrete actions
3. Misleading presentation of statistics related to allegations

Of allegations made in 2020, 52% remain “pending”. When looking specifically at allegations that have been substantiated, interim actions (actions taken toward the alleged perpetrator before investigation has been concluded) range from none to administrative (undefined) to payments suspended. 10 of 17 have a resultant ‘final action’ ranging from repatriation to jail⁴⁴. The other 7 substantiated allegations have a ‘pending’ final action. 6 substantiated cases have been referred for criminal accountability but all remain pending. For allegations made in 2021, 70 allegations remain pending meaning they are still under investigation. The UN endeavours to complete investigations within 6 months of receiving the allegation and is aiming to further reduce that timeframe (Goma meetings 2020). They are obviously far from meeting that goal. Some reasons provided include the length of time it takes to appoint a national investigator from the member country, difficulties in keeping in contact with victims, and logistical challenges with collecting evidence and completing interviews (insecurity, road conditions, etc.). These difficulties do not, however, account for the high number of substantiated allegations that have not yet resulted in a

⁴⁴ Jail sentences are often for allegations of sexual exploitation, including transactional sex. Unclear what the criminal charge is and whether 'jail' refers to a civilian prison/jail or military detention.

final action, as these allegations were already investigated fully and culpability established.

There are also a high number of unsubstantiated allegations in earlier years (37% of allegations made between 2015 and 2019 remain unsubstantiated). There is no distinction made between allegations that are shown to not have been perpetrated by UN personnel (including cases where the victim had been abused or exploited by someone misidentified as UN), false reports, and cases where there was insufficient evidence to establish responsibility.

Final actions taken by national governments in substantiated cases include financial sanctions, demotion, dismissal, administrative, and jail. There has been a total of 165 concrete actions taken by national governments across all substantiated cases of SEA. While the data is filterable by all category of personnel (civilian, military, police) it does not change at all when civilians are added. The UN does not track actions taken against civilian personnel by their national governments. The table reports that there have been 204 substantiated allegations against uniformed personnel since data tracking began. From 2007-2021, there have been 1174 allegations. Importantly, the UN acknowledges that SEA is seriously underreported; this was admitted to me by CDT personnel in the DRC and is also stated in UNSCR 2436 (2018). The disconnect between recognizing underreporting of SEA with the low number of substantiated allegations is notable. There are a few possible explanations: 1. allegations made are often untrue 2. Alleged abuse occurred but was not perpetrated by UN personnel and credible abuse by UN personnel is not being reported (i.e. false or misidentified allegations against UN personnel are more likely than credible allegations) or 3. there are serious limitations in investigations that prevent credible allegations from being substantiated; this would, reasonably and as confirmed in the community data, dissuade people from coming forward with reports of SEA.

This leads us to the final important finding relating to the data on SEA allegations. While the numbers provided thus far are meaningful, they occlude the actual human experience of SEA. The UN presents data primarily by “allegation”; this is what is included in official reporting and statistics, and it is how information on final actions and investigations is presented. A single allegation however, does not mean there is a single victim and/or a single perpetrator: one recorded allegation against military personnel serving in MINUSCA (December 2021, Central African Republic) includes 14 adult victims, 4 child victims, and at least one paternity claim (numbers of paternity claims are unspecified). In the UNMIL mission in Liberia, there was one allegation recorded that included 62 victims and 67 perpetrators. In 2021, there were 75 total allegations across missions, but 190 victims and 173 perpetrators. While this data is also made available by the UN, these are not the numbers presented in annual reports or included in journalistic reporting. By presenting allegations in this fashion, the UN occludes the depth and breadth of SEA’s impact, along with the number of individuals responsible or the extent of accountability measures against individuals. Indeed, the few cases that resulted in a final outcome/action are all the more pitiful when considering the actual number of perpetrators vs. allegations.

Through this chapter, I have explored UN training materials and approaches to preventing and responding to ‘SEA’, explanations for the continuation of ‘SEA’, and how the UN’s approach to classifying and tracking data exposes assumptions about priorities in ‘SEA’ . Despite important developments toward a ‘victim centred approach’ in responding to SEA (Connors, 2019), investments in training, expanded reporting mechanisms, and detailed investigation protocols, the United Nations continues to have serious limitations in prevention, accountability, and understandings of SEA. Emphasis on cultural explanations for SEA fail to

adequately capture mission-specific responsibilities and fail to account for the wide range of TCCs responsible for committing abuses. The UN's refusal to position 'SEA' along the same spectrum as conflict-related sexual violence is a missed opportunity to address commonalities between CRSV and 'SEA': displacement and economic vulnerability; patriarchal and misogynist societal attitudes; cultures of militarism and pervasive insecurity. The UN has also demonstrated a stubborn refusal to recognize the depth of harms and scale of violence inflicted by peacekeepers on mission. I have demonstrated here how the UN understands, or does not understand, these tensions and the gravity of SEA. In subsequent chapters, I explore the lived experiences of these decisions and approaches. I turn now to an examination of law's operations toward and recessions from sexual exploitation and abuse to better understand what happens after 'SEA' has occurred and what opportunities for redress are available, viable, and desirable to victim-survivors within a complex and legally plural landscape.

Chapter 5: Legal Pluralism and Legal Recessions

The previous chapter explored the UN's official approach to SEA, including policy operations and jurisdictional barriers to investigation and prosecution. While chapter 4's legal discussions were largely technical, here, I explore how law is lived in relation to 'SEA'. This chapter compares findings from the empirical data with the UN approaches to SEA to explore where and how systems of normativity and accountability overlap, compete, and compliment, and to draw out when and where they recede. I discuss how the zero-tolerance policy and related approaches to reporting and accountability are experienced within communities, identifying and discussing serious gaps between the policy in principle and in practice, as uncovered in the research.

I begin by positioning SEA in relation to other sexual violence crimes in the DRC, arguing that the operation of different legal regimes, dependent on status of the perpetrator, produces a legally plural environment that is challenging for survivors to navigate. While this is seemingly unavoidable, the identified hypocrisy of the UN in emphasizing some sexual violence crimes while downplaying those committed by peacekeepers is notable and has important impacts on community relations. At the same time, conceptions of law as being responsible for and normatively responsive to sexual violence⁴⁵ is an emerging consciousness in the DRC (Lake,

⁴⁵ Law is simultaneously tasked with responding to sexual violence after it occurs, as well as being responsive to socio-cultural shifts in understandings of sexual violence and holding a deterrent role for prevention. This complex

2018; Lake et al., 2016). I draw here on Lake et al, Dunn, Aroussi, and survey data from NGO workers on issues of emergent legal pluralism⁴⁶ (Dunn, 2018; 2019) and rule of law building.

Despite the DRC's positioning as an epicentre on legal developments in prosecuting sexual violence (Lake, 2018) and the numerous avenues of redress for sex-based crimes, sexual exploitation and abuse by intervenors continues in a legal grey-zone: some acts classified as SEA are criminal, some are not; some acts considered criminal within the DRC are not classified as such in TCCs, or vice versa; some peacekeepers may be considered as parties to the conflict (members of the Force Intervention Brigade⁴⁷, for example) while many others are not and thus do not fall under the purview of international humanitarian law. International human rights law is universal, at least in theory, and therefore all actors are subject to the rights and responsibilities detailed within, and yet it offers few practical enforcement methods for SEA and other abuses by peacekeepers. And, of course, no formal legal system or mechanism offers hope for redress in cases where allegations are not reported or are not properly investigated, raising questions about legal engagements and mobilizations that thread across these different bodies of law.

Environments are not legally plural solely by virtue of multiple legal systems operating within a certain territory; it is the interactions, competitions, cooperation, and conflicts between these systems that produce new and always-shifting legal environments community members must navigate. Within the legally plural environment of eastern DRC and specifically in relation to sexual harms, MONUSCO simultaneously promotes rule of law ordering and liberal redress

task is increasingly elaborated through international programming and the Women Peace and Security agenda. See Kirby, 2015; Houge & Lohne, 2017.

⁴⁶ Dunn argues that there is an emergent legal pluralism within DRC wherein engagement with liberal legal systems, including domestic and international law, is still in development and we are only beginning to see true tensions between these and customary law.

⁴⁷ Please refer to the introduction for an explanation of the FIB and debates around their status within international humanitarian law.

for sexual violence while withdrawing these supposed-rights from victim-survivors of peacekeeper ‘SEA’ through jurisdictional limitations and a refusal to recognize their experiences as sexual violence (see chapter 6). Different systems and operations of law intersect and interact, sometimes effectively and sometimes not, but all are just out of reach for ‘SEA’ victim survivors. Survivors are not permitted to engage in localized legal processes in response to their harms due to the jurisdictional limitations built into Memoranda of Understanding and Status of Forces Agreements underpinning peacekeepers’ legal status on mission (see Appendices B & C). Instead, their ‘cases’ are exported to another jurisdiction, far from where the harm occurred and far from where survivors call home, displacing and decontextualizing attempts for redress. In most cases, as established in the previous chapter, legal responses are not accessible at all. We see then a situation whereby the same actors who socialize women to believe in the importance of legal responses to sexual harms, who engage in rule-of-law building processes and are central in producing an interactive and legally plural context pull law away when its their own personnel accused: formal law recedes for acts labelled ‘SEA’ and in this void policy and disciplinary action are inserted as placeholders, offering significantly more limited outcomes than what law promised.

Legal Pluralism

This section explores the multiple legal systems operating in relation to sexual violence crimes in the DRC. I uncover how these systems interact to produce a pluralized legal environment that is challenging for survivors to navigate, and nearly impossible for SEA survivors to access. Sexual abuses by peacekeepers are positioned in relation to sexual violence committed by other actors, comparing the varied legal responses. Through the legal responses to sexual violence, I consider the emphasis on anti-impunity approaches and formal law, both by the UN and NGOs. In relation

to all sexual violence, redress and justice are considered achievable largely through court decisions, and yet research has uncovered the mixed efficacy of trials in offering survivors a sense of justice, with many survivors expressing preference for other forms of redress such as financial compensation, school fees for children, etc. (Aroussi, 2018). Despite this, more money goes into trials and advancing legal solutions than to trust funds or reparation programs. Moreover, Rule of Law approaches centre state improvement and securing better governance through support to state-based institutions, prioritizing liberal and state-based law over other manifestations of justice.

What is law?

Legal pluralism scholars expand conceptions of law beyond codified, state-based legislation to examine the multiple and overlapping systems of normativity, regulation, and social control that influence relations (Moore, 1972; Merry, 1988; Tamanaha, 2008). While much of my dissertation is concerned with state-based law to extricate the limitations of reliance on TCC legal systems for formal redress, I am equally interested in the operations of ‘law-like’ systems in regulating and responding to sexual exploitation and abuse that operates above and outside of states. Indeed, one explanation for the high rates of sexual abuse by peacekeepers in the DRC is the perception that the DRC is ‘lawless’, that it is not a functioning state and therefore behaviours and actions not tolerated elsewhere are permissible (Kovatch, 2016). Provost, in his work on rebel governance, describes dominant perceptions of law and inextricable from states: “if law is an emanation of the state, and the state comes to disappear, then there is no law.”- (Provost, 2021:5). Provost demonstrates how this is not true through his exploration of how social relations are organized and norms promoted (or enforced) through governance systems in areas of limited statehood. In eastern DRC, with its notoriously limited infrastructure and lack of state support, there remain numerous modes through which society is organized. Customary law

and humanitarian governance (Lake et al, 2016) often come into tension and sometimes cooperate in communities affected by armed conflict. Attempts to extend state-based law through these areas are performed through various projects and initiatives, often in conjunction with security enhancements⁴⁸. This occurs alongside the many operations of formal law at the state, military, and international levels, producing mixed effects and often complicated relationships.

Law and Sexual Violence in the DRC

Eastern Democratic Republic of Congo is a legally plural environment with simultaneous operations of state-law, military law, international criminal and humanitarian law, and local community-based justice mechanisms. This is a complementary legal pluralism, with jurisdictions and relevant systems determined largely by the status of the accused, availability of resources and ability for undertaking investigations and trials, and the nature of the crimes allegedly committed (Swenson, 2018). Although the pluralism is complimentary, lines are not necessarily clearly defined or well-known to community members, as demonstrated below. As intra-state conflict continues, hostilities remain under the purview of international humanitarian law. The International Criminal Court has completed a significant number of trials and investigations in the DRC, including *prosecutor v. Lubanga*; *prosecutor v. Katanga*; *prosecutor v. Bemba*; and *prosecutor v. Ntaganda*. There have been more investigations and trials of Congolese nationals than in any other state. Military justice through the FARDC, and often in partnership with MONUSCO and i-NGOs, is also active throughout the region, trying commanders and high-ranking combatants of non-state armed groups for war crimes and crimes against humanity. Some of these trials have achieved relatively progressive verdicts, including a recent finding of

⁴⁸ See the American Bar Associations Rule of Law Initiative projects on Early Warning Indicators for one such example.

environmental destruction as a crime against humanity, and rape as a crime against humanity within the military tribunal against Chance Mihonya⁴⁹ and the first ICC conviction for rape and sexual slavery, upheld on appeal, in *prosecutor v. Ntaganda*⁵⁰. DRC military tribunals have secured numerous convictions in recent years for massive and widespread sexual violence. The so-called Minova trials ostensibly aimed to hold FARDC members accountable for horrific sexual violence committed in the town of Minova after the M23 non-state armed group took over the city of Goma. FARDC soldiers re-grouped in the town of Minova and committed widespread violence for which some were tried beginning in 2013 and the verdict rendered in May 2014. 10 days of Hearings were held in Minova to make the justice process accessible to victims and the affected community; the rest were held in Goma. However, serious concerns were raised about the process of the trial, with defendants housed together for years while the trial was ongoing, multiple defendants escaping, intimidation and threats against victim-witnesses (Human Rights Watch, 2015). Ultimately, only a few low-ranked soldiers were convicted, and no senior commanders were charged. This outcome, despite the involvement of the UN, MONUSCO, and multiple international donors and NGOs, prompted serious inquiry into the utility and functioning of DRC military courts. Yet mobile military hearings continue to proliferate in eastern DRC (Sahin, 2021) with the aim of making justice visible and accessible to affected populations and to act as a deterrent to grave crimes by FARDC and non-state armed groups alike.

⁴⁹ Mihonya was originally tried in a civilian court but the case was later transferred to a military court based on the charges of war crimes and crimes against humanity. The involvement of international legal NGO TRIAL International was central to both the movement of the case and the prosecution.

⁵⁰ The first convictions for sexual violence crimes at the ICC were in *prosecutor vs. Bemba*, a Congolese national convicted for war crimes and crimes against humanity in Central African Republic, but these were overturned on appeal. Bosco Ntaganda was a commander in the FPLC, the militarized arm of the UPC armed group and was convicted in 2019 by the ICC of numerous war crimes and crimes against humanity, including rape and sexual slavery.

These operations, as led by the Congolese legal system, can be compared to critiques against the ICC for decontextualization and inaccessibility of proceedings. The scale of military tribunals, often trying dozens of defendants at once, also contravene criticisms of the ICC's individual focus in complex cases involving many actors, but, as indicated above, carry with them important challenges to due process, confidentiality, independence, and rights to a fair trial (White, 2018). Here then, we see how the complexity and logistical challenges of criminal law restrict victims' access to justice for sexual violence in the DRC. Competing priorities between securement of a legal outcome and the safety and support of victim-survivors demonstrates the complexity of justice in this context, and how the multiplicity of actors may serve to complicate rather than clarify responsibilities.

There has been increased attention to prosecuting sexual violence crimes in domestic courts in the DRC, with mixed results. While Lake (2018) comprehensively charts numerous important and progressive verdicts toward "gender justice" in the DRC, there remain significant barriers and challenges to reporting, investigation, and safe trials (Lake et al. 2016; Arrousi, 2018). Further questions as to whether the emphasis on securement of legal accountability properly takes into account safety and security for survivors and their families (Lake et al 2016) are crucial, as raised in the Minova trials discussed above. I wish to further centralize challenges to building 'legal consciousness' in a contextually meaningful way (Dunn, 2019). While the UN has engaged in 'rights education' exercises for some years now, this has largely been a process of distilling down information about sexual violence, rather than deeply engaging with community understandings, challenges, and priorities in a bi-directional process. Herein, I use legal consciousness to understand the role, utility, and limitations of formal law. Beyond only opinions or thoughts about law and legal operations, legal consciousness can be used to conceptualize how people 'live law'

(Chua & Engle, 2019). While the field of legal consciousness is complex and varied, here I strategically invoke questions about mobilization, navigation, and rejection (Chua & Engle, 2019) to better understand how women engage with law and law-like systems within a pluralized environment.

While some landmark cases against civilians have proven to be precedent setting and widely recognized as reinforcing a zero tolerance toward sexual violence⁵¹ and are both practically and discursively meaningful, eastern DRC remains a legally and logistically complex environment for pursuing legal accountability, including for crimes of sexual violence.

This legally plural context provides multiple avenues for accountability in sexual violence cases, but it also produces a complex legal environment for survivors to navigate. Jurisdictions sometimes overlap or shift in cases based on the status of the alleged perpetrator or which body is willing to take up the case. For example, Chance Mihonya was a soldier in FARDC before deserting and starting a militia ostensibly concerned with protecting the ancestral lands of Pygmy people but which prosecutors alleged committed numerous crimes against humanity and environmental crimes to exploit resources from the Kahuzi- Biega National Park (TRIAL International, 2021). Original trial proceedings were held in a domestic criminal court before being upgraded to war crimes and crimes against humanity, falling under the jurisdiction of military justice. This case marks an example of how jurisdiction is far from a purely technical or objective process in these cases, and sometimes depends more on political will and resources than sharply drawn and recognized lines determining responsibility. For survivors of sexual violence not

⁵¹ Here I am particularly thinking of Kavumu case, in which numerous politicians and state officials, including a high-ranking provincial politician, were convicted in December 2017 of gruesome sexual violence against very young girls in South Kivu. The case proceeded, in part, thanks to the methodical collection and preservation of physical evidence and witness statements by staff members of Panzi Hospital (Physicians for Human Rights, 2017). It was the first trial where the gravity and scale of the crimes were used to warrant convictions of civilians under international criminal law.

directly linked to conflict, customary justice was often the only option for attempting to achieve redress. Customary law often focuses on restitution and upholding peace in the community, operating in often stark contrast to liberal legal proceedings, emphasizing individual accountability and punishment (Lake, 2018; Lake et al., 2016). This interaction emblemizes challenges with legal pluralism that go beyond jurisdictional tensions: the driving logics, outcomes, and consequences of engaging with different systems may be fundamentally different from one another. Choosing, or conversely, having little choice, over which system to engage in then has broad personal and social repercussions, and access to particular forms of justice is not equally accessible for even very similar offenses.

Research considering the socialization of international criminal law, notably through and in support of the ICC, has uncovered important frictions between community-oriented justice mechanisms, including those sometimes seen in customary law, and the individualized focus of ICL for complex and often highly political offences (references). Ullrich (2016) cautions against reproducing essentialist understandings of ‘global’ and ‘local’ in critical research, arguing that what is often positioned as local cannot be extricated from so-called international processes. Moreover, global and local are sometimes useful short hands, but they also represent a specific construction and claim to authority: the ‘global’ stands for power, expertise and international networks, while the ‘local’ stands for ‘understanding, grounded-ness and community support’ (Ullrich, 2016:550). It is more fruitful, then, to consider how knowledge is produced and presented by different actors through what Ullrich terms ‘interactional justice’. Developments within transitional justice to examine ‘justice from below (McEvoy and McGregor, 2008) attempts to move away from ideas that justice must be achieved through objective, high-profile processes and can instead be grounded in communities and diverse in execution. While not all justice

mechanisms are equally interactional or internationalized, it would be a mistake to treat many of these processes as distinct and operating in isolation. Lake (2018) and Lake, Muthaka and Walker (2016) demonstrate how customary law in eastern DRC is differently received by individuals who have encountered liberal legal sensitization or gender equality training. Despite increased willingness to engage with formal law, women who have taken these trainings still struggled to access meaningful justice through the courts, and sometimes face significant stigma and pushback from the communities for reporting (Lake, 2018). Despite these difficulties, the majority of women Lake (2018) spoke with did not regretting reporting and pursuing formal justice as they believed it was important for securing a more gender-just future for their communities. This demonstrates the power of legal consciousness building, alongside the social tensions and frictions with existing customary law and norms.

Rule of law building initiatives have endeavoured to build legal consciousness and a reliance on liberal order in post-conflict states, but often with mixed results (Sesay, 2019). Rule-of-law building projects can concretize unequal power systems and differential access to justice by disempowering customary/local legal systems while increasing the power of elites. This reduces opportunities for marginalized people to obtain any form of justice or recognition of harms suffered, especially if the perpetrator is comparatively powerful in the community (Sesay, 2019; Tamanaha, 2021). While customary law needn't and should not be fetishized in this context, and indeed, holds limited opportunity for gender-just responses (Lake et al 2016), disempowerment of customary systems without meaningful and accessible alternatives simply reduces access to any form of justice, liberal or customary.

Attempts to hold armed actors accountable for violence are sometimes coopted by international actors, as in the Mihonya case described above. At other times, different governing

forces may work together to achieve justice, as in the Minova trials between FARDC, the Congolese state, and MONUSCO. The Minova trials, with their limited prosecutions and rife allegations of miscarriage of justice, are positioned as failing “in spite of” engagement by supposedly highly qualified international actors (Human Rights Watch, 2015). It is comparatively less common to consider that these trials may “fail” because of the entanglements of different institutions and actors holding very different justice priorities.

Across systems, we can consider how the visibility and performativity of law is paramount in justice exercises. During the Ntaganda trial at the ICC, proceedings were regularly shown via video streaming in affected communities in Bunia province, reminiscent of efforts by the Special Court for Sierra Leone to localize trial proceedings (Anders, 2016). Ultimately, however, Ntaganda remained in The Hague with only select victim-witnesses and witnesses participating in person and the rest of the communities impacted watching from over 6,000 kilometres away. Focused empirical research into the interactions and frictions between these systems is valuable to better understand how community members relate to the accessibility, individual vs group accountability, and outcomes of these trials and to better understand their complex legal consciousness. The one trial, one defendant model of the ICC sharply differs from military tribunals holding sometimes dozens of alleged perpetrators to account simultaneously, and from customary justice mechanisms wherein alleged perpetrators and victims, along with their families, may sit together to discuss appropriate retribution⁵².

MONUSCO, Legal Plurality, and Accountability

MONUSCO contributes its own legalities to this pluralised context. This is partially through its institutional policies that act in a quasi-legal fashion, as discussed in the introduction and chapter 4, and is further entrenched through the operations of the Status of Forces Agreements underpinning and regulating states' contributions of peacekeeping troops. SOFAs keep countries' troops largely within their own military's jurisdiction regardless of where they are deployed. In effect, this means troops carry their country's national military laws and justice systems with them into peacekeeping missions and remain largely under their own legal system. Differences in how SEA is considered, under what legal system it falls, and how the investigation and any subsequent trial/tribunal/disciplinary action is taken vary based on the TCC Legal Framework. For example, Canada deploys National Investigative Officers with each contingent. NIOs are responsible for investigating any allegations against service members. South Africa, one of the highest troop contributing countries to MONUSCO, used to follow a similar model but then these NIOs were occasionally implicated in SEA themselves and so it now deploys after the fact (a context explained within the legal framework itself). South Africa also holds court martials in cases of alleged SEA, sometimes in the community the offence was said to be committed in. South Africa has detailed parameters around what offences can be charged under which acts and system (military justice vs criminal charges):

After the Senior Prosecutor determined that a prima facie case of SEA is present, the alleged offender's unit will be instructed to charge the member with SEA. Any person of higher rank or of an equal rank, but senior by virtue of appointment to the alleged offender, may charge the alleged offender for SEA. Military prosecution counsel will prosecute the matter in the military court.

Military justice

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.

Uruguay does not hold court martials in times of peace (within Uruguay). Uruguay offers comparatively vague consideration of who can charge in what instances within their Framework:

Sexual Exploitation and Abuse acts only constitute a crime under the Uruguayan Law if they involve any sexual crime prescribed in the Uruguayan Criminal Code (rape, assault). Uruguayan civilian judges can bring charges for said crimes, based on the preliminary investigations held in the mission area regarding Sexual Exploitation and Abuse. On the other hand, SEA acts violate military directives regarding fraternization with local people and the prohibition to have sexual relations with them, and as such, they are prosecuted in the Military Justice.

Military Justice

Uruguayan Military Justice applies strictly to military crimes. An Officer of the Uruguayan Contingent is appointed as a Military Justice representative with full powers to act in preliminary findings of a court martial.

The differences in procedure, avenues for investigation, sites and opportunities for court martials or trials, and understanding of what constitutes a criminal versus disciplinary offence vary significantly between TCCs. Thus, a survivor's chances of obtaining legal justice depend more on the nationality of the offender than on the quality of evidence against him or the nature of the harm suffered.

While not explicitly discussing jurisdictional issues, some women expressed preference for certain contingents over others given higher levels of support and better community relations:

As you know in all the contingents, Senegalese were so good to everyone when they arrived here. If you live with a Senegalese, you are fortunate because he will give you everything, provide you with school fees of your children--they are the best to live with. If you are walking by, and you meet a Senegalese is eating, he can call you. He can give you beer when they are throwing a party. When they go back to theirs, young girls and women regret.

But if they return here, girls and women will be happy. The Senegalese contingent is best one everyone likes in here. (woman, 35-44, Kisangani)

I was living with a MONUSCO agent from Senegal when that contingent came here. I was living very well with them; he even accepted to pay the school fees of my children I had before I met him. Plus, he accepted to live with me even though my mother was also around there. I was happy to know. When he went back, Our life changed. That is why I often pray for MONUSCO agents to return especially the Senegalese so as to live again with them. They were helping us so much. These people from Senegal were helping even gentlemen here who had difficulty buying clothes. They were providing them with clothes. They helped so many people. Right before, I had a meeting with that Senegalese, I had a husband with whom we had 4 children, but he left me with them. When I was living with that Senegalese, he was paying the school fees of the children. he was feeding them without discrimination. Our life was ok. People were thinking that that man was the father of all the 4 children because he was supporting everyone of them. (woman, 35-44, Kisangani)

As a Congolese girl, I am talking about the behavior of my fellow friends. As far as Congolese girls are concerned, there are some of our girls who are now in Senegal⁵³. According to the goodness of Senegalese, many girls who had children with them went to Senegal. My parents said if I die there, who will bury me? That is why they didn't allow me to go, but I am waiting for those people to come because we have their children. I hope I will land in Senegal when they come here. (woman, 35-44, Kisangani)

There have been very few allegations made against Senegalese peacekeepers serving in MONUSCO (6 between 2015 and 2022), despite their comparatively high representation in the SenseMaker data. Given the content of the stories involving Senegalese peacekeepers, women are unlikely to report given that they receive higher levels of support and generally have more positive relations than with peacekeepers from other countries. This would need to be explored more systematically to uncover a 'why'. What is interesting here, however, is the interplay between women's choices and experiences in who they sexually engage with and the outcomes of these interactions. This is determined by a combination of interpersonal and individual factors with legal

⁵³ It would be fascinating to follow up on stories of women who travelled to the peacekeepers' home country. It is not known how many women have done so or what their experiences are.

and procedural considerations around framing and responses to ‘SEA’ by the troop contributing country.

When considering the SenseMaker data from women who shared a first-person story, only 45 of 215 (21%) knew/shared the nationality of the peacekeeper involved in the story. While uniformed police officers’ and military personnel’s national flag is on their uniform, the woman would only know the nationality if he told her (and he may or may not have been honest) and/or she recognized and remembered the flag. The CDT can sometimes determine nationality based on location, circumstantial details, description, etc., but in many other cases this is not possible. Even if the contingent is recognized, the individual would still need to be identified and may no longer be present in the community. This need not be the basis of support from the UN, however, as individual accountability is not necessary for women to access support via the Trust Fund⁵⁴. Further, policies and protocols have been used at times to establish paternity, regardless of whether the peacekeeper remains deployed in the area:

I am an activist of women rights defense. Given the framework of violence and violations perpetrated to girls and women, at a given moment, 12 girls had been identified among the girls living in the vicinity of MONUSCO camp of Mavivi having had intimate relations and other having kids with MONUSCO agents. We made some representations to MONUSCO section in charge of Discipline and conduct. They told us that they know the case of those 12 women that claim their indemnization for what happened to them. They deepened the research in order to know which children belonged to MONUSCO soldiers, and which MONUSCO agents were those responsible. They came to a conclusion that 4 children were really MONUSCO soldiers' after DNA test and the other 8 cases were still under analysis. Among them, some MONUSCO agents were getting false names of MONUSCO agents while they were having intimate relations with them. Those names were not found in the database of MONUSCO while those women went to look for them. Thanks to this advocacy we are having with MONUSCO, those children and women will benefit care and something from MONUSCO. (Female, 25-34, Beni)

⁵⁴ As will be discussed in the next chapter, access to Trust Fund supports are not contingent on peacekeeper paternity having been established or an allegation being substantiated. Many beneficiaries of Trust Fund programs are not survivors of SEA and the Trust Fund operates as much as a site of prevention as of redress.

As the above participant makes clear, productive engagement between community-based organizations and MONUSCO has the potential to secure support for PKFC and their mothers, but this is a long and complicated process. It seems that MONUSCO already knew about the 12 women's cases, but it was through the CSOs engagement that they followed through with the investigation. What is further revealed in this account is the length timeframe between MONUSCO receiving an allegation, the completion of an investigation, and some form of outcome. As stated, 8 women were still waiting the results of their DNA test. It seems the other 4, whose paternity cases were confirmed, had not yet received support: they 'will benefit', not 'did benefit'.

Issues of jurisdiction proved confusing for some participants in the SenseMaker research who wanted to report peacekeeper sexual violence to local authorities or questioned why the United Nations did not put offending peacekeepers on trial or participate in the domestic courts doing so:

The story I know is about the guys of Monusco. It was once in a bar commonly called [redacted]. It was near the market of Monusco, Where there were a bar and a hotel where two militaries of Monusco loved a young lady who was not a minor. They got into a bedroom. They had sexual relationship with the first one and then with the second one. One of them gave her 8\$. She was (dis)satisfied with the payment. She called the police. The policemen came and arrested the two guys of Monusco. They were taken to a police station called "Pic". One of the UN militaries called his boss. The boss came to assist them and the case was closed. They were promptly freed without any trial. The young lady was shameful and blamed because she accepted to have sexual relationship with two people without signing any contract⁵⁵. It was ridiculous for local people and the lady when the two UN military were liberated. This is what I had to tell you. (18-24, Male, Bunia/Bukavu)

The above quote demonstrates that the community consensus was that the peacekeepers had committed an inexcusable offense and should be punished. Their release without trial or

⁵⁵ It is not clear what sort of contract is being referred to here. I interpret it as, perhaps, an agreement for a set amount of money in advance but that is only a guess.

punishment is seen as an injustice. This did not prevent the young woman in the story from being stigmatized, but it does indicate that the community was unhappy with the lack of accountability for the peacekeepers. The police arresting the peacekeepers further demonstrate tensions between what local law enforcement consider their duty and responsibility, i.e. the protection of the rights of this young woman, and the limitations imposed by the UN system. Local law enforcement was comparatively disempowered by the authority of the UN ‘bosses’ who had the right to free their servicemen from Congolese custody. It is not clear what the police were planning to charge the peacekeepers with, whether it was a sexual assault related offense, a breach of contract, or some other criminal category. Interestingly, the exact ‘crime’ seems less important for the narrator and perhaps for the woman and the police than the sense that a violation or abuse had occurred and that the peacekeepers should be punished for it. Importantly, they position this punishment as appropriately resting with the Congolese police. MONUSCO’s authority here was normatively rejected, but, practically, there was nothing that could be done. In this case, we see how attempts to exercise accountability did not simply recede, but were actively pushed back by the jurisdictional operations of the peacekeepers’ home country, operating through the UN system.

In some instances, strategies to enlist support of local law enforcement proved effective. Participants in the focus group discussion revealed that, in instances where a woman wants money from a peacekeeper who is not forthcoming with support, she has the option to ask local police for help. In this approach, the police officer apparently visits the peacekeeper and threatens arrest if money is not paid to the woman. Though not explicitly stated, I assume the officer gets a share. When the peacekeeper has no money to give, the ‘commander’ (i.e. a superior officer) may pay. This did not appear to be an isolated incident: when one woman

described this scenario, others nodded in agreement and there seemed general agreement that this was often a useful strategy. It is not clear if the peacekeeper actually believed he could be arrested by a Congolese police officer, which would demonstrate a deep lack of understanding of their Status of Forces Agreement⁵⁶ and the legal basis by which he serves in the DRC, or if he is instead concerned about reporting and escalation were he not to pay. This system is operating as informal law; in the absence of official systems or structures for women (and the police) to access the funds they feel they are entitled to, they have developed a strategy that is accepted, or at least submitted to, by comparatively more powerful actors i.e. the peacekeepers. Drawing on the authority and force of law via the police and their likely concerns with formal disciplinary actions, the peacekeepers acquiesce to the women's demands. This system demonstrates how, in the absence of reliable formal structures working in the interests of marginalized people, new systems and relations are developed in relation to law (i.e. by invoking law's authority).

Anti-Impunity and Legal Accountability

Responses to sexual violence in conflict have largely emphasized combatting impunity as key to preventing future violations (Houge & Lohne, 2016; Engel, 2020). This approach dominates the Women, Peace and Security UNSCRs on weaponized and strategic rape, and underscores support for international criminal law's elaboration of rape and other forms of sexual violence as war crimes and crimes against humanity. Despite recent high-profile convictions for sexual crimes at the International Criminal Court (See *prosecutor v Ongwen*) and the large amount of funding dedicated to increasing legal accountability for sexual violence, convictions have been notoriously difficult to obtain and uphold (see, for example, the acquittal for sexual violence

⁵⁶ SOFAs dictate the terms and protections with which peacekeepers serve in a mission. This is the document that prevents prosecution by the host state and retain jurisdictional authority by the peacekeepers' home state/military. Please see Appendix C.

crimes in the ICC cases *prosecutor v. Katanga* and the overturning on appeal in *prosecutor v. Bemba*). Feminist scholars critical of international criminal law approaches to sexual violence have argued that the individualized focus of criminal prosecutions detracts from the structural conditions that produce widespread sexual violence in times of war and relative peace (Durbach & Chappell, 2014; Buss, 2009). There have also been important arguments within Transitional Justice research that consider international criminal cases as too often coming at the expense of wider ranging and broader measures to establish sustainable peace and different forms of justice (Kersten, 2016; Sriram, 2007). Despite these important critiques, there is normative value in recognizing and insisting upon accountability for grave crimes at the international level, especially for violations that remain highly stigmatized and indicative of deep inequalities (Bunting, Tasker & Lockhart, 2021).

There has not been the same depth of engagement with the value, strengths, and drawbacks in attempts to secure legal accountability for sexual offenses committed by peacekeepers as for other sexual violence in conflict contexts. Most academic literature focuses on the best ways to maximize legal accountability, with proposals for enhanced employment of international human rights law (Freedman, 2018; Mudgway, 2018; Sutura, 2020) or international criminal law (Burke, 2014; O'Brien, 2011) in cases of sexual exploitation and abuse by peacekeepers. Mudgway proposes a hybrid court mechanism to better address abuses by UN personnel by removing investigators' conflicts of interest and localizing procedures. Humanitarian news agency The New Humanitarian has repeatedly called for increased legal accountability for peacekeepers (and humanitarian workers), and the Code Blue Campaign (a sub-organization of Aids Free World) is dedicated to increasing legal responses to UN perpetrated SEA, including through their advocacy for a special court mechanism based on a

similar logic to the hybridized model proposed by Mudgway (and elaborated on in the conclusion). In contrast to critiques of the predominance of legalized responses to rape in war (Engle, 2020), ‘SEA’ does not have a clear positioning within international law. As an umbrella term capturing a wide range of acts, some criminal and some not, ‘SEA’ as a category is not actionable or legible within international law. Sexual exploitation and sexual abuse are violations of human rights based on the recognition of gendered violence as counter to established human rights obligations (CEDAW General Recommendation 35, Sutera, 2020). Sexual violence which includes rape, sexual slavery or torture committed by peacekeepers violates international criminal law as defined in the Rome Statute as well, of course, as domestic criminal law in all states. The argument for these cases to be tried at the International Criminal Court, however, seem unlikely to succeed, given the court’s mandate as applying to the gravest and most widespread violations. Despite the high levels of violence in some cases of peacekeeper perpetrated abuse, there is no case to my knowledge that is likely to reach the threshold of investigation by the ICC. Indeed, these arguments were published shortly after the launch of the Court, before the focus and challenges of prosecuting alleged perpetrators became known.

The most common site of critique regarding legal accountability for peacekeeper SEA is the Status of Forces Agreements underpinning troop participation in peacekeeping missions (Reiz & O’Lear, 2016; Freedman, 2018). As detailed in chapter 4, these agreements provide effective immunity from prosecution by host governments, and the United Nations does not have its own court or other mechanism established to try criminal cases. While it is necessary to critique the SOFAs and the impunity they effectively grant peacekeepers, they are unlikely to be meaningfully revised any time soon. Securing peacekeeping forces for increasingly dangerous

and long-term peacekeeping missions has proven incredibly difficult for the DPKO. The “risk” of increased scrutiny and lack of control over investigations and punishment for peacekeepers found to have committed offences is likely only to decrease participation. Indeed, Burundi has threatened to withdraw their many peacekeepers from missions if the UN repatriates problematic and violent contingents from CAR (Code Blue Campaign). These practical considerations cannot be discounted; while some have argued that UN peacekeeping needs to be seriously overhauled, de-militarized, and to shift reliance from member states to perhaps a standing international force (Curran, 2015), this would obviously demand long term sustained effort that is unlikely to be forthcoming any time soon.⁵⁷

This is not to say that there are not important and meaningful critiques of jurisdictional limitations and dereliction of responsibility between states and the UN for preventing and redressing SEA. However, the dominance of these approaches in the academic, policy, and human rights literatures have not meaningfully engaged with alternative notions of justice and accountability for peacekeeper SEA. Unlike feminist critiques of ICL approaches to CRSV, the lack of a concrete site of legal redress has likely contributed to difficulties in identifying and critically engaging with its processes and effects. Indeed, it was not until the ICC was firmly established and operational that we saw broad critiques of its engagement with and suitability for securing justice for gendered crimes. However, given the difficulties with establishing legal accountability for peacekeeper SEA, the tremendous variations in responses from different member states, and the disconnect between attempts at combatting impunity and community

⁵⁷ This is not to say these are no valuable proposals and critiques; it is necessary to imagine other ways of doing and being to de-essentialize existing arrangements. My point here is simply that these are not viable alternatives to justice reforms.

priorities outlined in this dissertation, perhaps it is time to consider other modes of justice and community recovery that can be more reliably and sustainably secured.

Despite the challenges with securing legal justice for SEA, the UN still emphasizes criminal accountability in its security council resolutions on the issue:

Recalling the primary responsibility of troop-contributing countries to investigate allegations of sexual exploitation and abuse by their personnel and of troop- and police-contributing countries to hold accountable, including through prosecution, where appropriate, their personnel for acts of sexual exploitation and abuse, taking into account due process (UNSCR 2272)

Welcoming the Secretary-General's continued efforts to implement and reinforce the United Nations zero tolerance policy on sexual exploitation and abuse, in particular to strengthen the Organisation's prevention, reporting, enforcement and remedial action in order to promote greater accountability (UNSCR 2272)

Expressing deep concern about the serious and continuous allegations and underreporting of sexual exploitation and abuse by United Nations peacekeepers and non-United Nations forces authorized under a Security Council mandate, including military, civilian and police personnel, and underscoring that sexual exploitation and abuse, among other crimes and forms of serious misconduct, by any such personnel is unacceptable, and *commending* the troop- and police-contributing countries that have taken steps to prevent, investigate and hold accountable their personnel for acts of sexual exploitation and abuse (UNSCR 2436)

In the first excerpt from UNSCR 2272 and the excerpt from UNSCR 2436, we see the focus for criminal responsibility placed squarely on troop- and police-contributing countries, which is very much in line with the SOFAs and general jurisdictional responsibility. In the second 2272 quote, we see a policy orientation that promotes an unspecified accountability. Given the parameters of the zero-tolerance policy combined with the UN's parameters, accountability here could range from administrative duty, withheld pay, repatriation, and blocking from future missions. The United Nations as an organisation does not, as established, have any criminal jurisdiction over its peacekeepers and as such the promotion of criminal accountability is placed on the TCC. The

UN can and does support the TCC in its investigations by assigning investigative officers, providing contextual information, resources, and travel support, but that is the extent of its ability in this regard. MONUSCO CDT personnel expressed some frustration over their limited ability to hold alleged perpetrators legally responsible. While other disciplinary measures such as repatriation and administrative leave were seen as important and the social impacts emphasized⁵⁸, they were presented as a consolation to the ultimate goal of prosecutions.

Reporting and Outcomes: Legal Recessions

Legal NGOs in Goma expressed frustration at the challenges they encounter in encouraging survivors to report and to prevent withdrawal (either formal withdrawal or withdrawal through lack-of follow up) of allegations following a report. It is common for a woman to want to report but when it becomes apparent that the process takes a very long time and that she is unlikely to receive much in the way of material support (as discussed further in chapter 6), women often choose to drop the complaint. Given that these are complaints given to legal NGOs and not directly to MONUSCO, if the survivor rescinds the allegation prior to the NGO reporting it and MONUSCO CDT confirming it, then it would not be included in the official UN statistics. These same lawyers, representing two separate NGOs, stated that women are most likely to make an allegation if there is a paternity claim involved. This was also corroborated by MONUSCO CDT personnel. The reason behind this is material: women need financial support to care for their child. MONUSCO CDT personnel reported that once it is clear that a complainant will not receive cash directly from the father or the UN and that the child

⁵⁸ For example, one official shared that she always thinks about how awkward and uncomfortable it would be for a repatriated peacekeeper to have to explain to his wife why he had been sent home. In this instance, she was referring more to instances of sexual exploitation such as paying for sex rather than sexual abuse.

support claim will need to be filed through the peacekeeper's national court system, most women drop their allegation. This reveals a couple of important findings: firstly, it demonstrates the immediacy of need for women raising PKFC. While the support is necessary, when considering a long and drawn-out process that feels inaccessible or is difficult to understand women prefer to drop the allegation and attempt to secure support elsewhere. It also demonstrates a sharp disconnect between women's expectations and what the UN can offer. For mothers, it would seem obvious that they should have immediate access to the support they need if they have been encouraged to report and they are relatively confident they will be believed. The bureaucracy involved in the complicated legal process required to secure mandated child support does not coincide with women's needs or expectations. When compared to the direct, face to face negotiations often utilized in customary law that some women may be more familiar with (see Lake, 2018 and Dunn, 2016), the process would seem even more opaque.

From the SenseMaker and interview data, it is clear that the vast majority of women have not initiated a formal complaint, despite 45% of interview participants⁵⁹ (27 of 60) knowing at least one way to make an allegation⁶⁰. Knowing how to report and choosing to do so are two different considerations. This provides some insight into participants' legal consciousness: legal consciousness includes decisions *not* to engage law, often because of a lack of faith in a useful outcome, belief that law is not intended to support in these particular cases, or because of competing interests or needs (Engle & Chua, 2019). The below data demonstrates that, of women who did report, almost none received their desired outcome of routine material/financial

⁵⁹ Analysis of the interview data from mothers was completed in collaboration with Katie van der Werf, Annie Bunting, and Susan Bartels.

⁶⁰ MONUSCO does outreach activities about reporting, human rights, and SEA, often in partnership with community-based organizations.

support. This lack of success is likely to be known by other women in the community and may act as a deterrent to future reporting.

Of 215 first person SenseMaker narratives from women, only 5 shared that they had attempted to report the sexual interaction/pregnancy. Of these, 3 stated explicitly that they attempted to report to MONUSCO:

I was a pupil; I did not keep up with my studies because of not being able to pay. Due to that, I was spending my day at the camp of MONUSCO. As I used to be there at the camp of Tanzanians. One MONUSCO agent fell in love with me, then we started going out together every Friday and Saturday. He used to take to Goma, and some other times staying at MUBAMBIRO in the pastures not far from their camp. Finally, I became pregnant of him, and the man went away. With that situation, as I was not able to cover the needs, I went to accuse him at their office, but some times, they could send me away, and some other times they could give me food up to the time I delivered. They even kept providing my child with some food. After such a long time, I could not be able to be received, Fortunately, we met this association which was in charge of teaching handcrafts, so I dealt with dressmaking so as to get rid of prostitution. Here, thanks to what they taught me, I can now embroid clothes. But as far as the Tanzanian is concerned, we do not talk over the phone anymore, and I do not even know where he is. Formerly he could talk to me. (Girl, 13-17, Goma)

I was invited to a party with my son⁶¹. At a certain point, there was a party atmosphere; at the dance floor I saw a man coming close to me and started dancing with me. We gave each other the phone numbers. Two weeks later, he called me and arranged an appointment. We dated and had a long talk. Later, it was my turn to see him; we met sexually and got pregnant. My parents were informed that an agent of Monusco made me pregnant. My family called him out for a talk. He promised to give the dowry and to marry me. I realized later that he was a married man father of seven children. He made me his second wife. We shared the same house with his wife. As I was too young to be not only married but also a second wife my family decided to take me away from that house and I returned home. He deceived to give the dowry to my parents. **We informed Monusco** but it was in collusion with him. Since then, I developed a serious hatred against Monusco. (Woman, 18-24, Bunia)

He deceived me, after deceiving me; amazingly, I realized that I had slept with him already. He was taking care of me he was still here. I appeared in court and I was fired from Monusco. He told me he will be giving me 50\$ US. Unfortunately, after 3 months

⁶¹ Given the context and her sharing that she was too young to be a wife, it is likely that “son” here is a mistranslation.

he was asked to move for rotation. When I went to Monusco, they told me he had gone, there's no money to give you. My Luck had gone. I kept my pregnancy to term. I was abandoned that now I'm living with my grandmother at hers. The individual who used to give me that money, the 50\$ US said the money is no longer sent. I can't terminate the pregnancy. The man went away and stopped sending money and we don't communicate anymore. (Woman, 18-24, Goma)

These last two women quoted emphasized that they were “deceived” by the peacekeeper. The third woman expresses dismay that she had slept with the peacekeeper, raising questions as to whether she was perhaps raped while under the influence of drugs or alcohol; unfortunately, we cannot be certain. Both involved agreed upon payments (a dowry, \$50) but when these were not paid the women attempted, unsuccessfully, to report to MONUSCO. Despite their reporting, they did not access routinized financial or material support. These stories are notable for further understanding why women do or do not report; in these cases, there was a direct reneging of an agreed upon payment, perhaps a more easily identifiable wrong committed by the peacekeeper that led women to feel empowered to report the offense. The first young woman was only 13-17 at the time of the survey. It is notable that she does not mention any attempts by the organization supporting her to pursue criminal charges against the peacekeeper despite his clearly having broken the law by sexually engaging with a young teenager. Here, livelihood support seems to ‘stand in’ for accountability. I explore this tension further in chapter 6.

21 out of 60 interview respondents reported their child to someone in MONUSCO. The actor most often reported to was a contingent member of the peacekeeper father. Of the 4 women interviewed who reported having been raped (here, I am not including statutory rape) 2 reported the violence to MONUSCO. None of these women received regular, systematic support or a criminal accountability outcome. 7 women received irregular financial support, including food, temporary school fees for children, or cash from contingent commanders, contingent members,

or the peacekeeper himself. There is no evidence that this compensation was known about by or commissioned through the CDT. Rather, it seems these were “under the table” supports (Tasker et al., forthcoming). This finding was common across the SenseMaker narratives as well, and was recognized by CDT staff. Thus, it appears that direct and informal/irregular financial support operates as a norm for both affected women and peacekeepers, and is a relied upon form of compensation for a variety of sexual interactions, including sexual assault.

The March 2020 focus group discussion (FGD) revealed an ambivalence bordering on disdain for reporting sexual interactions with peacekeepers. Women indicated through metaphor that peacekeepers sometimes pay more for sex than local men but sometimes they are selfish and do not. Breaking down the differences between peacekeepers and Congolese men was particularly important to one woman, the most vocal of the group, who explained that it’s very normal to have a “sugar daddy” and this person could be White or Black, that some Congolese men are wealthy and will give women a lot of money, and that if they were not expected to report such interactions occurring with Congolese men it was insensible to expect it for peacekeepers: : “No one cares if it’s with a Congolese, so why would we report when it’s with MONUSCO?”. When asked specifically about sex with young girls, the women were forceful in their response, explaining that sex with girls under the age of 18 is illegal in DRC and that the law is enforced through prison time. They insisted that Congolese men who have sex with underage girls are regularly put in prison by police. When asked about rape, the women said that peacekeepers do not rape women in DRC, that it has never happened and would never happen. However, if it did happen, the women would like to beat and stone the peacekeeper, especially if the victim was young. This direct, interpersonal response to violence was also employed in (supposedly hypothetical) cases where a woman had sex with a peacekeeper and wanted money

from him. Rather than reporting to the UN which, as established, the women all considered a ridiculous notion, they would instead turn to local police to help. Police officers would visit the peacekeeper and demand he pay a certain sum to the woman. It was explained that if he did not have any money, his contingent members or his commander could pay. The police officer would extort the money from the peacekeeper by threatening to arrest him. It was not specified if the police officer would be given a share of the funds received for his involvement, but it is likely that would be the arrangement⁶². This is particularly interesting when considered through a legal pluralism and legal mobilization lens. On the one hand, women reject the appropriateness of turning to the UN's law-like systems in these cases, expressing disdain for the expectation that they report and pursue accountability measures for peacekeepers, etc.). At the same time, they are perfectly willing to invoke the authority and power of formal law via the police to directly accomplish the outcome they seek. The fact that this approach is effective despite the Congolese police having no jurisdiction over UN peacekeepers in these cases demonstrates that, for peacekeepers, the reputational and disciplinary risk of the police officer or the woman involved making a formal complaint is sufficient to elicit payment. It may perhaps also be true that the peacekeeper does not know he is immune from arrest and prosecution for 'SEA' by Congolese authorities. Either way, the authority of the police increases the stakes beyond what individual women could leverage alone and helps them secure their desired outcome.

Uneven Outcomes

⁶² Police officers regularly augment their low salaries by "fining" individuals for real or manufactured offenses. I myself had to pay a "fine" while in Goma in 2018 after being stopped on the side of the road with two colleagues and our driver. The exact offense we were fined for was not clearly specified but had something to with irregularities with our vehicle.

Stories of sexual exploitation committed against women employed by MONUSCO were regularly shared by SenseMaker participants not directly affected:

I heard once, but I didn't experience. A MONUSCO agent who was having intimate relations with his housemaid at breacktime. That is it. Life of the girl changed a little bit because she was not only receiving her salary, but also the surplus the man was giving her for the intercourse she used to have with her boss. (Man, 18-24, Bukavu)

This narrative illustrates a sense that women may benefit financially from MONUSCO in different ways. The woman in the story was receiving a salary and also receiving additional money because of the sexual relationship she was engaged in. From the qualitative interviews with mothers of PKFC, 8 women received employment following disclosure of their PKFC. This was most often secured after attempts to report the child. There is no evidence within the interviews that this was a systematic or registered form of support; rather, like other supports discussed above, employment was based on the good will of the commander or another MONUSCO member. None of these women received systematic support or legal accountability. Three women interviewed from Beni all stated that representatives from MONUSCO came to collect and test the DNA of their PKFC and all were offered employment on the base. However, none received information on the outcomes of those tests or were encouraged to take the matter further and pursue child support claims.

This was a common sentiment; if women who had sex with peacekeepers were compensated well, the interactions seemed to be considered positively whereas women who were not compensated were looked down upon. This pattern demonstrates an acceptance of sexual relations with peacekeepers that are in the best interest of the women involved; interactions that worsen her conditions are considered less legitimate, exploitative or abusive. This perception

directly contradicts the zero-tolerance policy: employment or exchange of money for sex is strictly forbidden and is always considered an abuse of trust and power by the UN. Here then, we can see how the establishment of the ZTP fails to connect to community priorities and perceptions of norms and desirable outcomes in sexual interactions. Beyond the policy, in some of these cases criminal law may be relevant also (cases of sex with minors, for example, or sex work/prostitution depending on the TCC). Yet it is unlikely women who receive financial or material benefit would consider pursuing criminal charges, as demonstrated by the FGD participants and the SenseMaker data.

Across stories affected women shared, a preference for direct, financial support was clear. Whether lack of knowledge about how to formally report was a contributing factor in this varied: women in the FGD claimed you were to make a formal report of peacekeeper SEA to the local police, while 27 of 60 mothers of PKFC indicated they knew how to report their pregnancy/child and indicated a viable way of doing so (reporting to the UN, to another peacekeeper, to a local organization, to an international organization (the most commonly cited was MSF), or to a hospital). None of the participants in any source mentioned the complaint boxes (wooden boxes with slots in which anyone can submit a written complaint about the mission) that the UN has increasingly used since 2015. Of women who told a first-person story, 159 of 215 had either never attended school or had only some primary education. For these women, a box requiring a written complaint may be inaccessible⁶³. It also very possible, based on previously mentioned conversation with NGO based lawyers, that the knowledge that women are unlikely to receive cash from the UN as a result of reporting may well be an important reason

⁶³ Victims Rights Advocate Jane Connors admitted as much during a 2021 presentation with VOICE and Global Women's Institute wherein she stated that low literacy levels and varied language skills between local community members and UN staff are major barriers to effectively gathering written allegations and that the UN was in the process of re-evaluating this approach.

as to why women are relatively unlikely to report, alongside the given reason of FGD participants that it just does not make sense, practically or logically, to report peacekeepers for behaviour one would not consider reporting local men for.

More concerning were stories shared by interview participants who tried to report and either did not receive timely updates or had meetings cancelled so they dropped the matter:

I reported this problem to his officials, and they promised that they would relay this information to whom it might concern. They listened to us, and seemed to sympathize with us... All the ladies who had children with their employees were requested to meet quite often in order to collect our pleas... However, whenever we showed up for the meeting, it was always put off again until we got discouraged and dropped it. (Int. 28)

My family and I followed up at MONUSCO, but we got disappointed. They were only moving us around with the case. (Int. 55)

Both of these women engaged directly with MONUSCO in their attempts to report and were initially encouraged in these efforts, but the lack of follow through and consistent communication led them to eventually give up their attempts to seek redress. Some women tried to report but did not have their allegations formally registered. Some received informal supports as discussed above. One woman attempted to report a child only to be told to “take good care of him” (Int. 88). This lack of consistency or procedural follow through is indicative of a lack of oversight regarding “SEA’ cases, and, perhaps, a sense of impunity for the MONUSCO personnel themselves who may be confident they can avoid the work required of them to properly register and follow up on reports. Importantly, of the 27 mothers interviewed who both knew they could report their pregnancy and knew of at least one viable way to do so, only 5 did not make any attempt to report. All 27 of these women had children fathered by peacekeepers, perhaps lending support to the belief expressed by MONUSCO CDT personnel and lawyers with

NGOs that women are more likely to report if they are seeking support for a child. Importantly, it is not known *who* the women attempted to report to or how long it took for their cases to be followed up on. It is possible that what was considered an unacceptable length of time to the women was within UN procedures. This would indicate another important disconnect between MONUSCO personnel and affected women, demonstrating important and uncommunicated differences in their conceptions of timeliness, expectations, and justice and could be an important point for improved communications by UN outreach.

There were significantly fewer interviews with women who had experienced SEA but did not have a child (mothers, n= 58; SEA but no child, n=13) and there were no cases of rape among women in the “SEA’, no child” interview category. Women in this interview category did express deep hurt at being left or abandoned by their former boyfriend. One woman recounted having had an abortion (a surprising, unprompted disclosure given that abortion in the DRC is illegal except in cases of rape and discussed further later in this chapter), and one woman explained her deep poverty as the driving factor behind her choice to engage in sex work with peacekeepers. All of the relationships described were transactional, including the long-term relationships (the longest of which lasted two years). Exchange included food and sex. Here, food should not be confused with meals in restaurants or similar, but consisted of daily necessities such as bread⁶⁴. One woman was around 12 years old when she had paid sex with a peacekeeper; another was engaging in sex work with many members of the Tanzanian contingent. She did not consider reporting her pregnancy because she knew she would be expected to identify the individual father and she would be unable to do so. None of these

⁶⁴ Oldenburg (2015) explores transactional dating relationships, and conversations with two RAs revealed the desirability of having a peace keepers boyfriend for women who were interested in receiving regular gifts, meals out, hotel stays etc. This motivation was not significantly represented in this study, though.

women had reported or indicated they wanted to report and none explicitly classified their experiences as violent.⁶⁵

Differences in age-related norms may well play a strong role in girls and young women not reporting, with older adolescents perhaps not considering sex with peacekeepers to be a violation of their rights or a crime. In 2017-2018, 29.1% of women who completed a DRC census stated they were married or ‘in a union’ prior to age 18 (Immigration and Refugee Board of Canada, 2021). This does not mean that age is considered unimportant by participants or their families. As discussed above, FGD participants expressed anger over the idea of a peacekeeper (or anyone) having sex with a young girl and described this as rape. In the SenseMaker quotes shared on page 20, a young participant describes her parents considering her too young to be a second wife and so brought her home when this status was revealed. Both of these examples indicate customary norms around age, sex, consent, and marriage that, while not neatly coinciding with definitions put forward in the UNCRC and adopted by the UN, have important normative influence.

Intersectional identity factors, including age, socio-economic status, education level etc., are likely play an impact in who attempts to report and who does not. Lake (2018), as discussed above, found that women were more likely to report sexual violence (not perpetrated by peacekeepers) when they had received some education or training on legal rights and maintained a belief in the promise of legalistic justice even when their personal cases did not yield desired results. Because so few women from the SenseMaker research stated attempts at reporting and interview participants did not fill out a demographic questionnaire, it is hard to determine what

⁶⁵ There were some overall positive stories in this cohort wherein women describe consensual relationships they benefitted from emotionally, sexually, and financially. These are discussed in more detail in chapter 6.

identity or experiential factors may have set them apart from women who did not report. This would be an important area for follow-up research.

Throughout this complex legal terrain, we have seen differing mobilizations of law for accountability and redress. While NGOs, both local and international, emphasize legal accountability and anti-impunity as the best source of deterrence, prevention, and justice for SEA, jurisdictional and practical limitations abound, making securing of criminal prosecutions few and far between. Important disconnects between UN procedure and women's needs reduce SEA reporting, and the uneven and uncertain outcomes for women who do report further evidence challenges in accessing support and accountability. Despite a hyper-emphasis by international actors on combatting impunity and securing legal responses, law, in all its pluralized forms, recedes in cases of SEA. This recession is due either to jurisdictional limitations, inaccessibility or unsuitability of UN procedures, or women's rejection of criminal justice framings of their sexual interactions with peacekeepers. This latter recession indicates alternative framings of harm and justice that do not fit within formal law formulations. The important question arising from the data, then, lies in whether the focus on legalistic models of justice are not just challenging and perhaps unfeasible in many cases, but whether they are the type of redress desired by survivors themselves. In a space where law seems at times hyperactive and at other times proves inaccessible, it is worthwhile to query exactly how and when it is useful and viable, and when other modes of justice are preferable and hold better potential for meaningful outcomes.

Chapter 6: Harm and Justice

Over the past 15 years, academics, NGOs, and UN commissioned inquiries have grappled with how to prevent sexual exploitation and abuse, combat impunity, and enhance accountability and justice when SEA occurs. Legal thinkers have proposed invocations of international criminal law, human rights, and/or humanitarian law (Freedman, 2018; O'Brien, 2011; Burke, 2014; Deschamps, 2015) to redress sexual violence crimes committed by UN personnel on mission. Others have argued for a special or hybridized court model, removing criminal prosecutions for SEA as the sole jurisdiction of member states (Code Blue Campaign; Mudgway 2018, elaborated in Conclusion). While official responses to prevention and accountability for sexual exploitation and abuse are in serious need of improvement, there are equally concerning barriers to reporting and accessing redress and implementation issues, as explored in chapters 4 and 5. This chapter moves beyond these gaps and technical issues of implementation, instead introducing and exploring different conceptions of harm, morality, legality, and justice between the UN and community members. As also discussed in Chapters 4 and 5, the data shows that sexual exploitation and abuse causes harm to individual women and to communities that is not captured or legible in current UN policy approaches, even if applied perfectly in all situations. These harms do not only exacerbate problematic gaps but demonstrate the deep disjuncture between how the UN frames and responds to 'SEA' and what is expressed by community members as necessary to prevent, mitigate, and redress harms.

By taking seriously feminist conceptions of harm (Aoláin, 2009, as discussed in chapters 1 & 2) and the importance of considering sexual harms as existing on a continuum within structurally violent contexts, we achieve a more nuanced and useful understanding of women's experiences of 'SEA' and how these relate to other violences they endure. Women who participated in this research consistently emphasized their material needs and expressed deep concern and regret about not being able to afford school fees or proper food for their peacekeeper-fathered children. Many of these women were pushed into transactional sexual interactions with peacekeepers out of poverty, indicating a cycle of harms in which structural violence and community rejection intersect with exploitation and abuse:

Well, I gave in due to the poverty state we were living in. From his promises to be supporting me, I felt I was doomed to give in to his requests. He used to say everything would be okay later, that is, he would marry me. But that wedding occasion never took place apart from the little money he gave me sometimes. **Was he giving you money regularly or not?** Well, very little indeed. He could give me 10 dollars or 5 sometimes. **How did your family react when they saw you loved that Monusco guy?** They hated me a lot and they even casted me among their children. **So you feel you're much stigmatized currently because of those relations with that Monusco guy?** Yes, I do. **To what extent are you stigmatized and rejected?** They no longer cared about me or support me in anything, reason why I went to meet another local guy who married me and we got a child with him. But owing to great disappointment, and with my big family of four kids, we soon departed and today I'm living my own life somewhere, not with my family. (Int. S14, Bukavu)

To achieve justice and meaningful redress for this suffering, I argue that approaches must incorporate a recognition and reduction of structural violence, mitigation of intergenerational impacts of SEA, and development of more sustainable and gender-just peacebuilding.

Sexual Violence and Sexual Harm

Defining a sexual crime relies on the concepts of sexuality, violation, and consent (Buss, 2009). Rape has long been considered the definitional act of sexual violence, but recent feminist efforts have expanded how courts understand acts and consequences of sexual violence beyond

rape, including sexual torture and mutilation, sexual slavery, forced marriage, and exploitation⁶⁶ (Bunting, Tasker & Lockhart, 2021; Grey, 2019; O'Brien, 2011; Oosterveld, 2009; Buss, 2009, 2014). In arguing crimes of sexual violence outside of rape within international criminal law, prosecutors are required to clearly establish how the acts charged are not subsumed under the international crime of rape or another established sexual violence crime: i.e. it must be clear that elements of the charge go 'beyond' what the charge of rape covers (Oosterveld, Buss). Charges such as forced marriage and sexual slavery include rape, but criminal acts must also be established as extending beyond rape. Rape remains the litmus test of sexual violence in both legal and popular understandings. The focus on rape demonstrates an emphasis on physical violation and lack of consent. Humanitarian and academic efforts have, in recent years, well established the impacts of rape beyond the physical, emphasizing the stigma victim-survivors often face, the psychological and long-term health impacts, and relational effects of rape within families and communities (Baaz and Stern, 2009, 2013; Bunting, 2018; Buss; Lake, 2018; Lake, Muthaka and Walker, 2016; Nordås and Cohen, 2021; 'Bringing Up My Enemy's Child', Refugee Law Project). Indeed, it is these impacts that directly inform understandings of why and how rape is used as a 'weapon of war'. Responses have increasingly focused on holistic care for survivors alongside emphasizing the importance of combating impunity and achieving criminal accountability (Morse, 2021; Houge and Lohne, 2017).

Positioning rape as not only an individualized but also a political act demonstrates an understanding of violence as a social phenomenon, both in motivation and effect. Scholars have endeavoured to position sexual violence, including rape, as occurring on a continuum between

⁶⁶ Please see Symposium in Pursuit of Intersectional Justice at the International Criminal Court: Ongwen amici curiae Submissions from a Feminist Collective of Lawyers and Scholars for recent examples. Accessible at: <http://opiniojuris.org/2022/05/02/symposium-in-pursuit-of-intersectional-justice-at-the-international-criminal-court-ongwen-amici-curiae-submissions-from-a-feminist-collective-of-lawyers-and-scholars/>

conflict and post-conflict contexts: conflict-related sexual violence does not occur in a socio-political vacuum, nor does it resolve with the cessation of hostilities (Sjoberg, 2013; Baines, 2015). Rather, sexual violence in contexts of armed conflict is increasingly recognized as influenced by ‘pre-conflict’ tensions and norms; institutional failings and unequal gender relations, among other factors. These do not resolve based on establishment of ceasefires or peace processes, and widespread sexual violence in conflict may result in a community trauma that worsens gendered violence in the post-conflict period (Jones et al., 2014). These are all important developments in understanding gendered violence but have not consistently translated into policy and legal approaches that address sexual harm as itself occurring on a continuum (Kelly, 1987). This approach explicates the social impacts of sexual violence and the social context which produces sexual violence as being structurally violent itself, beyond driving or exacerbating interpersonal violence. Rather than centring the political and social ‘utility’ of widespread sexual violence, as in rape as a weapon of war framings, or as focusing solely on the individualized harms as in criminal justice approaches, considering various forms of sexualized violence as existing on a continuum of gender-based harms contextualizes all kinds of sexual violence and draws attention to how they relate and reinforce one another. This is positioned within the environment in which these harms occur and the interconnectedness between sexual and other harms is brought to light.

The hyper-emphasis on the ‘sexual’ in women’s experiences of violence in conflict has often obscured how these harms intersect with poverty, displacement, difficulties accessing education, and myriad other forms of gender discrimination. As Berry and Lake (2021) explain, reducing women’s experiences to those which are most spectacularly violent

...results in an ecosystem wherein a global emphasis on conflict-related sexual violence, war widowhood, ethnic cleansing, and other forms of conflict-related violence in aid and

development programming (and the hierarchies that manifest within these categories) invisibilizes the myriad other gendered injustices that manifest far more frequently in women's everyday experiences of both war and peace (Baaz & Stern 2013, Dunn 2016). Troublingly, this emphasis obscures the ways in which interlocking hierarchies of militarism, capitalism, imperialism, and patriarchy are at the root of both spectacular and nonspectacular harm. (Berry & Lake, 2021:469)

Sexual harm cannot be extricated from the complex web of violence women experience in their daily lives, especially in conflict affected regions. Poverty and lack of economic mobility cause immense suffering, with this harm intimately linked to sexual violence. Many women participants in my research explained they were driven to have sex with peacekeepers because of poverty, and these same women found their poverty was worsened as a result of these sexual interactions. Feminist theories of harm recognize the harm of sexual violence as one component of injustice and suffering within structurally violent environments, as established in the introduction (Aolain, 2009). Intersections between structural, political, and interpersonal violence produce a unique set of harms that are not easily redressed, and which transitional justice scholars have long argued need to be better understood and acted upon (Ni Aolain, 2012; Riaño-Alcalá & Baines, 2012). This framing runs counter to 'common sense' understandings of sexual violence in conflict (Engle, 2020) which position sexual violence as individualized and monstrous acts for which only criminal justice measures can act as a deterrent. By positioning sexual exploitation and abuse, and the harms both leading to and resulting from it, on a continuum of gendered and sexual violence, we can better grasp relationships between sexual harm and everyday gendered injustices. This understanding prevents positioning conflict related sexual violence as the 'worst thing possible for a woman' and instead insists upon recognizing interconnections between many different forms and types of gendered violence and their impacts.

During meetings in Goma and Kinshasa in 2020, senior MONUSCO officials expressed to me the view that peacekeeper-perpetrated rape is extremely rare, explaining that ‘SEA’ is almost always related to sex work. In this, a clear distinction was drawn between sexual violence, especially conflict-related sexual violence, and ‘SEA’ which in their view is usually limited to comparatively consensual, if exploitative, encounters. Through my analysis of the SenseMaker and interview data, I have established this perception as both invalid and unhelpful. Here, I argue that sharp distinctions between rape and peacekeeper perpetrated sexual exploitation depicts a fundamental misunderstanding of the causes and consequences of sexual harm, fails to recognize sexual violence as occurring on a continuum, and demonstrates a lack of recognition that the impacts of different modes of sexual violence are often the same. Likewise, conceptions of justice and redress do not necessarily differ for survivors of violent assault and non-criminal sexual exploitation. While criminal law may not be empowered to respond equally to all kinds of sexual offenses and the harms caused, justice need not be limited to state-based legal accountability; for many “SEA” survivors, legal responses alone do not represent meaningful repair and redress.

CRSV and SEA: Hierarchies of Harm

The UN employs numerous categories to differentiate modes of sexual violence. This approach is utilized both within the umbrella term of ‘SEA’, and to separate ‘SEA’ from other forms of sexual violence the UN prioritizes. As stated above, this results on a hierarchization of certain harms over others, with most forms of ‘SEA’ positioned on a low-rung, especially when compared to violence classified as conflict-related sexual violence. Peacekeeping mission mandates have increasingly included specific provisioning for the prevention of and response to conflict-related sexual violence. Preventing sexual and gender-based violence is a central

concern of MONUSCO's current mandate, and is specifically referenced in the resolutions developing the Force Intervention Brigade (UNSCR 2053, 2012; UNSCR 2098, 2013):

Welcoming the efforts of MONUSCO and international partners in delivering training in human rights, child protection and protection from sexual and gender-based violence for Congolese security forces and underlining its importance,

Demands that all armed groups, in particular mutineers of ex-CNDP and M23, the FDLR, the LRA and the Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU), immediately cease all forms of violence and human rights abuses against the civilian population in the Democratic Republic of the Congo, in particular against women and children, including rape and other forms of sexual abuse and child recruitment, and demobilize (UNSCR 2053, 2012)

MONUC/MONUSCO is one of the most influential missions in the increasing shift to mandating prevention and response to CRSV through peacekeeping (Lotze, 2020). Lotze identifies the developing emphasis on combatting CRSV through peacekeeping missions, with the Security Council requiring missions (of which there are currently 5 peacekeeping and 2 special political missions) with CRSV-related mandates to:

establish the required Monitoring, Analysis, and Reporting Arrangements (MARA), to engage with parties to secure time-bound commitments to end CRSV, to support parties to implement these commitments, and to support Security Sector Reform (SSR) efforts to build capacity to address this form of violence. By 2018, all peacekeeping operations with protection of civilians mandates had also established monitoring arrangements and incorporated early warning indicators for CRSV into their protection structures. (2020:537)

A few participants directly criticized MONUSCO's concern with CRSV while their own peacekeepers also engaged in sexual abuse, thus demonstrating how 'SEA' not only undermines the reputation of the mission as a whole (a long-time issue of concern for the UN (see UNSG Special Bulletins on Sexual Exploitation and Abuse 2003;2017)), but specifically undercuts their mandate to prevent and respond to sexual violence, at least for some respondents in this study:

I have a friend of mine who is confined in Muzembe prison because he was accused of rape. He is suffering too much there. These Monusco guys get Congolese arrested when they suspect you of rape. But those Monusco guys do the same. They court and have sex with grown up girls and very young ones/children. Why don't they condemn themselves in this case? That's not good indeed. I am very sorry actually to see Monusco guys to be involved in arresting Congolese rapists, but they remain unpunished when they do it as well. They are even worse than Congolese in the matter. (man, 13-17, Kalemie)

Monusco does nothing here, you may hear gunshots here and there, someone is being attacked but Monusco cannot assist. When people are having political demonstrations for claiming for their rights, sometime they are mistreated and jailed but Monusco people never help. Another issue is rape, we know that Monusco people are the ones who forbid sexual abuse in this area, they usually tell us that we have to report cases of rape to them but we have noticed that they are the ones who often go out for enjoyment with young ladies, people have nick named them "papa Bonheur" which means impolite fathers in sexual disorders. (man, 25-34, Kalemie)

The above quotes demonstrate resentment of MONUSCO's involvement in arresting and receiving reports of sexual violence, positioning these as hypocritical. The second quote also shows a perception that MONUSCO is comparatively unconcerned with rights violations not related to sexual violence while themselves engaging in exploitative behaviour. Combined, for the above participants, MONUSCO is ill-positioned to respond to sexual violence and their authority in responding to sexual violence has been severely undercut by their own behaviours.

Within their enumeration of acts that constitute 'SEA', rape and sexual exploitation of children is understood by MONUSCO personnel and classified by the UN as 'sexual abuse', differentiated from and worse than other forms of sexual exploitation (Goma and Kinshasa, March 2020; UNSG Special Bulletin on SEA, 2003). This is not synonymous with labelling these abusive acts as violence *per se*. This sanitization of language distinguishes between sexual violence committed by armed actors and the 'SEA' committed by peacekeepers, establishing distinctions between the violence peacekeepers aim to prevent, and the exploitation and abuse they perpetrate. This separation circulates throughout UN discourse, most recently manifesting in

the imposed differentiation of children born of sexual violence in conflict and children born of ‘SEA’. In his 2022 report on children born as a result of conflict related sexual violence (CBoCRSV), the UN Secretary-General explicitly places children born as a result of ‘SEA’ as outside the category of CBoCRSV. S.G. Guterres direct readers toward his 2021 special report on SEA for discussion of PKFC (despite very limited consideration of children in this report). Through this redirection, he both differentiates between PKFC and CBoCRSV and survivors of SEA with survivors of CRSV. In some instances, this distinction is sensible: I will not argue that a woman who engaged in a dating or transactional relationship with a peacekeeper for improved social status or out of sexual or romantic desire (see Oldenburg 2015) is in a similar position to a survivor of CRSV. Certainly, there are power imbalances, potential social costs, and the relationship is in violation of MONUSCO’s non-fraternization policy, but it is comparatively consensual in nature (see also Otto, 2007). My research, however, uncovered accounts of children being forced or coerced to engage in degrading sexual acts in exchange for \$1 or some biscuits, women being raped at gunpoint by armed peacekeepers, and humanitarian aid being withheld unless women engage in sexual activity with peacekeepers. It is my position that these acts go well-beyond exploitation, are extremely violent, and should be positioned as acts of CRSV; to fail to do so both misrepresents the nature and gravity of these acts of violence, and the multitude of acts subsumed under the ‘CRSV’ label (Hoover-Green, 2020). Each of these violences were described by participants in the SenseMaker data and/or the qualitative interviews, and none were isolated incidents: each form of violence was described at least twice, in the case of rape at gunpoint, and more than 10 times, in the cases of extreme degradation⁶⁷ for small amounts of money and sex with children in exchange for food. I draw these instances

⁶⁷ I refer readers to chapter 3’s section on ‘violence’ for a discussion of what I consider as ‘extremely degrading’.

forward to highlight the false distinction between CRSV and so-called ‘SEA’ insisted upon by the UN, but further to emphasize that responses to ‘SEA’ cannot take a uniform approach. It is unhelpful to assume that all sexual contact between women and peacekeepers is comparatively consensual or, on the other hand, to conflate transactional sex with violent rape simply because the ‘perpetrators’ of both may be peacekeepers. However, it is equally unhelpful to treat exploitative acts such as food-for sex exchanges as fundamentally distinct from acts of rape by peacekeepers. Each of these result in meaningful, long-term harm for survivors and are acts of extreme violence on the part of the peacekeepers.

Westendorf (2022) writes that, during research in Bosnia, interviews with peacekeepers revealed that ‘SEA’ was considered a low priority compared to conflict related sexual violence, which had yet to be properly addressed. Westendorf argues that SEA can be better addressed by connecting it to the larger Women Peace and Security agenda, which includes significant attention to conflict-related sexual violence. Westendorf identifies ‘SEA’ as having been largely positioned as outside WPS and relatively innocuous when compared to CRSV. Similarly, in conversation with MONUSCO’s Head of Mission (Kinshasa, March, 2020) Zerrougi regularly moved from discussion of SEA to CRSV, not to connect the two but rather to demonstrate the success MONUSCO and FARDC had in addressing and preventing CRSV. It was unclear how she conceived of the relationship between the two, but she distinguished between them even when the perpetrators of CRSV were members of the Congolese military. Considering that military peacekeepers are all active service members of national armies and DRC peacekeepers were repatriated from Central African Republic due to widespread sexual abuse (2017), this seems a dubious distinction.

CRSV is not limited to widespread rape that occurs to advance a militaristic or political aim (i.e. weaponized or tactical rape; ‘rape as a weapon of war’: Baaz and Stern 2016; Nordås and Cohen, 2021; Wood, 2006). Indeed, in the above mentioned 2022 report, the Secretary General details sexual exploitation (not committed by peacekeepers) and trafficking as acts of CRSV, explaining that victims are made vulnerable to these abuses as a result of insecure contexts and armed conflict (p. 1-2). The category of CBoCRSV also applies to children born as a result of rape by any armed actor, not only non-state armed groups; this is how the Security Council cites an estimated 20,000 children born as a result of CRSV in Sierra Leone (UNSC 22-00647 (E)). The distinction between actor, rather than emphasis on the act, seems to only be factored into the report when the actor is a UN peacekeeper. In all other cases, it is the context the violence occurs in (armed conflict) and the act itself (sexual exploitation, rape, etc.) that determines the classification of CRSV. By positioning abuses by peacekeepers as outside or not ‘eligible’ for this label, the UN is simultaneously reinforcing peacekeeper exceptionalism, as already established through their functional immunity within the MOUs and SOFAs, and denying the depth of harms experienced by survivors of so-called SEA.

There is little practical difference between a member of a non-state armed group or a government soldier committing sexual violence and a peacekeeper committing the same act. Given the UN’s status in DRC, the role of MONUSCO in providing protection and humanitarian services, and the special status within international humanitarian law they derive from these activities, sexual violence perpetrated by peacekeepers is arguably all the more egregious (Burke, 2004). Peacekeepers would not be in DRC were it were not for ongoing conflict, MONUSCO peacekeepers are heavily armed with a deployment of 14,000 military personnel. As established in the introduction, the unprecedented mandate to engage in pre-emptive combat activities

alongside FARDC arguably places them in the role of party to the conflict. Therefore, it is neither logical or helpful to differentiate sexual violence committed by MONUSCO peacekeepers as outside the purview or scope of CRSV, or children born as a result of this violence in a category unique and separate from other CBoCRSV⁶⁸.

While CRSV is often identified in the form of mass and/or strategic rape, Hoover Green makes clear that most incidents of CRSV do not take this spectacular form and are less obviously recognized and tracked, including CRSV that takes the form of:

nominally consensual relationships between civilians with very limited resources and soldiers with, relatively speaking, considerable power; this is precisely the dynamic that the (rather euphemistic) term ‘SEA’ is intended to reflect. Similarly, some ‘SEA’ encompasses stereotypical ‘CRSV’ behaviours, such as forcible rape (Hoover Green, 2020: 550)

Hoover Green uses high rates of sexual exploitation and abuse by military peacekeepers to undercut the notion that CRSV is necessarily ‘strategic’ in most contexts. In arguing that ‘SEA’ directly impinges on military goals and yet remains widespread and shares many features of other forms of CRSV, Hoover Green argues for a re-evaluation of the shared motivations and driving factors between SEA and other forms of CRSV. In drawing on research by Wood (2006; 2020) and Nordås and Cohen (2021), we can understand variations in sexual violence and consider sexual violence as a practice rather than a policy, often resulting from a breakdown in command structure and oversight rather than as a defined strategy or tactic of war (Hoover Green, 2020). In this way, the lack of accountability, jurisdictional limitations, and belief in the exceptionality of the DRC (see Kovatch 2016) may all drive ‘SEA’ in ways that are similar to CRSV committed by fragmented non-state armed groups without a clear command structure

⁶⁸ Please see Wagner, Tasker et al. (2022) for a detailed exploration of how PKFC’s experiences relate to those of CBoCRSV.

(Nagel and Doctor, 2020). Here, lessons learned from CRSV research again undercut discriminations between CRSV and ‘SEA’, highlighting instead the importance of working across these manufactured categories to gain insight into the driving factors between and consequences of all forms of sexual violence in conflict.

Rights-Based Approaches to ‘SEA’

Recent promotion of a rights-based approach to support SEA survivors emphasises a justice orientation that recognizes a wrong committed that requires redress (Connors, 2019). This represents a shift from protectionist discourses that position women as vulnerable and in need of ‘saving’, or older framings that did not consider ‘SEA’ as a harm more important than any other conduct issue, focusing on the impacts on the mission rather than on victim-survivors (see Westendorf, 2021). The current rights-based approach contains important framing differences to that of the UN Trust Fund for Victims of Sexual Exploitation and Abuse (discussed below) and other available support programming, despite both being under the purview of the Office of the Victims’ Rights Advocate. A truly victim/survivor-centred and rights-based approach to SEA must stress that SEA is indeed a rights violation (Burke, 2014; Ferstman, 2019, Tasker et al forthcoming), that lack of systematic and sustained support for PKFC is a further rights violation, and that these violations warrant sustained and multifaceted response.

The UN introduced the importance of a rights-based and victim centred approach in the Secretary General’s 2017 report on SEA. This development followed a series of highly publicized and egregious allegations of abuse, including sexual abuse of children in the Central

African Republic by French troops. The CAR allegations prompted a systematic inquiry in 2014/15, led by Marie Deschamps and including Hassan B. Jallow and Yasmin Sooka, into how the allegations were handled, failures of victim protection and the human rights mandate, and the lack of accountability for perpetrators. The inquiry uncovered an over-emphasis on bureaucracy and policy over victim's rights, a serious deficiency in concern for the well-being of the victims, and deep problems in the investigation that would have seriously complicated attempts at accountability if any had been meaningfully pursued⁶⁹. The accused peacekeepers were not operating as part of the UN and were instead part of a French military operation. They worked in tandem with UN peacekeepers, but operated under a distinct mandate. This separation was part of the rationale for the UN's refusal to take responsibility for the case and led to some of the 'passing off' issues uncovered by Deschamps, Jallow and Sooka: officials were certain that the responsibility must lie elsewhere and so moved files from desk to desk rather than taking meaningful action to investigate and protect children from further abuse. Despite this unique context, my research has uncovered similar processes of passing around cases, lack of investigation, and insufficient follow-up, as detailed below and in chapter 5. Deschamps et al. argue that the UN must adopt a harmonized approach to cases of sexual exploitation and abuse by peacekeepers, bringing the human rights framework and SEA policies into tandem to advance the rights of victim-survivors. While there is no specific reference to the Deschamps, Jallow & Sooka report in the Secretary General's 2017 'new approach', it seems likely to have influenced its development.

⁶⁹ The allegations all took place in 2014. In 2017, a panel of French judges decided not to bring any charges (Morreene, January 6 2017, New York Times. Accessible at: <https://www.nytimes.com/2017/01/06/world/africa/french-peacekeepers-un-sexual-abuse-case-central-african-republic.html>)

Section three of the 2017 report details the importance of ‘putting victims’ rights and dignity first’ (2017:8). Here, the SG establishes the position of the Victim Rights Advocate and impresses upon member states the importance of upholding their commitments to victims and for SEA prevention. The section does not clearly define what is meant by a rights-based approach, nor does it provide the legal basis for these rights. Instead, the section provides sweeping recommendations ranging from prohibition on the consumption of alcohol in missions to achieving gender parity across the UN system. While the importance of implementing a ‘rights-based’ approach was introduced, it was not defined or elaborated and so the report offers little practical guidance for what a rights-based approach entails. It fails to establish what the rights of victims are or how to uphold these rights. While this new approach represents a shift from earlier emphasis on internal discipline and breaks important ground in recognizing entrenched gender inequality as contributing to sexual exploitation and abuse, the work of actually defining this new approach on centring victims’ rights and dignity was left to the newly created Victim Rights Advocate position.

Jane Connors, the first and continuing VRA, elaborates on the rights-based approach in a 2019 publication wherein she describes realisation of victims’ rights to participation, accountability, justice, and remedies, to receive comprehensive, accessible, adequate and timely assistance, rights to information, privacy, confidentiality and informed consent, among others. Connors (2019) argues that a victim-rights approach must be mainstreamed across the entire UN system, and highlights some efforts by the Field Victims Rights Advocates in the DRC, CAR, South Sudan, and Haiti. Connors’ approach was paramount in bringing about the shift from considering ‘SEA’ as an issue of conduct and discipline to a human rights and gender issue. While not explicitly minimizing the conduct and discipline component, Connors makes clear that

a rights-based approach moves far between organizational effectiveness and must centre victims' needs. A crucial component in accomplishing this goal is securing stable funding for victim assistance programming. Connors laments that this has not yet been achieved and there remain serious limitations to assistance, especially in remote areas. Connors further recognizes that not all victims wish to pursue legal accountability and may prefer child support or livelihood support over legal assistance⁷⁰. While Connors does stress accountability and current limitations within the existing system, she also recognizes alternative needs and wishes from victims as legitimate. This is an important development, and it will be interesting and important to track how these developments impact victim-survivors' experiences in years to come.

My research did not uncover a strong identification with 'SEA' as a rights violation: very few women discussed human rights or their experiences as a violation of those rights. In the SenseMaker data, participants who discussed human rights were most likely to be men in their 20's or 30's with university education. A strong and common critique of human rights practice elucidates the lack of universality in conceiving of and relating to notions of rights (Douzinas, 2000; Goodale, 2006; Merry, 2006; Moyn, 2018). Important work has been done to emphasize community and collective rights (Waldorf, 2012; Schmid & Nolan, 2014), in addition to those of individuals, but rights of communities does not obviously factor into Connor's framing.

Human rights education, often conducted by members of community organizations working with MONUSCO, has worked to sensitize community members to viewing SEA as a rights violation and a reportable offense. Members of the focus group discussion seemed familiar

⁷⁰ Importantly, these are presented as a preference for support *over* legal accountability; this either-or framing could potentially dissuade women from seeking legal justice if they believe they are less likely to receive immediate support as a result. I do not assume this framing is intentional or that it filters into outreach activities, but it is important to be aware of how different justice options are presented to mitigate the risk of survivors thinking they are limited to one type of response.

with this framing but were highly dismissive of it. The strength of the rights-based framing seems more useful for peacekeeping personnel, to ensure that everyone understands the gravity of sexual exploitation and abuse and how it violates the rights of community members. For community members themselves, my research has uncovered salient and different concerns that operate outside liberal and individualized framings of rights.

Lived Experiences of ‘SEA’

My analysis of the stories and interviews shared in this research revealed complex harms experienced by survivors of ‘SEA’. These were often and at once personal, social, financial, and physical. In this section, I explore the lived realities of ‘SEA’ beyond the UN’s terminology, conceptualizations, and policy responses.

Issues around increasing reporting, the credibility of reports, and avenues to reporting dominate technical discussions of SEA within the UN. Indeed, one of the questions MONUSCO personnel have regularly asked of me, in discussing this research, is why women do not report. Chapter 5 elaborated on some of the reasons SEA survivors do not report and their experiences in attempting to report. Here, I wish to expand on this discussion to draw out the distinct harms associated with ‘SEA’, both as drivers and effects, and how these impact attempts to secure support.

Sexual violence survivors in the DRC experience high rates of stigma and ostracism (Lake, 2018; Kelly et al, 2012). This is also true for survivors of peacekeeper perpetrated abuse:

There are girls who had children with white people. For example, that girl had a child with a white. In fact, that girl is a prostitute; she went by herself to those white who came here for their clandestine mission. Consequently, she was made pregnant, and when we call at the child, we say that she really had a child with a white. (Man, 18-24, Bunia)

Many mock and laugh at me. Some women laugh at me because they were lucky to get much money, plots of land and houses from their Monusco boyfriends. They say I'm miserable and cursed for not having been offered a land plot or a house by my South-African husband. (Interview S13, Bukavu)

The first quote here demonstrates the 'everydayness' of putting women with PKFC apart from other community members. The participant openly states that he points out the child as different, as the "child of a white". The phrasing of the narrative makes it seem as though the man is pointing to a young woman as he's speaking; we can imagine how the young woman must feel about being signalled out and identified in this way. This latter participant said she began having sex with a South African peacekeeper in exchange for money (usually \$5) because of "very bad life conditions" at the age of 15. She was kicked out of her grandfather's house after becoming pregnant of these interactions demonstrating the huge personal impacts following her experience of abuse. She has received no support from the UN, but she has never attempted to report. Another woman from Bukavu was asked why she never attempted to report her pregnancy to MONUSCO. Her response:

I have never been there. You cannot go to see someone you do not know or have never seen. (Interview S17, Bukavu)

This quote demonstrates ineffectiveness in UN outreach as this woman clearly does not know how to report or consider the mission to be an accessible body to reach out to.

Women interview participants who did report did not fare significantly better than those who did not. All struggle with poverty and providing for their children and, as established, few received systematic support:

I reported this problem to his officials, and they promised that they would relay this information to who it might concern. They listened to us, and seemed to sympathize with us. The sensitized all the ladies who made children with their employees and requested us

to be meeting quite often in order to collect our pleas and get them relayed to these men for them to raise some funds or means to assist us. However, whenever we showed up for the meeting, it was always put off again and again until we got discouraged, and dropped it. (Bukavu, S76)

One woman, Stella⁷¹, reported having received support from MONUSCO, likely through the Trust Fund, thanks to the involvement of her local women's association:

They [the association] reported to Monusco what happened to me about my pregnancy. I informed them and then they decided to go to Monusco for reporting. They came with money “muzadi” for assistance so as we could stop prostitution. They really supported me building a house, having a bakery, and a workshop for sewing, also I had a mushroom farm, and then I stopped bothering Monusco in Bambiru asking for assistance. (Interview S5 Goma).

She goes on to say that she no longer has any contact with MONUSCO. She started having sex with peacekeepers when she moved to the Goma area at age 16 because it was the only way she could earn money for food. She is clear that she was given about 100FC in exchange for sex:

It was poverty. I didn't know what to do to have money, so I had recourse to workers of Monusco in order to get money, even 100 frank for food. At that time, I was between 16 and 17 years old. I was not forced; I wanted to get money from him, 100 Francs that helped me. (S5 Goma)

At time of writing, 100FC is less than one US dollar, about 50 cents. When the peacekeeper who was paying her was re-stationed, he handed her an envelope she thought contained money. Upon opening it, she realized it was only pieces of paper. This young woman continues to struggle with poverty and reports being chased from her home when her child becomes ill or causes “problems”. As explained, she is no longer in contact with MONUSCO. Despite being one of the few women who reported and received support, Stella's life circumstances have not significantly improved. She shared feeling shame that she had sex in exchange from money, especially such a low amount.

⁷¹ A pseudonym I provide because I engage with her story at length.

She now avoids having sex for money and hopes to set up a small business but describes herself as “destitute”. When asked if she knows other women like her, she responds:

Yes, I do, they are so many. Their life is very bad as well, they are really suffering, some having two children and even those who have a single child are all suffering. Any assistance is welcome, I know, as authorities you’re the right people to support us, your support will help us to raise the child, for I doubt if his father will see him, besides I don’t have his phone number. Actually I’m destitute; I need your assistance to be able to take care of that child. (Interview S5 Goma).

Despite all her struggles, she speaks with great love for her child, describing him as handsome, shy but a very a good boy. Stella is clear that he deserves so much more than what he has: a plot of land, a farm. She is desperate to earn income to provide this for her son. I highlight Stella’s story because, as she says “they are so many”. Her story is not the most shocking or violent, nor does it represent a fully consensual relationship. It is precisely the sort of experience the UN recognizes and ‘reads’ as ‘SEA’, perhaps that is why she is one of the very few who received support. Despite this, her suffering continues⁷².

21 of 72 women interviewed attempted to formally report pregnancies through officially recognized channels. Only 3 of 20 women who experienced sexual abuse (rape or sexual interaction under age 18) reported. Stella’s story gives some insight into why that may be. Despite receiving vocational training and having help securing housing, she continues to live in poverty, her child is ostracized by her family, and she has few opportunities to improve her life. She loves her son, and anguishes over not being able to give him the life he deserves. She has heard nothing from her son’s father and holds no hope that he will support their child. Given that she reported and, based on the events described in her interview, did so fairly soon after realizing she was

⁷² While outside the scope of this project, the Congolese state certainly bears some responsibility for these enduring challenges, as does the international community at large. Recent calls for reparations paid by colonizers to their former colonies would see Belgium as owing reparations to the DRC for the violence endured within and immediately following colonial rule. The peacekeeping mission is far from the only set of actors responsible for the challenges faced by Congolese women or who owe them increased support.

pregnant, it would certainly have been feasible to determine the identity of the father, or at least the contingent he belonged to. It is not known whether authorities tried but there is no indication in Stella's story that they did. No women who reported describe formal investigations carried through to conclusion. Some describe initial stages, but they were never told the outcome and did not receive regular updates:

What did the Monusco or government tell you when you reported to them about this issue?
 They did not tell me anything. It's because they relocated him far from here. Until now, they have not responded or told me [anything] whatsoever. (Int. S19, Kalemie)

MONUSCO has spent considerable energy and money on community engagement and outreach. Without evidence that any positive outcome will come from reporting, however, it is not clear that women have much motivation to do so. As stated above, some women report in hopes to access support for their children. When none is immediately forthcoming, they do not pursue their cases (Legal NGO, Goma, 2020). This is likely to be the case for reporting generally. While chapter 5 explores barriers in reporting from an accountability standpoint, here I wish to emphasize the lack of attention and care women receive in attempting to report, or believe they will receive if they do try to report, as itself a meaningful harm. When women describe having their case passed around, they reveal both a procedural problem and failure to implement a rights-centred approach to investigations, but also the disappointment and hurt that comes with not being taken seriously: "My family and I followed up at MONUSCO, but we got disappointed. They were only moving us around with the case." (Int. 55). This harm is at once emotional and material. Not being taken seriously or not believed and not being treated as if your experience is important or meaningful is deeply hurtful; it may also erode faith in the mission. It is also a material harm in that women who are passed over and do not have their experiences formally registered will not be able to access the financial assistance they so often require.

Some women described neighbours or others having houses built for them or receiving employment after having children with peacekeepers (Beni interviews), but these cases were few and far between. It was more likely that women were mocked for *not* receiving these “benefits”, as was the case in interview S13, Bukavu, described above. Either way, these are not standard supports and are highly problematic in that they further solidify power imbalances and are not tracked by the UN. Given that women described having experienced sexual violence while working on MONUSCO bases, the issues are further compounded.

Despite the irregularities and violations of the ZTP evidenced in transactional sexual relationships, women who financially benefit from these arrangements are accessing desired material support. A woman from Goma explained that MONUSCO helps a lot. She was asked to elaborate:

How did Monusco help you? It helped us to have intimate relations. After having intimate relations with a UN staff from Monusco, he gives you little money and clothes. **How much does he give?** \$10 US. There was a worker in their camp that he sent to see me, meanwhile, he came and took me in the camp, and we entered the camp. **Did you like to have intimate relations with him or somebody forced you to do so, were you raped?** He did neither rape nor force me. I willingly accepted as I was in need of what to give to my children, hardships pushed me to agree and got something to help me feeding my children. (Interview S68 Goma)

This woman makes clear that she had sex with peacekeepers to feed her two children. She goes on to say that if she had money, she would not have chosen this action. She expresses no anger or resentment toward MONUSCO and instead viewed these transactions as necessary and helpful. It is important to note that this interviewee did not have a child fathered by a peacekeeper. She later shared that she is upset only because the peacekeeper she most often engaged with was re-deployed elsewhere so he is no longer able to provide money.

Complicating the Category of 'SEA'

The circumstances around how women met peacekeepers and the nature of their interactions varied to some extent, but most were driven by poverty and resulted in worsened poverty. For a few women, this was not the case. They felt they benefitted from the interactions with peacekeepers and some described a loving relationship:

I was selling in the market while MONUSCO soldiers from South Africa came to buy something. They got off their car, they bought some flour. One told me that he was interested in me. He asked me if I had a husband, I told him that I live alone. He said that he wanted to live with me. He asked me how many children I had, I told him that I had 5. He said he will take responsibility of them--their school fees, health care and so on. He started helping them. One day, I fell sick as a dog--I was about to die. He took me to hospital. When we started living very seriously, I found myself a little later that I was pregnant. I told him about that, then he asked what I suggested about that-- he asked me if we could abort. I said yes, we could since he was a foreigner. He replied that he didn't come here to occasion sins of such a kind. He said that he would take responsibility of that pregnancy. I accepted but I asked him a question if your mission ends here, what will you do? He answered that he will be sending whatever he will get on condition that his child lives well--only death can prevent me from sending. Fortunately, I gave birth while he was still around. He paid everything they asked. He really honored my family and me. When his mission went, he promised to take me there with his child. In addition to that, he was sent to another duty place. Some day, he lost my contact, but he did his best to find so as to continue talking with me. Before he went to his new duty place, he informed me. I don't talk to him because he is there, but we are communicating with him without any problem. (Woman, 35-44, Kisangani)

In this story, it is unclear if she continues to receive support. What is clear is that the peacekeeper treated her and her children in a way that she felt was fair, respectful, and generous. Importantly, this is not the only narrative to discuss abortion. Abortion is in most cases illegal in the DRC. Despite it usually being against the law and widely stigmatised (Casey, 2021), many women

mentioned having considered abortions and some shared that they attempted or completed abortions:

I fell in love with MONUSCO agent from South Africa at Mavivi. We used to go out with them on Tuesdays and Thursdays. With that being done on a regular basis, I became pregnant, but those soldiers had already gone. When I saw that, I aborted the pregnancy because I could not stay with a pregnancy whose responsible was foreigner. (Woman, 25-34, Beni)

A Malawi guy fell in love with me. We went on going out with him for many days, but when he left DRC, he had impregnated me. I aborted that pregnancy. When he left, he did not even tell me bye. He simply had left me a phone number and promised he would be sending me money through it. But my phone was stolen and I did swap my sim card. Today, I have been living alone and I have already ignored him. (Woman, 25-34, Goma)

The most common reasons given for why women did not go through with abortions were religious norms and the hope that the child would be a positive force in their life. Some did mention official law, but acknowledgement that abortion is illegal was usually used as a reason alongside a more personal or ethical explanation. In some instances, like the above long-term relationship, the woman wanted to abort and the peacekeeper father convinced her not to:

I was selling in the market while MONUSCO soldiers from South Africa came to buy I fell in love with a MONUSCO agent from Tanzania. That man was coming out of their fence when he loved me. We really loved each other. He made me pregnant, so he availed whatever I needed in order to give birth. When he was about to go, he gave me the address, but I don't have any support from him. It was like the day he told me that I was pregnant. I started contradicting him, but when I discovered that I was pregnant, I told him that I wanted to abort, but he refused and promised to avail everything I would need. He did so until my peacebaby was 1 week old. Then he went to his country, so he has never sent me anything. (Woman, 18-24, Beni)

These longer-term relationships wherein peacekeepers and local women establish families together do not easily fit into zero tolerance policies for 'SEA', nor is it useful to conflate them with stories of rape and exploitation. In the first narrative, the peacekeeper cares not only for the woman but her children, provides for them, and wants to expand their family. As the woman states, the

peacekeeper was seen as acting very honourably toward her and her family. In the last, the peacekeeper is clear that he wants a child (even if he does not want to support said child). This latter narrative describes a situation in which the peacekeeper may have intentionally gotten the woman pregnant: "...he told me that I was pregnant" and proceeded to prevent her from obtaining the abortion she wanted. Despite this, he no longer supports his child and the woman is left to care for the baby on her own.

The most striking examples are those in which the relationships last even after the peacekeeper leaves, spanning at least two different countries:

As I am here, I had 4 children with a Congolese husband; that man rejected me with those children. Among those children, one of them fell seriously sick. When I was heading to hospital, I met with that Senegalese soldier who asked me questions if I had a husband. I told him that my husband rejected me. After that, he took to hospital. From that day on, we started living together. He was supporting me with my children as well as my parents. I was taking care of diseases, food, school fees. When his contract ended, we had already had one child together, so he departed. But he didn't stop sending me money. He did his best to come back. When he came back, we continued living together. It didn't take long, then I became pregnant. He kept supporting my parents, children and me. I had a second child with him. He returned to his country. He was still sending money here. Whenever we had a case of disease or death, I used to inform him so as to send us money. At a certain moment, he suffered seriously up to the point that he died. While he was still ill, his family used to call me and tell me about everything. When he died, they called me and told to pass the phone to one of my parents. Fortunately, my aunt was there, so they explained to her everything. She sympathised with them, but they said that they will be sending money to me because they have a brother somewhere who can be sending some money in order to raise the children I have. We still talk with them, and they even send some money. (Woman, 35-44, Kisangani)

In this story, not only did the peacekeeper support the narrator and her children, they expanded their family and she connected with his extended family who continue to support her. Despite the woman in this story receiving support, this is positioned as benevolence rather than a right to child maintenance. The support is not mandated by the peacekeeper's national authorities and there is no indication the pregnancy was registered with the UN. What this woman describes is, in fact, what all the women who have PKFC may be legally entitled to (CRIN and REDRESS 2019). But

this is not how women frame their situations. Personal communications (October 2022) with Congolese colleagues working in the CSO Congo Nouveau revealed that the concept of legally mandated child support would not be easily understood by many women in the DRC; it is not a commonly secured form of support regardless of the nationality of the father. While the UN has, as stated, invested resources and considerable time into messaging on the importance of reporting SEA and children fathered by peacekeepers, the lack of routine and visible support for women who do report provides little motivation to engage in this process. Here, we can again consider the lack of faith in the UN, the lack of responsiveness to reports, and the failure to properly uphold women's rights to support as both inflicting and exacerbating harms. The infliction of harm through hurt at being ignored or 'passed around' is discussed above. We see a further exacerbation of harms through the denial of support and help in demanding rights be upheld. In cases where women may be entitled to child maintenance payments, the failure of the UN to properly communicate this option or to help women in pursuing these cases results in economic harms through worsened poverty. It also contributes to interpersonal harm by occluding the responsibility of the peacekeeper father to his child.

These stories of long-term relationships, outcomes aside, complicate the understanding of 'SEA' as only violence. In some cases, peacekeepers seem to genuinely fall in love with women in the community. The reasons behind some peacekeepers contesting women's desire for an abortion warrants further exploration. Despite the possible career and financial costs of fathering a child as a peacekeeper, the few men discussed in these narratives seemed to prioritize the continued pregnancy and birth of the child. Whether these are for personal, religious, or ethical reasons is not known, but these peacekeepers appear to feel safe in prioritizing these values over

the possible personal risk. This is quite possibly because they (rightly) do not foresee any meaningful consequences to themselves for having fathered a child.

The Trust Fund- Humanitarian Imperative or Rights-Based Remedy?

The UN has committed to providing for survivors and their children through the Trust Fund for Victims of Sexual Exploitation and Abuse (hereafter the Trust Fund or TFV). The Trust Fund was developed in 2016 through UN Secretary General Report A/69/779. The Fund supports both UN and non-UN organizations in their work to support victim-survivors of sexual exploitation and abuse. The Fund is meant to support victims of SEA committed by any UN personnel, not only peacekeepers. While the model varies between contexts, the Sake Trust Fund⁷³ project, located outside Goma, DRC, is intended as a residential program where survivors and their children are able to stay and have their immediate needs met while mothers undergo vocational training and children receive scholarships to attend school for two years. As of the 2018 DRC Trust Fund report, the scholarships were expected to continue beyond the two years (Third Annual Report, 2021). Communications with senior MONUSCO personnel in March 2020 confirm that the scholarships had, at that time, remained capped at two years.

The Trust Fund is intended to provide interim support to victims of SEA while they wait to receive compensation or other supports from a peacekeeper's home state and/or another a legal response, and for instances where there will be no investigation or follow-up from the state.

⁷³ I focus most heavily on the Sake project in my analysis as it was the program most directly discussed by CDT personnel during 2020 meetings.

The TFV is made up of voluntary contributions from UN member states. In 2020, the total funds available were \$3,837,773, raised from voluntary contributions by 23 member states⁷⁴ (\$3,290,059) and withheld payments following credible allegations of sexual exploitation and abuse (\$547,714; Third Annual Report of the Trust Fund in Support of Victims of Sexual Exploitation and Abuse 2020, 2021 hereafter Third Annual Report, 2021). These funds are used for centres or other sites to host the TFV projects, salaries for local staff, supplies, and related costs associated with the programs. TFV projects currently operate in the DRC and Liberia, with projects under development in Haiti. Activities include vocational training, psycho-social support, and education on starting and running a small business. The program in Sake⁷⁵, near Goma, is a residential program so participants live on site in provided housing. In contrast to other international trust funds like that established through the International Criminal Court which provide both individual and collective supports to victims of international crimes, the DRC based TFV projects do not only support victims of ‘SEA’. In 2020, most participants in the Sake program were not ‘SEA’ victims. The project intends to support 487 ‘beneficiaries’, identified by a community networked organization called SYAM (Third Annual Report, 2021). In March 2020, only 17 ‘beneficiaries’ were direct victims of SEA⁷⁶. The others were vulnerable

⁷⁴ There is no consistently positive correlation between rates of abuse and voluntary contributions to the Trust Fund. None of the 10 countries with the highest rates of allegations voluntarily contributed to the TFV in 2020 (Cameroon, South Africa, Gabon, the DRC; the Republic of Congo, Morocco, Burundi, Tanzania, Senegal, Benin). The top contributors were, in order, Canada, Japan, the United States, Germany, and Australia, none of which were in the top 30 troop contributors in 2020. Please see Podder and Manzillo, 2021 for discussion of labour hierarchies in peacekeeping and chapter 4 for a discussion of peacekeeping casualties and global hierarchies. Investigation into the relationships between supports for victims of sexual violence domestically, contributions to the trust fund, and perpetration of SEA, controlling for troop contribution numbers, would be an interesting study to undertake.

⁷⁵ Men’s ‘gatekeeping’ in relation to the FGD and the TFV program were serious barriers to deeper engagement. Despite permission from MONUSCO and senior CDT official specifically telling the site manager that we should be allowed to visit the TFV we were denied access. While the express reason behind this was the privacy of survivors, which is understandable and laudable, there seemed to be more to this refusal. I intend to explore this issue at length elsewhere.

⁷⁶ While an updated report is not available, a meeting with the Victim’s Rights Office in August 2022 revealed that this pattern has shifted and now a large majority of TFV participants are SEA survivors. It is not clear what prompted this change; when I asked, I did not receive a direct answer.

community members: women engaged in or “at-risk” of engaging in sex work, young mothers, survivors of sexual violence not committed by a peacekeeper, and their children. 50 children had received scholarships to attend school for 2 years. As of the 2021 report, 82 children were to receive scholarships.

The logic behind including vulnerable women who were not SEA survivors (or at least had not formally reported that they were) is three-fold, as described by senior MONUSCO officials in the Conduct and Discipline Team (March 2020): (1) By including other women, SEA survivors are not identifiable and so the UN believes this reduces stigma. It decreases the risk of women being perceived as receiving special opportunities as a result of having been sexually involved with peacekeepers, (2) reducing the likelihood that women will either engage with peacekeepers to access programming or make false reports. And lastly it (3) reduces the ‘push’ factors for women to engage in SEA out of poverty and social marginalization.

Regarding stigma, this approach is increasingly used by the UN when supporting vulnerable groups. UNICEF has argued that programs specific to children born of rape, for example, increase the visibility of these children and may exacerbate existing stigma through the perception that they receive special treatment. This is also an argument made by practitioners in other contexts (see program reports from Refugee Law Project). This is a valid concern and offering vocational training and other supports to vulnerable community members is certainly important. The data and literature analyzed for this thesis do not support a claim that women who experience SEA endure higher levels of stigma than other women who were subjected to other forms of sexual violence or women who engage in sex work or transactional sex (Murray et al. 2018; Walter et al 2018; Albutt et al. 2014; Kelly et al. 2012). Offering programming to women

who may all be equally stigmatized would not likely decrease stigma arising from being associated with the program, so, in this case, the rationale behind this approach seems dubious. It does, however, indicate a diversion from the UN's usual distinctions between 'SEA' survivors, other survivors of sexual violence, and women made vulnerable by extreme poverty and other structural violence factors. Rather than continuing to position TFV activities as a response to SEA when in fact they respond to myriad forms of violence, it may be sensible to combine TFV projects with those supporting other SGBV survivors. I return to this suggestion in the conclusion.

The second driving logic is the dissuasion of women choosing to sexually engage with peacekeepers in the hopes that this will open up opportunities for them to access vocational training and other supports. By providing supports to vulnerable community members, women do not "have" to engage in sex with peacekeepers and/or make an SEA allegation in order to access support (Goma meetings, March 2020). Although not explicitly stated in this context, officials presented a general concern with increased false allegations if a one-to-one ratio of report and support was understood by community members. This was explained as being of particular risk if cash supports were given. The concern that women would 'engage in SEA' to access supports is problematic for a few reasons. Firstly, it demonstrates a lack of faith that peacekeepers will not sexually exploit vulnerable women. While the belief is accurate, the sense of resignation it demonstrates is unacceptable. Secondly, the supposed risk of false reports or women wilfully engaging in sexual interactions to access support is positioned as a less-desirable outcome to women receiving vocational training and having their children in school. While it is undoubtedly beyond the scope of the UN to support all women struggling with extreme poverty in the DRC, it is reasonable to conclude that if women are able to "choose" to sexually engage

with peacekeepers to access needed support, those women are victims of sexual exploitation and thus should be supported. If the risk of stigma is high enough to warrant including hundreds of community members who are not victims of SEA in the programming, stigma would likely be a strong deterrent to false reporting. It must also be queried why 400 community members who have not experienced SEA could be supported, but we see comparatively far less support for women who tried to report or who experienced SEA and want support but have received none (see chapter 5 and below). The programs, then, primarily focus on prevention, rather than support to victims. Even more problematically, the stated concerns around TFV participation disregard the many women who are victims of assault and abuse; they did not “choose” to sexually engage with peacekeepers, they were directly forced. As stated repeatedly, MONUSCO personnel believe that rape by peacekeepers is extremely uncommon. This data shows otherwise, supporting the importance of considering sexual violence as occurring on a continuum and ensuring appropriate supports, including legal support, is available to survivors.

The most valid reason behind including other vulnerable community members is poverty reduction. Positioning this as reducing “push” factors for SEA is a problematic framing, for the same reasons as those established above. However, it is undeniable that extreme poverty puts many women and girls in a position where they have no choice but to sell sex in exchange for food (see earlier in this chapter and below). Any effort to alleviate this abusive circumstance is welcome. It must again be stated, though, that hunger reduction and anti-poverty measures should be available as humanitarian imperatives. The fact that they are made available as a means to reduce survival sex as a form of ‘SEA’ is a stark indictment of the UN’s inability to secure peacekeepers with basic respect for human rights.

From the UN's approach, it appears the central harm to be alleviated and prevented through the TFV activities are the reputational effects of SEA and the poverty that drives women into transactional sex and sex work with peacekeepers. As demonstrated in chapter 4, pre-deployment training focuses on upholding the reputation of the UN and emphasizes the damage that SEA does to the perception of the mission and the organization. This is not to say that MONUSCO officials were ignorant toward or uncaring about the human impacts of SEA. One woman within the CDT spoke often and with great emotion about how heartbreaking it is to see women living in extreme poverty and of her deep personal desire to help them. Other CDT staff people described how some very senior personnel would sometimes give women money out of their own pocket.⁷⁷ There was a strong understanding that poverty drives SEA and that SEA worsens poverty in cases where a pregnancy occurs. No one I spoke with could be said to take SEA lightly; all were concerned about 'SEA' and expressed a wish that all victims come forward. Personnel who worked directly with victim-survivors asserted the importance of securing criminal justice responses for SEA incidents that rise to the level of criminality (rape, child sexual abuse, other forms of sexual assault). Demonstrated commitment to anti-impunity was positioned as a key preventative force against SEA, and South Africa's *in situ* court martials were upheld as an example of visibilizing justice for SEA (March 2020, Goma and Kinshasa). The Victims Rights Advocate, Jane Connors, has publicly and regularly demonstrated a commitment to upholding the rights of community members generally and especially for victims of SEA. She seems to well-understand the challenges in securing reports, including limited literacy that prevents submitting written reports, lack of access to phones and data for follow up,

⁷⁷ All MONUSO personnel who were said to have regularly given money to impoverished women were themselves women. Emotional labour and gender differences in peacekeeping has been explored by Johnson, 2021; Gray, 2022; Karim and Beardsley, 2016.

and unclear understanding of what will come from a report (May 2021 presentation; April 2022 presentation; Connors 2019). Likewise, the Zeid report (2005) demonstrates a strong understanding of links between poverty and SEA and the importance of *in situ* court martial. Despite these longstanding and high-level commitments to increasing reporting and centring the human rights of victims, there is a gap between the efforts of officials in New York and activities in mission (see chapter 4 for further discussion). Across UN actors, however, SEA is positioned as a wrong and a stain on the UN's reputation and poverty is understood as a factor driving SEA. One CDT official told me that “we will never completely eradicate SEA as long as there is such deep poverty” (March 2020, Goma). A senior UN official stated that “poverty drives SEA” and “when people are hungry, peacekeepers have a lot of power” (March 2020, Kinshasa). While the TFV attempts to shift some of this power imbalance, it fails to adopt a truly justice oriented approach to redressing ‘SEA’ and upholding the rights of survivors, instead aiming to ameliorate the effects of exploitation and prevent future sexual interactions with peacekeepers.

Justice vs Financial Support, or Support as a Form of Justice?

For women interviewed and surveyed in this research, concern for their children were paramount. Wagner (2020; 2022) establishes that PKFC in the DRC experience stigma as a result of the circumstances of their birth being known in the community. Wagner, Tasker, et al (2022) establish that this stigma does not significantly differ in nature from that experienced by other children born of war (see also Tasker, Bodineau, & Atim, 2020). The impacts of ‘SEA’ uncovered in my research did not strongly differ based on the nature of the sexual interaction. Women who were raped by peacekeepers were not more likely to report, nor were they more likely to express a desire for a criminal justice response than women who engaged in sex work,

transactional sex, or longer-term relationships. According to legal NGOs working in Goma, the strongest motivator for women to report is to seek support for their children, regardless of the circumstances surrounding the pregnancy (May 2018; March 2020, Goma).

Within the first person SenseMaker narratives from women, “poverty” and “suffering” were coded equally across different categories of interactions: rape, transactional relationships, sex work.

That day I was on my way to school. A Monusco White guy came behind me, caught me tightly and raped me. I was 13 at that time. I cried and cried, but nobody came to help me. Later I found myself pregnant. I went on suffering up to delivery time. I delivered a baby in very hard conditions and difficulties. The baby grew up to 12, time when I was always unemployed. My child is suffering too much, for he has no support actually. This has created a big psychological scar in my heart. I receive some little assistance for the child school education from one guy who does commercial business in Durban. To live, I run here and there in the city to wash clothes for people and get some money. My son always puts me questions on whom his father is, how I happened to deliver him, and the bad life we are leading, and it makes me weep actually. I and my son are suffering terribly up to now. (Woman, 25-34, Bukavu)

I live at Mavivi nearby the MONUSCO camp. I fell in love with a Tanzania who made me pregnant, and left me. I am suffering too much. He left without me knowing that. When I was calling him over the phone, my father was scolding him, so he told me that he would never talk to me any longer. I gave birth to a boy who is now 2.5 years old. I am struggling to raise him up. (Woman, 18-24, Beni)

We, prostitutes always have sex with MONUSCO agents. And we were victims of pregnancy, those MONUSCO agents left while we were still pregnant. So, we were struggling to have the kids and raise them. What we ask, is to be supported because we are suffering so much. (Woman, Goma, 18-24)

In the qualitative interviews with mothers of PKFC, the most common concerns were poverty and the expense associated with sending their children to school. Some children were not enrolled in school, and mothers struggled to feed themselves and their children. Their stated

needs overwhelmingly focused on financial support, both direct support from either the UN or the father of the child, again, regardless of the circumstances leading to pregnancy:

Well, I was expecting to get it [support] at the end of this month in case my name appeared on Monusco list number one. But so far there has been nothing and no one is there to guide me about how to get the child supported. Today I'm unable to buy body lotion for him; and he has left garden-school for I have no money to pay his school-fees. There is nobody to support him actually. (Interview S72, Bukavu).

What is the other assistance you might need to help you manage to take care of the children? I need money for getting them schooled. Ok, where do you think that support will come from? Well, I really don't know. I've no idea really. Only their father may help if he shows up. Maybe if he were here, he would take his children to school. (Interview S15, Bukavu)

What remains unknown through my research is whether financial support and poverty alleviation represents 'justice' for women. We may think here of the different discursive logics separating humanitarianism from human rights: the former focuses on apolitical and neutral alleviation of human suffering, while the latter emphasizes the inherent rights of all human beings which includes the right to access justice, rights, to food and shelter and freedom from violence (Barnett, 2018). Indeed, the UN's 2008 Comprehensive Strategy for Victims of Sexual Exploitation and Abuse clearly distinguishes assistance from compensation and accountability of perpetrators. Its logic is placed squarely in the realm of humanitarian support to meet the most pressing needs of complainants and victims: "Complainants should receive basic assistance and support in accordance with their individual needs directly arising from the alleged sexual exploitation and abuse." (UNGA 62/116, 2008: 3) Further to this, victims will receive additional care beyond what is classified as "basic" in the above. The exact difference or expansion of assistance is not described.

The UN Victim Assistance Guide (2009) expands on the above, making clear that assistance for complainants should be limited to that which is most immediately necessary. For example, food and clothing may be provided, but only if the ‘SEA’ incident has directly impeded victims’ abilities to secure these requirements for themselves. Poverty or lack of food as a cause of sexual engagement with a peacekeeper would not, then, necessarily warrant the provision of food following a registered complaint. This guide begins by laying out the importance of a victim or survivor-centred approach; the internal hypocrisy is staggering. This document is, admittedly, dated and there have been many measures since that move to develop more proactive and helpful support mechanisms, most notably those developed since 2017. The 2009 Victim Assistance guide is, however, still easily accessible and has not been retracted. Given well-documented challenges in communicating new messaging around sexual exploitation and abuse, gendered considerations within UN missions (CIVIC 2021; Connors, 2021), the messaging contained in these documents may still circulate. Indeed, it was expressed by a member of the CDT in Goma, March 2020, that complainants should never perceive that they will directly benefit from reporting ‘SEA’. Instead, supports should be limited to the most immediately necessary until allegations are substantiated (CDT presentation, Goma, 2020). Concern with false reports outweighed the importance of supporting survivors of sexual exploitation and/or abuse and fell far short of recognizing and helping them exercise their rights.

Is women’s emphasis on feeding themselves and their children, having safe housing, and sending their children to school indicative their belief in a right to redress following a violation? Or is it rather a statement of need that they hope an international body, like the UN, may fill? This varies between women and there is no uniform answer. Some women certainly consider themselves to have been wronged and desire formal redress:

When Senegalese contingent departed, South African soldiers came here. I fell in love with one of them. We were together for a time. He rejected when he saw girls who are more beautiful than me. As I was still young at the age of 14, I wanted to accuse him, then he said if I need something, I must tell him because he was afraid. I declared my rights, then he was convinced and gave me only 100 dollars. The game was over. (woman, 18-24, Kisangani)

I knew a man as I was coming from church. He was aboard a UN car. He took me home, and proposed me to love him. At a given moment, that man started going out with my sister as I was a little away. My sister didn't want to continue with him. He asked for forgiveness, and I continued living with him. Another time, I went to his, I found out that he was going out with a classmate, I told him why he was doing that because that was not honoring me. Then, I went to school with the photos of that classmate. When she saw that, she said to me why I was publishing her. So, she no longer wanted to talk to me. That man started to pursue me through other people he was sending. Then, I told my parents to open a proceeding against him; we started appearing in court⁷⁸, but we didn't reach the end because he was sent to Morocco. (woman, 18-24, Bukavu)

Some women did seek out legal responses or expressed anger that they were prevented from doing so. Who did and did not seek out legal justice did not coincide with who was and who was not the victim of a criminal offense, however. None of the women who were forcibly raped described pursuing a formal legal claim, though some did attempt to report. Some girls who were sexually abused also attempted to report and seek redress, but were not more likely to frame their harms in legal terms than women who engaged in comparatively consensual interactions. This demonstrates that law does not have primary authority to define harms⁷⁹ experienced by women in relation to 'SEA'. It is necessary to attend to the different framings used by women that are not legible to formal law. While criminal categories were at times invoked, they were not prevalent and there was not a strong correlation between whether an offense "amounted to" a

⁷⁸ I am not sure what court she refers to, or if this was a translation issue and she was in fact attending investigative sessions. Either way, it is clear that she sought formal redress from the wrongs she underwent. It is further notable that, in this case, repatriation or re-deployment was a direct hinderance to achieving a justice outcome.

⁷⁹ Please see Cossman, 2019, for a discussion on law's authority to define sexual harm, albeit in a sharply different context.

criminal act and the degree of harm expressed by the participant in relaying her story. I understand this to be because the long-term harm experienced did not markedly differ across experiences based on their relative illegality. Women are living in poverty and insecurity, they have children to care for whose needs are not being met, and they feel deep emotional hurt at what happened to them. None of the above is intended to imply that women are uninterested in pursuing justice claims; many women did attempt to report their experiences, use of legalistic terms such as rape were employed, and it is possible that women would be more interested in legal justice were it considered accessible (see chapter 5). What constitutes justice itself is not clearcut, however. Similar to research on reparations that find the symbolic aspects of receiving compensation for harms suffered are as or more important than the amount (Anyeko, 2021), women wanted their harms and experiences recognized, first by the father of their child and secondly by the UN.

What legalistic justice is unable to contend with is the depth of emotional pain women endure across types of relationships and interactions with peacekeepers. It is not law's role to address hurt that does not stem from criminal acts. Yet, the depth of harm experienced by women following their relations with peacekeepers is salient and meaningful; it deserves recognition.

The language of abandonment rippled through women's accounts, especially for those who had a child with the peacekeeper:

Nothing better I can tell you about Monusco white men. First of all, they came here to protect people but they are not protecting them. Nothing special they have done for the population. Secondly, I was impregnated by a Beninese of Monusco and gave birth; now I have a child. He abandoned me when I was pregnant. He never assists me and his phone number is not going through. The child is three years old now (Woman, 25-34, Kalemie)

Monusco white men use to live and go elsewhere. The war takes place in the area where they are living. This is the son I gave birth with a Beninese of Monusco and he

abandoned me but we were communicating before. He could be sending me some money but arriving at a given time we could no longer call each other. His number is no longer passing through and up to the present time I am not informed about him. (Woman, 25-34, Kalemie)

In April, the mission of those guys ended. Another team came to take over. Uhm, it's this team that the guy who made me pregnant belonged to. The guy left and abandoned me when I was three months pregnant. When he left, he told me that he would be sending me money and we could be communicating through whatsapp. But up to now, he has never called me. Uhm, when I send him a message, he never replies to me. He has forgotten about me forever. Uhm, today I'm living with my mother without any support, yes, Uhm. (Woman, 18-24, Kalemie)

I am not married but I lived with a UN staff from Monusco who have already abandoned me. He was Moroccan. **How long have you lived with him?** 2 years. They came to keep peace and began their job. They lived almost near our house, you can see their camp there, and it is next to us. They sometimes came to pay us a visit, my mother sold apples, white men used to come to buy fruits from her. They regularly came to buy and they started courting me. I was still at school, and we lived a bad life. Thanks to poverty which gave rise to difficulties, I accepted to live with him as he also sought me to be his partner. (Interview S62, Goma)

Women felt abandoned by the men who fathered their children and the organization that was supposed to support them. Criminal law is underpinned by notions of suffering: victim statements are powerful in trial settings ((Viebach, 2017), and the extent and nature of suffering may impact length of sentence. However, law cannot respond to hurt that does not originate from a criminal offense. Emotional pain itself is not within law's purview unless criminal responsibility has been established. And yet, the damage done to women by peacekeepers is both broader and deeper than the acts themselves. The tangential impacts can be understood through research on related phenomena: scholars have uncovered difficulties for women in bonding with their children born of sexual violence or in humanitarian crises (Denov & Piolanti, 2019); women pushed into sex work out of poverty are more likely to contract sexually transmitted infections or be subject to further gender-based violence (Maclin et al. 2015); social stigma and

marginalization has adverse mental and physical health impacts on women and their children.

And yet there are few measures in place to alleviate or even recognize this harm.

The TFV could, and perhaps does, make moves in this direction by providing some psycho-social and vocational support and a safe place to live. Only three women reference programming that may have been funded by the TFV across 72 interviews and 215 1st person narratives:

I was a pupil; I did not keep up with my studies because of not being able to pay. Due to that, I was spending my day at the camp of MONUSCO. As I used to be there at the camp of Tanzanians. One MONUSCO agent fell in love with me, then we started going out together every Friday and Saturday. He used to take to Goma, and some other times staying at MUBAMBIRO in the pastures not far from their camp. Finally, I became pregnant of him, and the man went away. With that situation, as I was not able to cover the needs, I went to accuse him at their office, but some times, they could send me away, and some other times they could give me food up to the time I delivered. They even kept providing my child with some food. After such a long time, I could not be able to be received. *Fortunately, we met this association which was in charge of teaching handicrafts, so I dealt with dressmaking so as to get rid of prostitution.* Here, thanks to what they taught me, I can now embroid clothes. But as far as the Tanzanian is concerned, we do not talk over the phone anymore, and I do not even know where he is. Formerly he could talk to me. (Girl, 13-17, Goma)

Prostitute, I was leaving here and go to Bambiuro to have sex with Monusco agents, we made sexual intercourse with them without being paid. It was to make sexual intercourse for free of charge. When officers arrived they chased us for not accepting us to have sex with Monusco agents. These women came to chase us for not accepting to have sex with them but we did not agree. They came tonight searching for us but we were escaping them and go back again in our business. After having done it for a long period, *they decided to help us with these sewing machines and we are being trained to sew up.* We are very happy because from the time they brought us the sewing machines, we are no longer going there as we are very busy doing something here. (Woman, 18-24, Goma)

The low number of women who engaged with the TFV indicates it is unlikely to be a well-known or well-accessed remedy for harms suffered. Lack of access to and knowledge of the TFV does not allow it to operate in a normative way to help women understand their rights to support

and recovery following SEA. While programming certainly helps individuals, if the availability of this help is not widely known in the community than the TFV's potential to act as a vehicle toward better knowledge of the causes and harms of SEA is seriously reduced. This is, in part, by design: the UN does not claim the TFV as a redress or justice-oriented mechanism. To do so would be to establish UN responsibility for supporting SEA survivors when it is, legally, the alleged perpetrator's home state that is required to redress SEA (discussions with MONUSCO personnel, Goma, March 2020). Despite the promising activities of the TFV, then, actual justice remains inaccessible, again, by design. None of the women in this research had their reports appropriately followed-up on, received any legal response (trial, mandated child support, etc.), or felt their case had been fully investigated. No women, including those who formally reported, indicated an understanding that the TCC has a legal responsibility to investigate their claims or that legal cases would be undertaken in the peacekeeper's home state.

Given that rights to a legal response are occluded, and support programming is explicitly positioned as outside a justice-orientation, there is no accessible means for women to achieve a sense of justice for 'SEA': what the UN recognizes as a justice-oriented approach is not proctored by TCCs and is not communicated to or engaged with by women; the support women want and what the UN offers is explicitly identified as not positioned being a justice-oriented response. Women then live in a 'justice vacuum', with no meaningful avenues to achieve the sense of redress long identified as necessary for recovering from harm (Mutua, 2011; Aoláin, 2009).

The UN has invested significant attention and resources into establishing and promoting their "rights-based approaches" to SEA, while struggling to maintain distinctions between the violence perpetrated by peacekeepers and that which peacekeepers are mandated to prevent.

Thus far, these approaches and instances have not resulted in a meaningful change in reporting patterns for SEA, nor have they translated into increased legal recognition for survivors. What virtually all academic and activist writers agree on is the need for systemic and cultural change within the United Nations writ large to combat patriarchal systems of governance that discredit victims and produce an environment permissive to sexually exploitative behaviour (Westendorf and Searle, 2017; Westendorf, 2020; Henry, 2016; Higate, 2011; Simic 2013, 2016; Jennings, 2014; Otto, 2007). While the UN has focused on reputational risks, operational effectiveness, and institutional trust, meaningful change must orient towards systemic re-evaluation and restructuring. Central to this would be a truly victim-centred approach, one that takes seriously the complex and deep harms suffered by victim-survivors of sexual exploitation and abuse. Emphases on anti-impunity, including innovative calls for hybrid and special court mechanisms (Mudgway, 2018; Code Blue Campaign, ongoing) make clear that peacekeepers should be held to account for harms committed, and this should be witnessed by their colleagues and the communities they worked in. The UN has shown no inclination towards establishing such mechanisms. Even if they did, these would still rely on survivors to register formal complaints, endure lengthy investigations and trials, in the hopes for a satisfactory outcome. Survivors would need to be reasonably certain of this outcome before enduring the process, given the lack of accessible justice thus far and the high cost of pursuing claims. These costs are material through lost time earning money, childcare expenses, travel, etc., and social, as experienced through stigma and increased visibility in their community. As established in chapter 5, there is little evidence available to women that these costs have a reasonable likelihood of resulting in a desirable outcome. Further, these recommended innovations do not challenge the criminal justice logic underlying both current approaches to SEA and improvements to these.

How does any system repair harm that is at once deeply personal, social, and structural? The harm caused by sexual exploitation and abuse cannot be addressed by short-term vocational programming or two-year scholarships for children. While these are valuable and may alleviate some distinct forms of suffering in the short-term, they are unable to repair a woman's status in the community, fix feelings of hurt and abandonment, or provide justice for violence. Two years of schooling does not ensure a child will not go hungry or secure her a safe home. What women in this research seem to ask for is social protection so they do not have to rely on peacekeepers for money and that prevents sexual violence from occurring. This is outside the scope of what the UN could reasonably be expected to provide. Although the UN and MONUSCO are not responsible for preventing and redressing all harms associated with sexual exploitation and abuse, the unfortunate reality is that they effectively redress none of them. Few women received any support, those who received support continue to live in poverty and face community stigma. The only women who have seen their situations improved are those who were directly supported by individual peacekeepers long-term; these women were few and far between and the relationships leading to these supports are in violation of the UN's zero-tolerance and non-fraternization policies, rendering them illegitimate by the organization. The conclusion to this dissertation attempts to proctor some suggestions for how harms associated with sexual exploitation and abuse can better be addressed. These centre on genuine and deep inclusion of survivor's perspectives, accessible and meaningful enactments of legal justice, a re-orientation of 'SEA' framings from a disciplinary problem to one of sexual violence, and a commitment to understanding and responding to the complexity and nuance of women's sexual interactions with peacekeepers and the structurally violent contexts these occur in. These developments may still

be unable to fully repair or redress harms, but will, at a minimum, make these harms legible and understandable to those charged with upholding women's rights in the DRC.

Chapter 7: Conclusion

Harms and Justice between War and Peace

Attention to peacekeeper-perpetrated sexual exploitation and abuse (SEA) has developed importantly in recent years. However, there remains a dearth of empirical research that brings forward perspectives of those most affected by this form of sexual violence. My dissertation uncovered the experiences and needs of survivors of SEA in the DRC.

Transitional justice scholars have called for increased attention to 'everyday violence' and injustice experienced through times of transition, drawing attention to how these undermine sustainable peacebuilding and an achievement of lived justice (Dunn, 2016; Sharp, 2014; Baines & Alcala, 2012). Sexual exploitation and abuse perpetrated by peacekeepers complicates distinctions between atrocity, and 'everyday' injustices. It further challenges the assumed linearity of peacebuilding and elucidates the enduring 'mundane' violence that disrupts lives and detracts from sustainable peace. 'SEA' is, however, typically relegated to a low rung on international actors' hierarchies of harm that prioritize weaponized rape by state and non-state armed groups. 'SEA' operates in a liminal zone between war and peace, with jurisdictional challenges often preventing legal accountability, exacerbated by the dominant sense within the

UN that SEA is simply not as severe as conflict-related sexual violence. My research has uncovered instances of ‘SEA’ that do not neatly distinguish it from ‘CRSV’ in perpetration or impact. Community participants in the DRC insist on linkages between enduring insecurity, sexual violence by state and non-state armed groups, and sexual abuses perpetrated by peacekeepers. In these ways, ‘SEA’ is better understood as a serious form of sexual violence that operates on the same continuum of other forms of sexual abuse in conflict-affected contexts rather than as a distinct and lesser problem to be dealt with bureaucratically.

My analysis reveals high material needs of SEA survivors, barriers to effective reporting, and a lack of systematic support or investigations into SEA and/or paternity claims. Women describe struggles with feeding their children or sending them to school and many have unmet health and psychosocial support needs. No women in this research achieved a formal justice outcome or long-term mandated child support. This demonstrates a serious ‘SEA’ accountability gap, with law and legal responses to gendered violence simultaneously promoted and supported by the UN while pulled away in relation to ‘SEA’. Beyond technical issues of implementation and jurisdictional barriers, my analysis further reveals an important disconnect between what survivors of SEA want and need and what the UN currently offers. Significant scholarly attention has been paid to anti-impunity measures for SEA; these are important, but women remain preoccupied with combatting poverty, accessing livelihood support, and increasing personal security over securement of legalistic justice. Their experiences reveal deeply gendered conceptions of harm that are not legible within current UN approaches to SEA, positioning justice as always just-out of reach.

Findings and Contributions

Despite scholarly and NGO focuses on anti-impunity and increasing access to legal justice, women in this study emphasized poverty reduction, access to education, and vocational opportunities. Discussion of the importance of upholding their rights and achieving a legal response were comparatively minimal. This does not denote a lack of harm or justice as unimportant. Women were strongly impacted following ‘SEA’, experiencing stigma, worsened poverty, and deep emotional hurt. Most women interviewed wanted support, but those who tried to report rarely received a meaningful response. Reports were not registered or properly followed up on in many cases, or the extended timeline and lack of immediate help caused women to become discouraged and drop their claims. In other instances, women did not know how to report or were unaware that they could. The UN’s insistence on positioning ‘SEA’ as separate from sexual violence, combined with the jurisdictional challenges arising from the SOFAs, MOUs, and lack of responsibility taken by TCCs, makes formal law inaccessible to ‘SEA’ survivors. This contrasts with efforts made by the UN to emphasize reporting and legal responses to other forms of sexual violence in the DRC and other conflict-affected contexts. As a result, women did not receive either the financial and educational support they wanted or the legal responses the UN claims to promote.

My research contributes to improved understanding of how women experienced gendered harms, represent their needs, and explain their conceptions of justice following ‘SEA’. I have compared these priorities to official UN accountability approaches and supports, contextualizing these both within a highly militarized and legally plural context complicated by ongoing conflict and deep structural violence. In doing so, I aim to draw attention to the complexity of so-called ‘SEA’ within dynamic and long-term

peacekeeping missions, working against the framing of ‘SEA’ as primarily a disciplinary issue that does not cause important harm. ‘SEA’ does not occur in a political or historical vacuum. It is tied to other forms of militaristic violence and exists on a continuum with other forms of gender-based and sexual violence. This was clearly established by what women shared about their ‘SEA’ experiences, both in the abuse they suffered and the impacts following. By understanding ‘SEA’ as one important manifestation of sexual abuse within structurally violent contexts, we are able to learn from the more extensive research on CRSV, compare these findings to peacekeeper-perpetrated abuse, and, hopefully, open new and important avenues of support and justice. In contesting hierarchies of harm that position CRSV as distinct and more important than ‘SEA’, I have brought forward the depth and myriad of hurt that women and communities have experienced as a result of ‘SEA’ and the unmet justice needs of survivors. In concluding, I reiterate these key concerns while also advancing recommendations and areas of future research to better understand the gendered violence experienced by women living in conflict-affected contexts and to and increase justice following ‘SEA’.

Recommendations

I engage in this research not only to contribute to academic discussions around peacekeeping and sexual abuse, but to advocate for a re-framing of the issue and responses to it within the fields of policy and human rights and, most importantly, within the UN and its member states. While meaningful and valuable research has been previously conducted on the legal parameters of accountability for ‘SEA’ and journalistic endeavours have attempted to uncover and expose the scope of the problem, too little research meaningfully incorporates the perspectives and

experiences of survivors and other community members. Even less intersects these fields, putting legal and policy analysis in conversation with lived experiences to advance recommendations on how we can better understand and respond to so-called ‘SEA’. The experiences and priorities I have explored herein advance our understanding of what it means to be a woman or girl living in a peacekeeping context, attempting to navigate the legally and administratively complex terrain of the UN to achieve a semblance of justice following ‘SEA’. This leads me to advance some recommendations on how to better address the justice gap and support needs of survivors of ‘SEA’ in ways that position ‘SEA’ as an important form of sexual violence, that redresses the harms suffered, and alleviates the resulting poverty and social consequences of having been abused by a peacekeeper.

Accessible Justice

Leila Zerrougi (the former Head of Mission for MONUSCO, 2018) describes the importance of enhanced justice mechanisms across remote regions of DRC to combat impunity for rights abuses, including sexual violence, and Lotze (2020) draws attention to the increase in military tribunals prosecuting leadership of FARDC and non-state armed groups alike for sexual violence crimes. Both authors position these as important developments in enhancing visibility of justice, to warn perpetrators or potential perpetrators that they too may be held accountable, and to demonstrate to community members the importance of justice for sexual violence crimes committed by military actors. A similar logic drives the mobile court martials used in some ‘SEA’ cases, wherein court martials take place within or near the community where the peacekeeper committed offenses and as discussed in chapter 5. This approach has been extremely limited, is not well-documented, and remains at the discretion of member states. Given the deteriorating security situation in the East and the animosity towards MONUSCO, it seems

unlikely that mobile court martials will expand in coming years, limiting access to and visibility of justice for peacekeeper-perpetrated offenses. As raised by participants quoted in chapter 6, the double-standard for sexual abuse committed by Congolese and MONUSCO personnel remains in-tact, with important consequences for community members, the legitimacy of the mission, and, most importantly, for survivors of sexual violence.

Mudgway (2018) proposes a hybrid court⁸⁰ solution to problems with inaccessible justice in ‘SEA’ cases. Building on Burke’s (2014) proposal, Mudgway developed a unique model in which a hybrid court is established in partnership between international legal experts, the peacekeeping mission, and the host country to try allegations of serious crimes committed by peacekeepers. Mudgway argues that the creation of this hybrid court would remove barriers to reporting, investigation, and achievement of accountability by separating justice measures from the UN and from the TCC. Long term missions could have a court established for the duration of the mission, or courts could be established and experts deployed on an as-needed basis. Mudgway states that either an ‘opt-in’ or ‘opt-out’ approach could be utilized for TCCs, bypassing jurisdictional limitations built into current SOFAs and MOUs. To ‘opt-in’, TCCs would agree at the outset of deployment to have serious international crimes, which Mudgway argues includes SEA, prosecuted by the hybrid court. The ‘opt-out’ model would establish the hybrid court as having primary jurisdiction over serious crimes and TCCs would have to formally deny this jurisdiction in their MOUs and SOFAs. While not proposed by Mudgway, it could be established that TCCs who opt out may have to work closely with the Office of the Victims Rights Advocate and the Department of Peacekeeping Operations to determine

⁸⁰ Hybrid courts have been established to prosecute grave international crimes in a number of contexts, including Sierra Leone, Cambodia, Timor Leste, and the Central African Republic. Their ‘hybridity’ stems from the dual participation of both domestic and international legal actors and their utilization of international criminal law in a domestic context.

appropriate alternative measures to be taken in the event of allegations made against their personnel.

The Court could be established on an ad-hoc basis as the need arises or could be made operational for the duration of the mission. The former option fails to address institutional barriers to reporting and investigation, as the need for the court would still need to be established through existing mechanisms prior to its implementation. If the court is established within each mission, reports of abuse could be made directly to court personnel rather than the mission. The court would necessarily work with the mission to conduct investigations, but would maintain a high degree of independence. This would increase trust in community members that allegations will be taken seriously.

Code Blue Campaign has developed a similar proposal in what they refer to as a special court mechanism. Like Mudgway's hybrid court model, the special court would operate independently of the peacekeeping mission to investigate and try allegations of 'SEA'. The key difference between the two approaches is that the hybrid court operates within, or very near to, the community where 'SEA' occurred whereas the special court is a permanent fixture in an established location, similar to other international courts. The comparative strength of the special court mechanism is that it would deal with all complaints from all missions; this would cut down on personnel and operational costs and could increase the international visibility of trials. The strength of the hybrid court model is its accessibility both for reporting, follow-up, and proceedings. Community members and peacekeepers will see justice unfolding within communities, similar to the *in-situ* mobile court martials discussed in chapter 5, but with the added benefit of proceedings undertaken by comparatively objective actors. Either approach will increase the visibility and accessibility of justice but, given the challenges with reporting and

follow-up documented through my research, and the importance of justice being seen to be done for both prevention and response, I support Mudgway's hybrid court model and would recommend its potential to be further explored with the UN, member states, and NGOs.

Increasing the accessibility and visibility of justice and accountability alongside meaningful and rights-oriented reparation and compensation programs is likely to enhance reporting and offer meaningful avenues for achieving recognition and redress for harms suffered. It is possible that, with consistent and publicized application, these approaches will deter some instances of peacekeeper-perpetrated sexual exploitation and abuse. In a political climate where criminal accountability and reparations for conflict-related sexual violence is increasingly prioritized (Preventing Sexual Violence Initiative, 2022), these approaches will bring the UN's response to 'SEA' in line with what is expected for other cases of sexual violence in conflict.

Interim Reparations

A right to remedy is guaranteed for victims of any serious violation of international human rights or international humanitarian law. Freedman et al. (2021) argue for the suitability of reparations measures for victims of the Haitian cholera epidemic, which stemmed from practices by UN peacekeepers. The authors establish that both the breadth and depth of harms suffered by Haitian communities warrants payment of reparations, and that these should be administered through direct, unconditional cash transfers. The UN's responsibility for the epidemic, failure to properly contain it, and lack of support to victims meets the threshold of warranting payment of reparations (Freedman et al., 2021). It is my opinion that the extent and gravity of harms suffered from 'SEA' in the DRC similarly meets this threshold. Ferstman (2019) considers reparations to be the right of SEA survivors as a human rights violation; responsibility for payment may rest with the UN, the contributing state, or may be shared.

The Global Survivors' Fund (GSF) has documented impressive outcomes following delivery of interim reparations in the form of healthcare, education, psychosocial support, and financial compensation to survivors of sexual violence in the DRC. Rather than serving as a replacement for reparations paid by those responsible for harms suffered (the perpetrator, military, state, etc.), interim reparations provide the support and recognition needed by survivors while simultaneously demonstrating that reparations need not be crippling expensive or logistically burdensome. In their recent 2023 report, GSF found that a large majority of survivors felt their justice needs had been met following participation in the reparations programs and they were well-equipped to move forward. Developing and administering an interim reparations program would have a multi-layered benefit: firstly, it would recognize harms suffered and the right to a remedy for survivors. This symbolic element of reparations has been shown to be meaningful and impactful in its own right (Anyeko, 2021; Global Survivors Fund, 2023). In contrast to the Trust Fund, interim reparations re-cast support to survivors as a human right versus a humanitarian imperative, as justice rather than charity. This symbolic element may have broader community impacts by demonstrating that the UN takes seriously problems its personnel have caused within communities. This could improve relations with community members which is important in its own right and may also increase mission effectiveness by improving trust in and goodwill toward peacekeepers (see Henigson, 2020; CIVIC 2022).

Secondly, demonstrating a commitment to redressing sexual exploitation and abuse may encourage reporting to the UN which would have the dual effect of better capturing the extent of 'SEA' and dissuading potential perpetrators. This last point will only be effective if peacekeepers also experience consequences for perpetration; there is a risk that interim reparations could be seen as replacing individual and TCC accountability. TCCs with peacekeepers who have been

found to have committed ‘SEA’ could be required to contribute to the reparations program in the amount that would be provided to survivors. This approach has not been utilized in connection with the Trust Fund, but a carefully managed outreach and public education campaign detailing a genuine shift to a rights and justice orientation for member states may prove effective. The UN should recruit high troop contributing countries with low rates of ‘SEA’ to promote this approach. This strategy will reduce the perception that the Security Council, the permanent members of which are low troop contributors to peacekeeping missions, is hypocritically lecturing less powerful countries who provide more personnel support to missions.

Lastly, interim reparations will provide much needed support to survivors while emphasising their rights, dignity, and agency. What women in this research most wanted was support for themselves and their children so that they may have the opportunity to disrupt cycles of poverty and meet their families’ needs. It is a failure of a supposed rights-based approach that these are framed as needs and asks rather than as rights. This is especially true in paternity cases and cases of criminal sexual assault. Children have a right to proper maintenance, as established in Article 18 of the UN Convention of the Rights of the Child. All human beings have the right to be free from violence, including sexual and gender-based violence, and to have reported abuses investigated fully. These rights have been confirmed by Jane Connors (2019), and yet rights-based remedies have not yet been fully established, nor has the UN indicated willingness to consider a genuine overhaul of their current approach to accountability for SEA and support to survivors. Interim reparations will back-up these stated commitments.

Payment of compensation and/or reparations need not take the place of criminal accountability for peacekeepers who commit sexual abuse. While women in this research consistently emphasized their material needs, this does not mean that criminal accountability is

necessarily unimportant. Indeed, reparations typically require a finding of wrongdoing and establishment of remedy for that wrongdoing; this is often determined by a court or other investigative body. Identifying a rights violation is also typically the work of legal actors. These proposals do not bypass law, but rather invoke law's authority to best meet the needs and stated desires of survivors. These need not be exclusionary to prosecutions and punishment of perpetrators. Interim reparations do, however, offer meaningful justice outcomes for women who have no opportunity to pursue legal claims against peacekeepers in the many cases wherein the TCC fails to adequately respond to allegations. While the design of these programs may not significantly differ from the Trust Fund discussed in chapter 6, the recognition of harms suffered and the right to redress through reparation is a crucially distinct framing, one that holds space for survivors' dignity and rights. Reparations have been increasingly emphasised within international politics and responses to sexual violence (see the 2022 PSVI conference, as one example). Re-orienting the current Trust Fund activities as interim reparation measures may increase donor contributions and put pressure on states whose peacekeepers are regular offenders to contribute larger sums of money. Interim reparations for 'SEA' could further be tied to existing and new reparations projects for sexual violence more broadly, serving the added benefit of undercutting false distinctions between different modes of abuse.

*Child Support*⁸¹

Member State Responsibility

⁸¹ My co-authors and I advance this argument in two papers: Wagner et al. 2022; Tasker et al., in press. I developed the proposed compensation model and applied it to the analysis in both papers.

While much of this dissertation has focused on the responsibility of the UN, the member state/troop contributing country has a high degree of responsibility to investigate and adjudicate on SEA-related paternity and child support claims (A/RES/62/214). As discussed in relation to the ZTP, child support can only be ordered through the member state courts or via court martial by the troop contributing military. To date, there has been little to no success in securing regular compensatory and/or support payments even in the few instances where cases went forward within the peacekeeper's home state. Child Rights International (CRIN) and REDRESS authored a 2020 report wherein they described cases across peacekeeping missions where compensatory and/or support payments had been adjudicated within member states, finding that even in the few instances where allegations have advanced through to this final stage, there are few if any provisions ensuring payments are actually made, and in many cases the process itself was traumatizing and exclusionary to the victim-survivor. While limitations in reporting accessibility and initial follow-up are the responsibility of the mission, it is the member state that is required to provide the necessary support to women pursuing child support claims, a requirement that has largely been shirked (CRIN/REDRESS, 2019).

Even more concerningly, it appears that in some cases national militaries have either re-deployed or repatriated personnel accused of fathering children to avoid formal investigation. This came up in a number of our interviews and SenseMaker narratives:

I knew a man as I was coming from church. He was aboard a UN car. He took me home, and proposed me to love him. At a given moment, that man started going out with my sister as I was a little away. My sister didn't want to continue with him. He asked for forgiveness, and I continued living with him. Another time, I went to his, I found out that he was going out with a classmate, I told him why he was doing that because that was not honoring me. Then, I went to school with the photos of that classmate. When she saw that, she said to me why I was publishing her. So, she no longer wanted to talk to me. That man started to pursue me through other people he was sending. Then, I told my

parents to open a proceeding against him; we started appearing in court⁸², but we didn't reach the end because he was sent to Morocco. (woman, 18-24, Bukavu, as quoted in Chapter 6)

While repatriation is an established response to SEA allegations within UN policy, it is intended as a means of removing the accused from the community, as punishment, and to freeze wages; it is not designed to avoid responsibility or hamper investigations. While it is difficult to determine with certainty that cases were not investigated subsequent to the removal of the accused, the number and details of allegations presented in the United Nations Table of Allegations on Sexual Exploitation and Abuse do not correspond with the instances described by participants in our interviews. Therefore, we can conclude with reasonable confidence that military personnel were removed from the DRC following unsuccessful attempts to report SEA and/or the birth of a PKFC. It is possible that this was done without the knowledge of the Conduct and Discipline Team or MONUSCO force commanders, as decisions about individual military personnel is largely the purview of the contingent commanders. Regardless, every effort must be made to ensure that full and complete investigations are possible, and TCCs must be encouraged to aid in the provision of child support in any way possible.

In March 2020, lawyers working on SEA and UN paternity cases with two separate NGOs shared with me that a significant barrier to advancing child support claims is the length of time required to secure any financial support. In contexts of poverty and insecurity, women simply cannot hold out hope for years that they may receive support for children that are hungry and out of school today. CRIN and REDRESS (2020) argue that alongside the litigation

⁸² I am not sure what court she refers to, or if this was a translation issue and she was in fact attending investigative sessions. Either way, it is clear that she sought formal redress from the wrongs she underwent.

component, advocacy, legal and rights trainings, and research are necessary to advance the human rights issue of compensation for survivors of SEA generally. This approach should also be extended to mothers of PKFC. In these findings and as discussed in chapter 5, most women were aware that SEA is against UN policy and in some cases was illegal (as evidenced by use of terms like rape to describe non-consensual sex). They were less certain about what they could do at this point, however, as even those who made formal reports did not receive the support required and, adding to the complexity, were in many cases reliant on informal support from peacekeepers and/or their contingents. In this regard, women choose short term, more certain, albeit informal, compensation from individuals (personal communication, legal NGO, March 2020, Goma), over the uncertainty of longer-term litigious efforts even if the potential support may be greater.

Compensation programs should include specific and separate provisions for child support in the form of both monthly cash disbursements and payment of school fees for children determined to be fathered by a peacekeeper. The UN circle of leadership should advocate for DNA banks for military and police personnel (already held within most member states, see chapter 4 for explanation) to be made accessible for paternity testing by the UN, and for all mission member countries to approve DNA field testing. The member state may then garner the wages of the individual peacekeeper or, in cases where this is not possible, the state itself should be held responsible for child support payments. In instances where the member state does not comply or delays payments, the UN should be responsible for covering these payments and may bill the member state. This system of accountability removes the concern expressed by senior MONUSCO personnel that direct compensation will result in false allegations (personal communication, March 2020), as paternity will be proven before payments are released, and will

jointly hold individual peacekeepers, the member state, and the UN fiscally responsible for children born to peacekeepers. This model will not necessarily work well for civilian staff as they participate in the mission as individuals rather than as part of a MOU/SOFA. It would, however, be an important and meaningful development as the majority of mothers in our study identified the fathers as soldiers. This provision differs from the above recommended interim reparations approach as it would include women who had consensual relationships with peacekeepers as well as survivors of ‘SEA’. It preserves the TCC’s right to decide how to respond to the payment requirement: TCCs could directly garner wages from the father or order payment, the military could pay, they could set up a fund through the UN, etc. The UN may want to provide a finite number of options for TCCs to choose from.

Directions for Future Research

This project raises more questions than it has answered. The hybrid court model has important potential to increase accessibility of justice but requires empirical investigation. Mudgway’s and Code Blue Campaign’s work on alternative court systems is valuable but is not based on community consultations or the findings of research directly with affected communities. Community members living in peacekeeping contexts, including but not limited to eastern DRC, should be consulted to gather their perspectives on the proposal. Community-based organizations, particularly feminist collectives and others working to end violence against women, would be important partners in this project. It is entirely possible that a different proposal or approach may be developed within affected communities. There could also be limitations within the hybrid court model not yet considered. In investigating the proposal, it would be important to include consultations and focus groups with survivors. Those who

currently or previously participated in Trust Fund activities may have particularly valuable insight into the relative strengths and drawbacks of both the hybrid court model and interim reparations proposal. As the focus group discussion demonstrated, conceptions of harm and justice are far from homogenous or simple. While it would be impossible to design a justice response that fully captures the nuances of every individual's preferences, important challenges, concerns, barriers and priorities must be understood to advance survivor-centred justice.

While important insight has been gained through close analysis of the data and through fieldwork observations, I continue to want more depth of understanding, to engage with women and community members over the long term to better understand how they frame their experiences, how they make choices about where, when, and from whom to seek support, and how different forms of justice intersect with legal decision making and desires for accountability. I further wish to explore how different forms of sexual violence, committed by differently situated actors, differ from and compare to one another and impact survivors' desired outcomes. In cases where women have received healthcare, economic support, and psycho-social care, does their willingness or desire to engage with formal law change? Are these areas of care necessary to have in place to open space for legal engagements, or are they experienced themselves as a form of justice and healing that removes or replaces desire for a legal response? It will be important to explore how these responses differ based on whether women have engaged in legal or rights training, as Milli Lake (2018) found among her participants, whether there may be an urban-rural divide, and whether intensity of conflict (and thus further breakdown of social institutions) has an impact. Answering these questions will help improve understanding of nuanced harms and justice, and the role of law in these experiences.

Closing Thoughts

While important advancements for gender justice have been achieved for some forms of violence in the DRC, and the DRC has been a test site for international law on sexual violence, ‘SEA’ remains forcibly separated and artificially distinguished from the crimes that have garnered so much international condemnation. Positioned as exploitative and embarrassing for the UN rather than as violent, legal responses have been pulled away from ‘SEA’, resulting in a legal recession with few opportunities for redress. This is not a simple story of law’s inefficacy, though- it is as much a story of law’s recession, the pulling back of law and imposing an inaccessibility of justice for ‘SEA’. Legal consciousness is complicated, varied, and does not build unidirectionally. My research reveals complicated and sometimes negative⁸³ engagement with law. This finding does not mean legal responses should not be enhanced or promoted. Instead, it emphasizes the importance of deep community engagement around issues of ‘SEA’ and the importance of taking seriously the context of structural violence both contributing to exploitative sexual interactions and limiting responses to these. This includes the need to engage peacekeepers and all UN personnel on this context, to ensure every person serving on mission understands ‘SEA’ as a form of sexual violence and a serious rights abuse, not simply a disciplinary issue or a prohibited act. By drawing on the broad and deep field of conflict-related sexual violence research, we can better understand the drivers of ‘SEA’, its impacts, and how we may better prevent it. Peacekeeper-perpetrated sexual exploitation and abuse is committed, by definition, in peacekeeping contexts. By effectively preventing and responding to this violence, women, girls, and their communities will be better supported in building just and sustainable peace.

⁸³ I use negative here in both sense of the word, as an absence and also to denote a disdain for law.

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Full SenseMaker Dataset available here:

<https://borealisdata.ca/dataset.xhtml?persistentId=doi:10.5683/SP3/MFTXUZ>

Appendix A: Survey questions

Survey questions with possible responses	
Question	Possible Responses
Micro-narrative prompts	
Think of a woman or girl who lives near this UN base. Share a specific story that illustrates the best or worst thing for her because of living near the base.	Micro-narrative recorded by participant
Think of a woman or girl who has interacted with UN personnel in your community. Share a specific example of a positive or negative experience that she has had as a result of her interaction with a UN personnel.	Micro-narrative recorded by participant
Think of a woman or girl in this community. Tell a story about how the presence of UN workers has helped or harmed her.	Micro-narrative recorded by participant

Dyads	
<i>The interaction and relations you shared in the story were...</i>	1) Entirely initiated by the foreign UN or MONUSCO personnel; 2) entirely initiated by the woman / girl or some combination thereof
<i>In the story shared, the peacekeeping mission...</i>	1) Provided the girl / woman with too much protection and safety; 2) Put the woman / girl at risk and in danger or some combination thereof
<i>In relation to the woman or the girl in the story you shared, those in power...</i>	1) Did absolutely nothing to assist or support her; 2) Provided her with too much assistance and support or some combination thereof
<i>As a result of the interaction with the UN, the social status for the woman or girl in your story was ...</i>	1) Improved too much; 2) Diminished too much or some combination thereof
Triads	
<i>This story is about...</i>	1) Poverty; 2) Lack of protection / governance; 3) Gender inequality or some combination thereof
<i>In this story, the foreign UN or MONUSCO personnel was...</i>	1) In a position of authority; 2) Able to offer protection; 3) Able to provide support or some combination thereof
<i>Was the interaction in the story</i>	1) Voluntary; 2) Business/transactional; 3) Sexual or some combination thereof

<i>In the story, it would have helped the woman or girl most to have had support from...</i>	1) NGOs or civil society organizations; 2) UN or MONUSCO; 3) Local Chiefs and communities or some combination thereof
<i>In this story, who was responsible for the events?</i>	1) The UN or MONUSCO; 2) Individual girl / woman; 3) Community or family or some combination thereof
<i>The events in the story were in the best interest of...</i>	1) Family; 2) Girl / woman; 3) UN personnel or some combination thereof
Response was optional for all questions.	

Appendix B: Model Status of Forces Agreement



General Assembly

Distr.
GENERAL

A/45/594
9 October 1990

ORIGINAL: ENGLISH

Forty-fifth session
Agenda item 76

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

1. In paragraph 11 of its resolution 44/49 of 8 December 1989, the General Assembly requested the Secretary-General to prepare a model status-of-forces agreement between the United Nations and host countries and to make that model available to Member States. Basing itself upon established practice and drawing extensively upon earlier and current agreements, the Secretariat has prepared the model status-of-forces agreement annexed to the present report. The model is 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. As such it is subject to modifications that may be agreed upon between the parties in each case.
2. The attached model, mutatis mutandis, will also serve as the basis for an agreement with a host country in operations where no United Nations military personnel are deployed.

ANNEX

Draft model status-of-forces agreement between the United Nations
and host countries a/

I. DEFINITIONS

1. For the purpose of the present Agreement the following definitions shall apply: b/

II. APPLICATION OF THE PRESENT AGREEMENT

2. Unless specifically provided otherwise, the provisions of the present Agreement and any obligation undertaken by [Government] c/ or any privilege, immunity, facility or concession granted to the United Nations peace-keeping operation or any member thereof apply in [the area of operations/territory] only.

III. APPLICATION OF THE CONVENTION

3. The Convention on the Privileges and Immunities of the United Nations of 13 February 1946 shall apply to the United Nations peace-keeping operation subject to the provisions specified in the present Agreement. d/

or

a/ This title corresponds to the terminology used in paragraph 11 of General Assembly resolution 44/49 dated 8 December 1989. While it has been used for working purposes, the precise character of the agreement of course will vary according to the type of United Nations peace-keeping operation concerned.

b/ This section will contain definitions of the main terms used in the agreement such as:

"Participating State" means a State contributing personnel to the military and/or civilian components of the United Nations peace keeping operation.

"Convention" means the Convention on the Privileges and Immunities of the United Nations adopted by the General Assembly of the United Nations on 13 February 1946.

c/ The term Government as used in the present Agreement will be defined to mean the Government of the host country or Administration having de facto authority over the territory and/or area of operations in question.

d/ As a general rule, the basic privileges and immunities of a United Nations peace-keeping operation consist of provisions that flow from the Convention on the Privileges and Immunities of the United Nations adopted by the General

4. The United Nations peace-keeping operation, its property, funds and assets, and its members, including the Special Representative/Commander, shall enjoy the privileges and immunities specified in the present Agreement as well as those provided for in the Convention, to which [host country] is a Party. e/

5. Article II of the Convention, which applies to the United Nations peace-keeping operation, shall also apply to the property, funds and assets of participating States used in connection with the United Nations peace-keeping operation.

IV. STATUS OF THE PEACE-KEEPING OPERATION

6. The United Nations peace-keeping operation and its members shall refrain from any action or activity incompatible with the impartial and international nature of their duties or inconsistent with the spirit of the present arrangements. The United Nations peace-keeping operation and its members shall respect all local laws and regulations. The Special Representative/Commander shall take all appropriate measures to ensure the observance of those obligations.

7. The Government undertakes to respect the exclusively international nature of the United Nations peace-keeping operation.

United Nations flag and vehicle markings

8. The Government recognizes the right of the United Nations peace-keeping operation to display within [host country/territory] the United Nations flag on its headquarters, camps or other premises, vehicles, vessels and otherwise as decided by the Special Representative/Commander. Other flags or pennants may be displayed only in exceptional cases. In these cases, the United Nations peace-keeping operation shall give sympathetic consideration to observations or requests of the Government of [host country].

9. Vehicles, vessels and aircraft of the United Nations peace-keeping operation shall carry a distinctive United Nations identification, which shall be notified to the Government.

(continued)

Assembly on 13 February 1946. However, while the Convention is in force with respect to 124 Member States, there are a number of States that are not a party to it and there may also be United Nations operations involving relations with entities other than States. Thus, in such cases, the Status Agreement itself must provide specifically for the application of the Convention.

e/ Provision to be used where the host country is a party to the said Convention.

Communications

10. The United Nations peace-keeping operation shall enjoy the facilities in respect to communications provided in article III of the Convention and shall, in co-ordination with the Government, use such facilities as may be required for the performance of its task. Issues with respect to communications which may arise and which are not specifically provided for in the present Agreement shall be dealt with pursuant to the relevant provisions of the Convention.

11. Subject to the provisions of paragraph 10:

(a) The United Nations peace-keeping operation shall have authority to install and operate radio sending and receiving stations as well as satellite systems to connect appropriate points within the territory of [host country/territory] with each other and with United Nations offices in other countries, and to exchange traffic with the United Nations global telecommunications network. The telecommunication services shall be operated in accordance with the International Telecommunication Convention and Regulations and the frequencies on which any such station may be operated shall be decided upon in co-operation with the Government and shall be communicated by the United Nations to the International Frequency Registration Board.

(b) The United Nations peace-keeping operation shall enjoy, within the territory of [host country/territory], the right to unrestricted communication by radio (including satellite, mobile and hand-held radio), telephone, telegraph, facsimile or any other means, and of establishing the necessary facilities for maintaining such communications within and between premises of the United Nations peace-keeping operation, including the laying of cables and land lines and the establishment of fixed and mobile radio sending, receiving and repeater stations. The frequencies on which the radio will operate shall be decided upon in co-operation with the Government. It is understood that connections with the local system of telegraphs, telex and telephones may be made only after consultation and in accordance with arrangements with the Government, it being further understood that the use of the local system of telegraphs, telex and telephones will be charged at the most favourable rate.

(c) The United Nations peace-keeping operation may make arrangements through its own facilities for the processing and transport of private mail addressed to or emanating from members of the United Nations peace-keeping operation. The Government shall be informed of the nature of such arrangements and shall not interfere with or apply censorship to the mail of the United Nations peace-keeping operation or its members. In the event that postal arrangements applying to private mail of members of the United Nations peace-keeping operation are extended to transfer of currency or the transport of packages and parcels, the conditions under which such operations are conducted shall be agreed with the Government.

Travel and transport

12. The United Nations peace-keeping operation and its members shall enjoy, together with its vehicles, vessels, aircraft and equipment, freedom of movement throughout the [host country/territory]. That freedom shall, with respect to large movements of personnel, stores or vehicles through airports or on railways or roads used for general traffic within the [host country/territory], be co-ordinated with the Government. The Government undertakes to supply the United Nations peace-keeping operation, where necessary, with maps and other information, including locations of mine fields and other dangers and impediments, which may be useful in facilitating its movements.

13. Vehicles, including all military vehicles, vessels and aircraft of the United Nations peace-keeping operation shall not be subject to registration or licensing by the Government provided that all such vehicles shall carry the third party insurance required by relevant legislation.

14. The United Nations peace-keeping operation may use roads, bridges, canals and other waters, port facilities and airfields without the payment of dues, tolls or charges, including wharfage charges. However, the United Nations peace-keeping operation will not claim exemption from charges which are in fact charges for services rendered.

Privileges and immunities of the United Nations peace-keeping operation

15. The United Nations peace-keeping operation, as a subsidiary organ of the United Nations, enjoys the status, privileges and immunities of the United Nations [as provided for in the present Agreement] f/ [in accordance with the Convention]. g/ The provision of article II of the Convention which applies to the United Nations peace-keeping operation shall also apply to the property, funds and assets of participating States used in [host country/territory] in connection with the national contingents serving in the United Nations peace-keeping operation, as provided for in paragraph 5 of the present Agreement. The Government recognizes the right of the United Nations peace-keeping operation in particular:

(a) To import, free of duty or other restrictions, equipment, provisions, supplies and other goods which are for the exclusive and official use of the United Nations peace-keeping operation or for resale in the commissaries provided for hereinafter;

(b) To establish, maintain and operate commissaries at its headquarters, camps and posts for the benefit of the members of the United Nations peace-keeping operation, but not of locally recruited personnel. Such commissaries may provide goods of a consumable nature and other articles to be specified in advance. The

f/ In case the other party is not party to the Convention.

g/ In case the other party is a party to the Convention.

Special Representative/Commander shall take all necessary measures to prevent abuse of such commissaries and the sale or resale of such goods to persons other than members of the United Nations peace-keeping operation, and he shall give sympathetic consideration to observations or requests of the Government concerning the operation of the commissaries;

(c) To clear ex customs and excise warehouse, free of duty or other restrictions, equipment, provisions, supplies and other goods which are for the exclusive and official use of the United Nations peace-keeping operation or for resale in the commissaries provided for above;

(d) To re-export or otherwise dispose of such equipment, as far as it is still usable, all unconsumed provisions, supplies and other goods so imported or cleared ex customs and excise warehouse which are not transferred, or otherwise disposed of, on terms and conditions to be agreed upon, to the competent local authorities of the [host country/territory] or to an entity nominated by them.

To the end that such importation, clearances, transfer or exportation may be effected with the least possible delay, a mutually satisfactory procedure, including documentation, shall be agreed between the United Nations peace-keeping operation and the Government at the earliest possible date.

V. FACILITIES FOR THE UNITED NATIONS PEACE-KEEPING OPERATION

Premises required for conducting the operational and administrative activities of the United Nations peace-keeping operation and for accommodating members of the peace-keeping operation

16. The Government of [host country] shall provide without cost to the United Nations peace-keeping operation and in agreement with the Special Representative/Commander such areas for headquarters, camps or other premises as may be necessary for the conduct of the operational and administrative activities of the United Nations peace-keeping operation and for the accommodation of the members of the United Nations peace-keeping operation. Without prejudice to the fact that all such premises remain [host country] territory, they shall be inviolable and subject to the exclusive control and authority of the United Nations. Where United Nations troops are co-located with military personnel of the host country, a permanent, direct and immediate access by the United Nations peace-keeping operation to those premises shall be guaranteed.

17. The Government undertakes to assist the United Nations peace-keeping operation as far as possible in obtaining and making available, where applicable, water, electricity and other facilities free of charge, or, where this is not possible, at the most favourable rate, and in the case of interruption or threatened interruption of service, to give as far as is within its powers the same priority to the needs of the United Nations peace-keeping operation as to essential government services. Where such utilities or facilities are not provided free of charge, payment shall be made by the United Nations peace-keeping operation on

terms to be agreed with the competent authority. The United Nations peace-keeping operation shall be responsible for the maintenance and upkeep of facilities so provided.

18. The United Nations peace-keeping operation shall have the right, where necessary, to generate, within its premises, electricity for its use and to transmit and distribute such electricity.

19. The United Nations alone may consent to the entry of any government officials or of any other person not member of the United Nations peace-keeping operation to such premises.

Provisions, supplies and services, and sanitary arrangements

20. The Government undertakes to assist the United Nations peace-keeping operation as far as possible in obtaining equipment, provisions, supplies and other goods and services from local sources required for its subsistence and operations. In making purchases on the local market, the United Nations peace-keeping operation shall, on the basis of observations made and information provided by the Government in that respect, avoid any adverse effect on the local economy. The Government shall exempt the United Nations peace-keeping operation from general sales taxes in respect of all official local purchases.

21. The United Nations peace-keeping operation and the Government shall co-operate with respect to sanitary services and shall extend to each other the fullest co-operation in matters concerning health, particularly with respect to the control of communicable diseases, in accordance with international conventions.

Recruitment of local personnel

22. The United Nations peace-keeping operation may recruit locally such personnel as it requires. Upon the request of the Special Representative/Commander, the Government undertakes to facilitate the recruitment of qualified local staff by the United Nations peace-keeping operation and to accelerate the process of such recruitment.

Currency

23. The Government undertakes to make available to the United Nations peace-keeping operation, against reimbursement in mutually acceptable currency, [local] currency required for the use of the United Nations peace-keeping operation, including the pay of its members, at the rate of exchange most favourable to the United Nations peace-keeping operation.

VI. STATUS OF THE MEMBERS OF THE UNITED NATIONS PEACE-KEEPING OPERATION

Privileges and immunities

24. The Special Representative, the Commander of the military component of the United Nations peace-keeping operation, the head of the United Nations civilian police, and such high-ranking members of the Special Representative/Commander's staff as may be agreed upon with the Government shall have the status specified in sections 19 and 27 of the Convention, provided that the privileges and immunities therein referred to shall be those accorded to diplomatic envoys by [national or international] law.
25. Members of the United Nations Secretariat assigned to the civilian component to serve with the United Nations peace-keeping operation remain officials of the United Nations entitled to the privileges and immunities of articles V and VII of the Convention.
26. Military observers, United Nations civilian police and civilian personnel other than United Nations officials whose names are for the purpose notified to the Government by the Special Representative/Commander shall be considered as experts on mission within the meaning of article VI of the Convention.
27. Military personnel of national contingents assigned to the military component of the United Nations peace-keeping operation shall have the privileges and immunities specifically provided for in the present Agreement.
28. Unless otherwise specified in the present Agreement, locally recruited members of the United Nations peace-keeping operation shall enjoy the immunities concerning official acts and exemption from taxation and national service obligations provided for in sections 18 (a), (b) and (c) of the Convention.
29. Members of the United Nations peace-keeping operation shall be exempt from taxation on the pay and emoluments received from the United Nations or from a participating State and any income received from outside [host country/territory]. They shall also be exempt from all other direct taxes, except municipal rates for services enjoyed, and from all registration fees and charges.
30. Members of the United Nations peace-keeping operation shall have the right to import free of duty their personal effects in connection with their arrival in [host country/territory]. They shall be subject to the laws and regulations of [host country/territory] governing customs and foreign exchange with respect to personal property not required by them by reason of their presence in [host country/territory] with the United Nations peace-keeping operation. Special facilities will be granted by the Government for the speedy processing of entry and exit formalities for all members of the United Nations peace-keeping operation, including the military component, upon prior written notification. On departure from [host country/territory], members of the United Nations peace-keeping operation may, notwithstanding the above-mentioned exchange regulations, take with them such funds as the Special Representative/Commander certifies were received in

pay and emoluments from the United Nations or from a participating State and are a reasonable residue thereof. Special arrangements shall be made for the implementation of the present provisions in the interests of the Government and the members of the United Nations peace-keeping operation.

31. The Special Representative/Commander shall co-operate with the Government and shall render all assistance within his power in ensuring the observance of the customs and fiscal laws and regulations of [host country territory] by the members of the United Nations peace-keeping operation, in accordance with the present Agreement.

Entry, residence and departure

32. The Special Representative/Commander and members of the United Nations peace-keeping operation shall, whenever so required by the Special Representative/Commander, have the right to enter into, reside in and depart from [host country/territory].

33. The Government of [host country/territory] undertakes to facilitate the entry into and departure from [host country/territory] of the Special Representative/Commander and members of the United Nations peace-keeping operation and shall be kept informed of such movement. For that purpose, the Special Representative/Commander and members of the United Nations peace-keeping operation shall be exempt from passport and visa regulations and immigration inspection and restrictions on entering into or departing from [host country/territory]. They shall also be exempt from any regulations governing the residence of aliens in [host country/territory], including registration, but shall not be considered as acquiring any right to permanent residence or domicile in [host country/territory].

34. For the purpose of such entry or departure, members of the United Nations peace-keeping operation shall only be required to have: (a) an individual or collective movement order issued by or under the authority of the Special Representative/Commander or any appropriate authority of a participating State; and (b) a personal identity card issued in accordance with paragraph 35 of the present Agreement, except in the case of first entry, when the personal identity card issued by the appropriate authorities of a participating State shall be accepted in lieu of the said identity card.

Identification

35. The Special Representative/Commander shall issue to each member of the United Nations peace-keeping operation before or as soon as possible after such member's first entry into [host country/territory], as well as to all locally recruited personnel, a numbered identity card, which shall show full name, date of birth, title or rank, service (if appropriate) and photograph. Except as provided for in paragraph 34 of the present Agreement, such identity card shall be the only document required of a member of the United Nations peace-keeping operation.

36. Members of the United Nations peace-keeping operation as well as locally recruited personnel shall be required to present, but not to surrender, their [United Nations peace-keeping operation] identity cards upon demand of an appropriate official of the Government.

Uniform and arms

37. Military members and the United Nations civilian police of the United Nations peace-keeping operation shall wear, while performing official duties, the national military or police uniform of their respective States with standard United Nations accoutrements. United Nations Security Officers and Field Service Officers may wear the United Nations uniform. The wearing of civilian dress by the above-mentioned members of the United Nations peace-keeping operation may be authorized by the Special Representative/Commander at other times. Military members and civilian police of the United Nations peace-keeping operation and United Nations Security Officers designated by the Special Representative/Commander may possess and carry arms while on duty in accordance with their orders.

Permits and licences

38. The Government agrees to accept as valid, without tax or fee, a permit or licence issued by the Special Representative/Commander for the operation by any member of the United Nations peace-keeping operation, including locally recruited personnel, of any [United Nations peace-keeping operation] transport or communication equipment and for the practice of any profession or occupation in connection with the functioning of the United Nations peace-keeping operation, provided that no licence to drive a vehicle or pilot an aircraft shall be issued to any person who is not already in possession of an appropriate and valid licence.

39. Without prejudice to the provisions of paragraph 37, the Government further agrees to accept as valid, without tax or fee, a permit or licence issued by the Special Representative/Commander to a member of the United Nations peace-keeping operation for the carrying or use of firearms or ammunition in connection with the functioning of the United Nations peace-keeping operation.

Military police, arrest and transfer of custody, and mutual assistance

40. The Special Representative shall take all appropriate measures to ensure the maintenance of discipline and good order among members of the United Nations peace-keeping operation, as well as locally recruited personnel. To this end personnel designated by the Special Representative/Commander shall police the premises of the United Nations peace-keeping operation and such areas where its members are deployed. Elsewhere such personnel shall be employed only subject to arrangements with the Government and in liaison with it in so far as such employment is necessary to maintain discipline and order among members of the United Nations peace-keeping operation.

41. The military police of the United Nations peace-keeping operation shall have the power of arrest over the military members of the United Nations peace-keeping operation. Military personnel placed under arrest outside their own contingent

areas shall be transferred to their contingent Commander for appropriate disciplinary action. The personnel mentioned in paragraph 40 above may take into custody any other person on the premises of the United Nations peace-keeping operation. Such other person shall be delivered immediately to the nearest appropriate official of the Government for the purpose of dealing with any offence or disturbance on such premises.

42. Subject to the provisions of paragraphs 24 and 26, officials of the Government may take into custody any member of the United Nations peace-keeping operation:

(a) When so requested by the Special Representative/Commander; or

(b) When such a member of the United Nations peace-keeping operation is apprehended in the commission or attempted commission of a criminal offence. Such person shall be delivered immediately, together with any weapons or other item seized, to the nearest appropriate representative of the United Nations peace-keeping operation, whereafter the provisions of paragraph 47 shall apply mutatis mutandis.

43. When a person is taken into custody under paragraph 41 or paragraph 42 (b), the United Nations peace-keeping operation or the Government, as the case may be, may make a preliminary interrogation but may not delay the transfer of custody. Following such transfer, the person concerned shall be made available upon request to the arresting authority for further interrogation.

44. The United Nations peace-keeping operation and the Government shall assist each other in carrying out all necessary investigations into offences in respect of which either or both have an interest, in the production of witnesses and in the collection and production of evidence, including the seizure of and, if appropriate, the handing over of items connected with an offence. The handing over of any such items may be made subject to their return within the terms specified by the authority delivering them. Each shall notify the other of the disposition of any case in the outcome of which the other may have an interest or in which there has been a transfer of custody under the provisions of paragraphs 41-43.

45. The Government shall ensure the prosecution of persons subject to its criminal jurisdiction who are accused of acts in relation to the United Nations peace-keeping operation or its members which, if committed in relation to the forces of the Government, would have rendered such acts liable to prosecution.

Jurisdiction

46. All members of the United Nations peace-keeping operation including locally recruited personnel shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue even after they cease to be members of or employed by the United Nations peace-keeping operation and after the expiration of the other provisions of the present Agreement.

47. Should the Government consider that any member of the United Nations peace-keeping operation has committed a criminal offence, it shall promptly inform the Special Representative/Commander and present to him any evidence available to it. Subject to the provisions of paragraph 24:

(a) If the accused person is a member of the civilian component or a civilian member of the military component, the Special Representative/Commander shall conduct any necessary supplementary inquiry and then agree with the Government whether or not criminal proceedings should be instituted. Failing such agreement, the question shall be resolved as provided in paragraph 53 of the present Agreement.

(b) Military members of the military component of the United Nations peace-keeping operation shall be subject to the exclusive jurisdiction of their respective participating States in respect of any criminal offences which may be committed by them in [host country/territory].

48. The Secretary-General of the United Nations will obtain assurances from Governments of participating States that they will be prepared to exercise jurisdiction with respect to crimes or offences which may be committed by members of their national contingents serving with the peace-keeping operation. h/

49. If any civil proceeding is instituted against a member of the United Nations peace-keeping operation before any court of [host country/territory], the Special Representative/Commander shall be notified immediately, and he shall certify to the court whether or not the proceeding is related to the official duties of such member:

(a) If the Special Representative/Commander certifies that the proceeding is related to official duties, such proceeding shall be discontinued and the provisions of paragraph 51 of the present Agreement shall apply.

(b) If the Special Representative certifies that the proceeding is not related to official duties, the proceeding may continue. If the Special Representative/Commander certifies that a member of the United Nations peace-keeping operation is unable because of official duties or authorized absence to protect his interests in the proceeding, the court shall at the defendant's request suspend the proceeding until the elimination of the disability, but for not more than ninety days. Property of a member of the United Nations peace-keeping operation that is certified by the Special Representative/Commander to be needed by the defendant for the fulfilment of his official duties shall be free from seizure for the satisfaction of a judgement, decision or order. The personal liberty of a member of the United Nations peace-keeping operation shall not be restricted in a

h/ This provision has been inserted in the model agreement in order that all issues pertaining to this section be covered. Upon conclusion of a specific agreement, the provision in question could instead be inserted in a memorandum of understanding where further clarifications on the terms of an agreement are usually provided.

civil proceeding, whether to enforce a judgement, decision or order, to compel an oath or for any other reason.

Deceased members

50. The Special Representative/Commander shall have the right to take charge of and dispose of the body of a member of the United Nations peace-keeping operation who dies in [host country/territory], as well as that member's personal property located within [host country/territory], in accordance with United Nations procedures.

VII. SETTLEMENT OF DISPUTES

51. Except as provided in paragraph 53, any dispute or claim of a private law character to which the United Nations peace-keeping operation or any member thereof is a party and over which the courts of [host country/territory] do not have jurisdiction because of any provision of the present Agreement, shall be settled by a standing claims commission to be established for that purpose. One member of the commission shall be appointed by the Secretary-General of the United Nations, one member by the Government and a chairman jointly by the Secretary-General and the Government. If no agreement as to the chairman is reached within thirty days of the appointment of the first member of the commission, the President of the International Court of Justice may, at the request of either the Secretary-General of the United Nations or the Government, appoint the chairman. Any vacancy on the commission shall be filled by the same method prescribed for the original appointment, provided that the thirty-day period there prescribed shall start as soon as there is a vacancy in the chairmanship. The commission shall determine its own procedures, provided that any two members shall constitute a quorum for all purposes (except for a period of thirty days after the creation of a vacancy) and all decisions shall require the approval of any two members. The awards of the commission shall be final and binding, unless the Secretary-General of the United Nations and the Government permit an appeal to a tribunal established in accordance with paragraph 53. The awards of the commission shall be notified to the parties and, if against a member of the United Nations peace-keeping operation, the Special Representative/Commander or the Secretary-General of the United Nations shall use his best endeavours to ensure compliance.

52. Disputes concerning the terms of employment and conditions of service of locally recruited personnel shall be settled by the administrative procedures to be established by the Special Representative/Commander.

53. Any other dispute between the United Nations peace-keeping operation and the Government, and any appeal that both of them agree to allow from the award of the claims commission established pursuant to paragraph 51 shall, unless otherwise agreed by the parties, be submitted to a tribunal of three arbitrators. The provisions relating to the establishment and procedures of the claims commission shall apply, mutatis mutandis, to the establishment and procedures of the tribunal. The decisions of the tribunal shall be final and binding on both parties.

54. All differences between the United Nations and the Government of [host country/territory] arising out of the interpretation or application of the present arrangements which involve a question of principle concerning the Convention shall be dealt with in accordance with the procedure of section 30 of the Convention. i/

VIII. SUPPLEMENTAL ARRANGEMENTS

55. The Special Representative/Commander and the Government may conclude supplemental arrangements to the present Agreement.

IX. LIAISON

56. The Special Representative/Commander and the Government shall take appropriate measures to ensure close and reciprocal liaison at every appropriate level.

X. MISCELLANEOUS PROVISIONS

57. Wherever the present Agreement refers to the privileges, immunities and rights of the United Nations peace-keeping operation and to the facilities the [host country/territory] undertakes to provide to the United Nations peace-keeping operation, the Government shall have the ultimate responsibility for the implementation and fulfilment of such privileges, immunities, rights and facilities by the appropriate local [host country/territory] authorities.

58. The present Agreement is concluded for the sole purpose of assisting in the implementation of Security Council/General Assembly resolution [number and date of resolution] and has no bearing upon the respective positions of the parties concerning the status of [territory]. j/

59. The present Agreement shall enter into force on ...

60. The present Agreement shall remain in force until the departure of the final element of the United Nations peace-keeping operation from [host country/territory] except that:

(a) The provisions of paragraphs 46 and 53 [and 54] k/ shall remain in force.

i/ In case the other party to the present Agreement is a party to the Convention.

j/ The insertion of this provision in an agreement is subject to its relevancy.

k/ See footnote i.

(b) The provisions of paragraph 51 shall remain in force until all claims have been settled that arose prior to the termination of the present Agreement and were submitted prior to or within three months of such termination.

Appendix C: Model Memorandum of Understanding



General Assembly

Distr.: General
3 October 2006

Original: English

Sixty-first session

Agenda item 33

Comprehensive review of the whole question of peacekeeping operations in all their aspects

Revised draft model memorandum of understanding between the United Nations and [participating State] contributing resources to [the United Nations Peacekeeping Operation]

Note by the Secretary-General*

In its resolution 59/300 of 22 June 2005, by approving the recommendations of the Special Committee on Peacekeeping Operations, including paragraph 39 of part two, chapter II of its report (A/59/19/Rev.1), the General Assembly requested the Secretary-General to submit, for consideration at its sixtieth session, a revised draft model memorandum of understanding between the United Nations and troop-contributing countries, taking into account the recommendations of the Special Committee in its 2005 report (*ibid.*), the recommendations of the Adviser to the Secretary-General on Sexual Exploitation and Abuse by United Nations Peacekeeping Personnel, His Royal Highness Prince Zeid Ra'ad Zeid Al-Hussein, Permanent Representative of Jordan to the United Nations, in his report on a comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations (see A/59/710) and General Assembly resolution 59/287 of 13 April 2005. Subsequently, in its resolution 60/263 of 6 June 2006, by endorsing the recommendations of the Special Committee on Peacekeeping Operations, including paragraph 74 of its report (A/60/19), the General Assembly requested the Secretary-General to make available to Member States, *inter alia*, a proposal on national investigations officers, including the administrative aspects, and a revised draft model memorandum of understanding, no later than the end of April 2006.

In its resolution 60/289 of 8 September 2006, by endorsing the recommendations of the Special Committee on Peacekeeping Operations on its 2006 resumed session, including paragraphs 5 and 8 of its report (A/60/19/Add.1), the General Assembly requested the Secretary-General to provide the revised draft

* Late submission is due to the longer consultation period required on the draft text than originally anticipated.



model memorandum of understanding to Member States as a General Assembly document in all official United Nations languages by September 2006, and requested that the document take into consideration views expressed by Member States in 2005 and 2006.

The revised draft model memorandum of understanding between the United Nations and troop-contributing countries that follows is submitted pursuant to the aforementioned mandates, for consideration by the open-ended Ad Hoc Working Group of Experts, scheduled to convene from 11 to 15 December 2006 (*ibid.*, para. 6).

Revised draft model memorandum of understanding between the United Nations and [participating State] contributing resources to [the United Nations Peacekeeping Operation]*

Article 2

Documents constituting the memorandum of understanding

After the reference to annex G, *insert* a reference to annex H *as follows*:

H. United Nations standards of conduct

- 1. Ten Rules — Code of Personal Conduct for Blue Helmets**
- 2. We Are United Nations Peacekeepers**
- 3. Prohibitions on sexual exploitation and abuse**

Commentary

Annex H is new. It reflects one of the key reforms advocated by the Adviser to the Secretary-General on Sexual Exploitation and Abuse by United Nations Peacekeeping Personnel (hereinafter “the Adviser”), that the memorandum of understanding (MOU) should contain the United Nations standards of conduct applicable to members of national contingents (see A/59/710, paras. 25 and 27). This reform was also recommended by the Special Committee on Peacekeeping Operations (see A/59/19/Rev.1, part two, chap. II, para. 8) and endorsed by the General Assembly in its resolution 59/300.

* The revised draft model memorandum of understanding between the United Nations and troop-contributing countries is based on the text of the model memorandum of understanding between the United Nations and [participating State] contributing resources to [the United Nations Peacekeeping Operation], contained in chapter 9 of the Contingent-owned Equipment Manual (COE Manual) of 22 December 2005 (A/C.5/60/26) being the version currently used by the United Nations Department of Peacekeeping Operations. That document is in turn based on the 1997 draft model memorandum of understanding between the United Nations and Member States contributing resources to United Nations peacekeeping operations (see A/51/967, annex, and Corr.1 and 2).

Given that the requests of the General Assembly are limited to revisions to the draft model memorandum of understanding between the United Nations and troop-contributing countries only, all references in chapter 9 of the COE Manual relating to the contribution of police personnel should be disregarded for present purposes.

As the mandated revisions to the draft model memorandum of understanding between the United Nations and troop-contributing countries do not require any changes to the language of the preamble, articles 1, 4-7, 8-15, the testimonium and signature blocks, as well as annexes A-E and annex G in chapter 9 of the COE Manual, those provisions have not been reproduced here.

Proposed additions to the text of the model memorandum of understanding, as contained in document A/C.5/60/26, are in bold face.

In the case of the proposed new articles — article 7 bis to article 7 septiens — it is suggested that they be inserted between the current articles 7 and 8. These new articles would be renumbered in the event they are approved by the General Assembly, as of course, would the subsequent articles.

A commentary has been included to explain the proposed revisions and additions to the current model memorandum of understanding contained in document A/C.5/60/26.

Article 3

Purpose

3. The purpose of the present MOU is to establish the administrative, logistics and financial terms and conditions to govern the contribution of personnel, equipment and services provided by the Government in support of [United Nations peacekeeping mission] **and to provide for the maintenance of discipline and good order among such personnel and the investigation of, and accountability for, violations.**

Commentary

The new text reflects the general purpose of the changes to the MOU proposed by the Adviser.

Article 7 bis

United Nations standards of conduct

1. All members of the Government's national contingent shall be bound by the United Nations standards of conduct set out in annex H, namely:

- (a) Ten Rules — Code of Personal Conduct for Blue Helmets;**
- (b) We Are United Nations Peacekeepers; and**
- (c) Prohibitions on sexual exploitation and abuse.**

2. The Government shall issue or promulgate the United Nations standards of conduct in a form or manner that makes them binding under their laws or relevant disciplinary code upon all members of its national contingent.

3. The Government shall ensure that all members of its national contingent are made familiar with and fully understand the United Nations standards of conduct. To this end, the Government shall, inter alia, ensure that all members of its national contingent receive adequate and effective predeployment training in those standards.

Commentary

1. Paragraph 1 implements the recommendation of the Special Committee on Peacekeeping Operations that the prohibitions against sexual exploitation and abuse in the Secretary-General's bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13) (hereinafter the "2003 bulletin") should be applicable to all peacekeeping personnel, including all members of national contingents (A/59/19/Rev.1, part two, chap. II, para. 8). It also implements the Adviser's recommendation to include in the MOU the standards of conduct set out in the 2003 bulletin (see A/59/710, para. 25) and the standards of conduct contained in the documents "Ten Rules — Code of Personal Conduct for Blue Helmets" and "We Are United Nations Peacekeepers" (ibid., para. 27).

2. At its 2005 session, the Special Committee requested the Secretary-General to appoint a group of legal experts, inter alia, "to study and propose ways of standardizing the norms of conduct applicable to all categories of peacekeeping personnel, paying particular attention to the issue of sexual exploitation and abuse" (A/59/19/Rev.1, para. 40 (c)). The General Assembly endorsed that proposal in its

resolution 59/300 of 22 June 2005. On 11 September 2006, the Secretary-General appointed a group of experts to carry out this task. In November 2006, that group is due to submit its report to the Secretary-General, who will transmit it to the General Assembly for consideration at its sixty-first session. The list of the United Nations standards of conduct contained in subparagraphs (a) to (c) of the proposed article 7 bis may require revision in the light of any decision which the General Assembly may take with respect to the proposals of this group.

3. Paragraph 2 implements the Adviser's recommendation that the MOU require troop contributors to issue the standards of conduct referred to in paragraph 1 in a form that makes them binding on all members of national contingents (see A/59/710, paras. 25 and 27). It should be noted that, to implement this recommendation, it is not necessary that troop-contributing countries adopt legislation to make those standards part of their national laws. Rather, what is required is that countries issue the United Nations standards of conduct to all members of their national contingents and that they do so in such a way that all members of those contingents will be required, under their laws or relevant disciplinary codes, to comply with them. This might be done, for example, by issuing them as a standing or routine order to the formation, unit or body that composes the Government's contingent. All members of the contingent will then be legally required to comply with them by virtue of their duty, under military law or otherwise, to comply with standing orders or other routine orders of a continuing nature.

4. Paragraph 3 implements the Adviser's recommendation that the MOU should obligate troop contributors to ensure that all members of national contingents attend and receive training on the detailed prohibitions against sexual exploitation and abuse contained in the 2003 bulletin and that they be made aware of the required United Nations standards of conduct prior to deployment (*ibid.*, para. 39).

Article 7 ter **Discipline**

1. **The Government acknowledges that responsibility for disciplinary action in respect of all members of its national contingent while they are assigned to the military component of [United Nations peacekeeping mission] rests with the commander of that contingent. The Government accordingly undertakes to ensure that the commander of its national contingent is vested with the necessary authority for the purpose of maintaining discipline and good order among all members of the national contingent and, in particular, ensuring that they comply with the United Nations standards of conduct, Mission standards of conduct and local laws and regulations. The Government further undertakes that the commander of its national contingent shall for that purpose take all appropriate steps to exercise that authority.**

2. **The Government undertakes to ensure that the commander of its national contingent communicates to the Force Commander of [United Nations peacekeeping mission] reports of any disciplinary action that he or she, or persons under his or her command, may take in respect of members of the Government's national contingent.**

3. **The Government undertakes to ensure that the commander of its national contingent consults with the Force Commander, at the Force Commander's**

request, on matters concerning the maintenance of discipline and good order among members of the national contingent and compliance with the United Nations standards of conduct, Mission standards of conduct and local laws and regulations.

4. The Government shall ensure that the commander of its national contingent receives adequate and effective predeployment training in the proper discharge of his or her responsibility for maintaining discipline and good order among all members of the contingent and ensuring their compliance with the United Nations standards of conduct, Mission standards of conduct and local laws and regulations.

5. It is understood that the Force Commander will assess the performance of the commander of the Government's national contingent on the basis, *inter alia*, of the manner in which he or she discharges his or her responsibility for ensuring compliance with the United Nations standards of conduct, Mission standards of conduct and local laws and regulations.

Commentary

1. Both the report of the Adviser and the report of the Special Committee on Peacekeeping Operations contain recommendations regarding the responsibility of the contingent commander with respect to matters of discipline among the personnel under his or her command. These recommendations naturally assume, for their implementation, that the commanders of national contingents are responsible for the maintenance of good order and discipline within those contingents and that they have the necessary powers to discharge that responsibility. Paragraph 1 accordingly affirms that, in accordance with the established principles and practices of United Nations peacekeeping, responsibility for disciplinary action with respect to the Government's national contingent lies with the commander of that contingent. It then sets out, as corollaries of that fundamental principle, two assurances on the part of the troop-contributing country — first, that the commander of its national contingent is vested with the necessary authority to maintain good order and discipline among the members of its contingent; and, secondly, that he or she will take appropriate steps to exercise that authority and ensure that discipline and good order are in fact maintained and that the United Nations standards of conduct, Mission standards of conduct and local laws and regulations are respected. In this last respect, the inclusion of the second of these assurances also implements the recommendation of the Adviser that the Secretary-General always obtain formal assurances from troop-contributing countries that they will ensure respect for local law by members of their contingents (see A/59/710, para. 78), as required by paragraph 6 of the Organization's model status-of-forces agreement (hereinafter "model SOFA" (see A/45/594, annex)).

2. Paragraphs 2 and 3 of the present article go on to set out certain specific undertakings in this connection on the part of the troop-contributing country. In the model SOFA, the United Nations undertakes that the head of its peacekeeping operation will take all appropriate measures to ensure that members of the peacekeeping operation respect local laws and regulations (*ibid.*, para. 6), do not abuse the operation's commissaries (*ibid.*, para. 15 (b)) and observe customs and fiscal laws and regulations (*ibid.*, para. 31). The Organization further undertakes that the head of mission will take all appropriate measures to ensure the

maintenance of discipline and good order among the members of the operation (ibid., para. 40).

3. In order to be in a position to discharge these undertakings and to be able to account to the host country for their proper implementation, the Head of Mission, through the Force Commander, as head of the military component with general responsibility for the good order of that component, needs to be kept aware of the situation within each national contingent with respect to the maintenance of discipline, including problems that may arise and remedial action taken. Paragraph 2 is aimed at ensuring that this happens.

4. Again, in order to be able to discharge the undertakings mentioned, the Head of Mission, acting through the Force Commander, also needs to be able to consult with the commanders of national contingents, as and when necessary, regarding the maintenance of discipline and good order among the members of the military component. Paragraph 3 facilitates such communication and interaction.

5. Paragraph 4 implements the Adviser's recommendation that the MOU should require troop contributors to ensure that contingent commanders, who are responsible for discipline among the national contingent, are aware of their responsibility to ensure that contingents attend and receive training on the detailed prohibitions against sexual exploitation and abuse contained in the 2003 bulletin prior to deployment (see A/59/710, para. 39). It is also aimed at ensuring that they are aware of their responsibility to make sure that contingent members receive training on other relevant standards of conduct applicable to them while serving in the United Nations peacekeeping operation concerned.

6. Paragraph 5 implements the recommendation of the Special Committee on Peacekeeping Operations that the performance appraisals of military commanders should include an assessment of how they have discharged "the responsibility for creating and maintaining an environment that prevents sexual exploitation and abuse" (A/59/19/Rev.1, part two, chap. II, para. 15). This is in line with the intent of the Special Committee that commanders of national contingents be held accountable for failure to meet command objectives relating to creating and maintaining an environment that prevents sexual exploitation and abuse (ibid.). The proposed language has been broadened to include compliance with all relevant standards of conduct.

Article 7 quater

United Nations investigations

1. In the event that the United Nations has reasonable grounds to suspect that any members of the Government's national contingent have committed an act of misconduct, the United Nations shall without delay inform the Government and may, as appropriate, initiate an administrative investigation into the matter (hereinafter a "United Nations investigation"). It is understood in this connection that any such investigation will be conducted by the appropriate United Nations investigative office, including the United Nations Office of Internal Oversight Services, in accordance with the rules of the Organization.

2. The Government agrees to instruct the commander of its national contingent to cooperate fully and to share documentation and information,

particularly from a contingent investigation, with any United Nations investigation into possible misconduct, by any members of its national contingent. The Government also undertakes, through the commander of its national contingent, to instruct the members of its national contingent to cooperate actively and fully with any such United Nations investigation, including by making themselves available for interview.

3. The Government understands that the United Nations will repatriate a contingent commander who is found by a United Nations investigation to have failed to cooperate with it during an investigation into possible serious misconduct by any members of its national contingent or who is found to have failed to have exercised effective command and control by not taking effective action to prevent serious misconduct or by not immediately reporting or taking action in respect of allegations of such misconduct when they were reported to him or her or when he or she otherwise became aware of them. The United Nations shall explain to the Government the findings that led to the repatriation.

4. The Government shall make any such failure on the part of its contingent commander an offence or disciplinary infraction under its laws or disciplinary codes and make that offence or infraction punishable by appropriate penalties which take into account its grave nature. The Government shall, as the case may be, prosecute or take disciplinary action against a contingent commander who is found by a United Nations investigation to be responsible for any such failure in the same manner as it would in respect of an offence or disciplinary infraction of a similarly grave nature under its laws or disciplinary codes.

5. The Parties agree that, if a contingent commander is repatriated pursuant to paragraph 3, the United Nations shall recover payments in respect of that contingent commander that it made to the Government from the date of the commander's appointment up to the date of repatriation, by withholding those amounts from future reimbursements to the Government. The money so recovered will be used by the United Nations for the purposes of assistance to victims of sexual exploitation and abuse by any member of United Nations peacekeeping missions.

6. It is understood that the assessment by the Force Commander of the performance of the commander of the Government's national contingent will include, if relevant, a notation regarding his or her cooperation with any United Nations investigation into possible misconduct by any members of the Government's national contingent.

7. The United Nations shall provide the Government with the findings of its investigations into possible misconduct by any members of the Government's national contingent and, to the extent that it may not already have done so, with information gathered in the course of those investigations.

Commentary

1. The Adviser "recommended that the General Assembly authorize the establishment of a professional investigative capacity to investigate allegations of sexual exploitation and abuse and misconduct of a similar grave nature against all categories of peacekeeping personnel" (A/59/710, para. 36). The Special Committee

endorsed this recommendation, “bearing in mind General Assembly resolution 59/287” (A/59/19/Rev.1, part two, chap. II, para. 30), that conferred upon the Office of Internal Oversight Services the responsibility to conduct the Organization’s internal administrative investigations into allegations of complex and serious misconduct, in particular sexual exploitation and abuse. When considering the issue of United Nations investigations, the Special Committee also recommended full consideration to the recommendations in the Adviser’s report (ibid., para. 31). Article 7 quater implements these two recommendations.

2. In his report, the Adviser recommended that where allegations were made of serious misconduct, including sexual exploitation and abuse, involving any members of national contingents, the United Nations and troop contributor should conduct a joint investigation. This would typically have entailed the United Nations flying out a national legal expert from the troop contributor to the peacekeeping mission area to participate in the United Nations administrative investigation on the ground. The Adviser stated that “the participation of the troop-contributing country at an expert level [in the United Nations investigation] would help to ensure that evidence was gathered in conformity with the laws of the troop-contributing country so that it could be subsequently used by the country to take action against the contingent member” (A/59/710, para. 33). The concept of a requirement for a national legal expert from the troop contributor to participate in the United Nations investigation was to have the added benefit of “instil[ling] confidence that allegations were properly evaluated” (ibid.).

3. To reflect the Adviser’s recommendations, the Secretariat circulated informally to members of the Special Committee on Peacekeeping Operations in December 2005 the following draft language:

“The Government shall designate prosecutor(s) and/or expert(s) from those named in Annex [I] of this Memorandum (which list may be updated by letter from the Government to the United Nations Under-Secretary-General for Peacekeeping Operations) to participate in any United Nations Investigation into allegations of serious misconduct, particularly sexual exploitation and abuse, against military and other members of the Government’s national contingent. The Parties acknowledge that these individuals may be requested to participate on short notice. The Parties undertake to cooperate with a view to ensuring that the Government is represented in a timely manner in the United Nations Investigation. To this end, the United Nations will arrange transport for the designated person to the peacekeeping area and will pay subsistence at standard United Nations rates. It is understood that the failure of the Government to designate a prosecutor or expert, or the failure of the prosecutor or expert designated by the Government actually to participate in a United Nations Investigation, shall not prevent that Investigation from proceeding.”

4. The Office of Internal Oversight Services referred to the national prosecutor(s) and/or expert(s) who were to be designated by the troop contributor to join its administrative investigations as “National Investigations Officers” and developed a detailed concept of operations for such experts, which underwent a number of iterations. In light of views expressed in 2005 and 2006 by Member States, the proposed new articles now distinguish between the separate investigations conducted by the United Nations for administrative purposes (present article) and by

the Government (see article 7 *sexiens* below). Correspondingly, the concept of the National Investigations Officer is now formulated as a voluntary one, in accordance with which troop contributors are invited, but not required, to send such experts (*ibid.*).

5. Paragraph 1 of the present article provides that the United Nations may decide to conduct an administrative investigation into any allegation of misconduct involving any member of a national contingent participating in United Nations peacekeeping operations. It obligates the United Nations to immediately inform the Government of such allegations, so that the Government may proceed to take action pursuant to its responsibility to maintain discipline and good order among the members of its national contingent (article 7 *ter*) and to exercise its jurisdiction with respect to any crimes, offences or other acts of misconduct that may have been committed (article 7 *quinquiens*). Paragraph 1 also acknowledges the mandate for the Office of Internal Oversight Services to conduct investigations into allegations of sexual exploitation and abuse and other forms of serious misconduct relating to all categories of peacekeeping personnel, including all members of national contingents.

6. Paragraph 2 implements the recommendation of the Adviser that the model MOU require a troop contributor “to share ... any information that the contingent has gathered as a result of its own investigation into an incident” (A/59/710, para. 34) by placing an obligation on the Government to issue an instruction to this effect to the commander of its national contingent. Insofar as paragraph 2 obligates contingent commanders and the members of national contingents to cooperate fully with United Nations investigations, it also gives effect to the Adviser’s statement that “Cooperation between a contingent and the mission is essential if the problem of sexual exploitation and abuse is to be eliminated” (*ibid.*, para. 34).

7. In paragraph 61 of his report, the Adviser observes that “what is inexcusable is a contingent commander who does not cooperate with a [United Nations] investigation or, worse, seeks to hinder that investigation by failing to properly cooperate with it”. In the same paragraph of the Adviser’s report, it is recommended “that the Secretary-General direct heads of mission to recommend the immediate repatriation of any contingent commander who fails to cooperate with a [United Nations] investigation or otherwise fails to discharge his or her responsibility to help the mission eliminate sexual exploitation and abuse”. Paragraph 3 of the present article implements the Adviser’s recommendation by articulating the understanding that the United Nations will take such action where contingent commanders either fail to cooperate with it during an investigation into allegations of serious misconduct, fail to exercise effective command and control, or fail to immediately report or take action in respect of serious misconduct allegations. The Adviser suggested “that the Secretary-General write to the Head of State of the troop-contributing country to explain why he was forced to take such action”, namely repatriate a contingent commander (*ibid.*, para. 61). The proposed language has been broadened to obligate the United Nations to explain the findings that led to the repatriation, without specifying who in the Government should be notified.

8. Paragraph 4 implements the Adviser’s recommendation that the model MOU require a troop contributor to take disciplinary action against a contingent commander who is repatriated because a United Nations investigation found that the contingent commander had failed to cooperate with it (*ibid.*, para. 61).

9. Paragraph 5 implements the Adviser's recommendation that the United Nations should recover payments it has made to the troop contributor in respect of any individual contingent commander who is repatriated for having failed to cooperate with a United Nations investigation into allegations of sexual exploitation and abuse (ibid., paras. 61 and 65). The Adviser also recommended that the funds so recovered be paid into a voluntary trust fund for victims (ibid., paras. 61 and 65), which would be established to provide assistance to victims of sexual exploitation and abuse by United Nations peacekeeping personnel (ibid., para. 56). The proposed language on payment of funds focuses on the use to which the recovered funds will be put, rather than specifying a mechanism for receipt, management and disbursement of such funds.

10. The Adviser recommended that contingent commanders who cooperate receive a special commendation by letter from the Secretary-General to the Head of State or Government (ibid., paras. 60, 61 and 65). Paragraph 6 proposes language to reflect the intent behind the Adviser's recommendation, while taking into account the existing performance evaluation mechanism in place in United Nations peacekeeping operations.

11. Paragraph 7 of the present article and paragraph 5 of article 7 *sexiens* place reciprocal obligations on the United Nations and the Government to share with each other the findings of their respective investigations. To the extent that they have not already done so pursuant to paragraph 3 of article 7 *sexiens* and paragraph 2 of the present article respectively, they also place reciprocal obligations on the United Nations and the Government to share with each other information gathered in the course of those investigations.

Article 7 *quinquies*

Exercise of jurisdiction by the Government

1. **It is understood that, in accordance with the established principles and practices of United Nations peacekeeping, the military members of the national contingent provided by the Government are subject to the Government's exclusive jurisdiction in respect of any crimes or offences that might be committed by them while they are assigned to the military component of [United Nations peacekeeping mission]. It is further understood that this exclusive jurisdiction is based on the understanding that the Government will exercise such jurisdiction as might be necessary with respect to crimes or offences committed by members of the Government's national contingent while they are so assigned. The Government assures the United Nations that it shall exercise such jurisdiction with respect to such crimes or offences.**

2. **The Government further assures the United Nations that it shall exercise such disciplinary jurisdiction as might be necessary with respect to acts of misconduct committed by any members of the Government's national contingent while they are assigned to the military component of [United Nations peacekeeping mission] that do not amount to crimes or offences.**

Commentary

1. The Adviser noted that, pursuant to paragraph 47 (b) of the model SOFA, military members of the military component of a United Nations peacekeeping operation are subject to the exclusive jurisdiction of their troop-contributing country

in respect of any crimes that they might commit in the country hosting that peacekeeping operation.¹ In order to ensure that there is no impunity for such crimes, paragraph 48 of the model SOFA goes on to provide that the Secretary-General will obtain assurances from the Governments of troop-contributing countries that they will be prepared to exercise this jurisdiction with respect to crimes that might be committed by members of their national contingents in the host country. The accompanying footnote to that paragraph envisages that these assurances would be inserted in the memorandums of understanding that the Organization concluded with troop-contributing countries. The Adviser noted that the Organization had ceased to seek such assurances, however. He accordingly recommended that “the Special Committee should recommend to the General Assembly that it request the Secretary-General to always obtain formal assurances from troop-contributing countries that they will ensure respect for local law by members of their contingents and that they will exercise jurisdiction when a [United Nations] investigation ... concludes that allegations made against a military member of its contingent are well founded” (A/59/710, para. 78). Paragraph 1 of the present article implements this recommendation.

2. Paragraph 2 makes similar provision to paragraph 1 for cases in which members of a Government’s national contingent engage in misconduct that does not amount to a crime or offence under the laws of the country where they are operating. As is the case of local laws and regulations, the Organization gives an undertaking to the host country in the status-of-forces agreement that discipline and good order will be maintained among the members of its peacekeeping operation. This undertaking is reflected in paragraph 40 of the model SOFA. At the same time, and again as in respect of offences against local laws, exclusive competence to take disciplinary action with respect to such misconduct lies with the troop-contributing country. In order to ensure that violations of good order and discipline do not go unpunished and that the Organization complies with its undertakings in its SOFAs, it is necessary that the United Nations obtain assurances from its troop-contributing countries that they will take disciplinary action in respect of acts of misconduct that do not amount to criminal offences. The Organization used to seek such assurances, but, as the Adviser noted with respect to crimes, has ceased to do so. Paragraph 2 is aimed at resuming this essential practice.

Article 7 sexiens

Investigations by the Government

1. In the event that the Government has reason to suspect that any member of its national contingent has committed an act of misconduct, it shall inform the United Nations and immediately forward the case to its appropriate authorities for the purposes of investigation. It shall also do the latter in the event that the United Nations provides it with the information envisaged in paragraph 1 of article 7 quater.

2. In the event that the Government decides to send one or more officials who are not members of its national contingent to the mission area to investigate the matter, it shall immediately inform the United Nations of that

¹ It is recalled in this connection that, pursuant to paragraph 47 (a) of the model SOFA, civilian members of the military component may be subject to criminal proceedings for crimes or offences they commit in the host country.

decision, including the identities of the official or officials concerned (hereafter “National Investigations Officers”). [The United Nations shall arrange and pay for the transportation of National Investigations Officers to the mission area and shall pay for their subsistence at standard United Nations rates for a duration agreed to by the Parties.] [The Government will arrange and pay for the travel and subsistence costs of National Investigations Officers.] Upon the request of the Government, the United Nations shall provide administrative and logistical support to the National Investigations Officers while they are in the mission area.

3. The United Nations agrees to cooperate fully and to share documentation and information with appropriate authorities of the Government, including any National Investigations Officers, that are investigating possible misconduct by any member of the Government’s national contingent.

4. Upon the request of the Government, the United Nations shall assist the competent authorities of the Government, including any National Investigations Officers, that are investigating suspected misconduct by any members of its national contingent in liaising with other Governments contributing personnel in support of [United Nations peacekeeping mission], as well as with the competent authorities in the mission area, with a view to facilitating the conduct of those investigations. The competent authorities of the Government shall ensure that prior authorization for access to any victim or witness who is not a member of the national contingent, as well as for the collection or securing of evidence not under the ownership and control of the national contingent, is obtained from the relevant competent authorities through the Head of Mission.

5. The Government shall provide the United Nations with the findings of investigations conducted by its competent authorities, including any National Investigations Officers, into possible misconduct by any member of its national contingent and, to the extent it may not already have done so, with information gathered in the course of those investigations.

Commentary

1. Should the Government have reason to suspect that a member of its national contingent may have committed an act of misconduct, article 7 quinquies requires that it proceed to exercise its criminal or disciplinary jurisdiction. The first step in doing so is to forward the case to its appropriate authorities so they may investigate it. Paragraph 1 of the present article so provides. It also places an obligation on the Government to inform the United Nations. This is necessary to ensure that the United Nations is in a position to initiate its own administrative investigation into the matter in accordance with article 7 quater. It is also necessary if the Organization is to be in a position to discharge its responsibility to account to the host country for the performance of its undertakings to ensure that discipline and good order are maintained among the members of the peacekeeping operation and that they respect local laws and regulations (see the commentary to article 7 ter).

2. Paragraph 2 takes into consideration the views expressed by Member States in 2005 and 2006 regarding the National Investigations Officer concept. In accordance with those views, troop contributors should be invited, rather than required, to send such experts to investigate allegations of misconduct involving any member of

national contingents. On arrival in the mission area, such experts would not participate in the United Nations investigation, but instead conduct, or assist in conducting, a parallel national investigation. The text sets out two options for funding the National Investigations Officer's transportation and subsistence costs. A decision is required by the General Assembly as to the source of the funding for such experts.

3. The Government having undertaken in paragraph 1 to investigate suspected acts of misconduct by any member of its national contingent, the United Nations for its part should actively facilitate any such investigation, in particular, by sharing information in its possession with the appropriate authorities of the Government and by facilitating access by those authorities to members of the peacekeeping operation who are under the direct authority of the Secretary-General — namely, United Nations officials, experts on mission for the United Nations and United Nations Volunteers — or who are under his control — namely, individual and corporate contractors and their employees. Paragraph 3 sets out such an undertaking on the part of the Organization. The facilitation of contacts with victims and witnesses who were interviewed by the United Nations during the course of its investigation would also potentially fall within the scope of this undertaking, subject to the concurrence of host-country authorities.

4. Paragraph 4 sets out a related undertaking on the part of the United Nations to assist the authorities of the Government that are conducting an investigation in securing assistance from other Governments. Such assistance may be necessary in order for those authorities to secure access to the members of other national contingents serving in the peacekeeping operation concerned. It may also be necessary in order for those authorities to obtain access to witnesses, victims and other sources of information falling under the jurisdiction of the host country. Paragraph 44 of the model SOFA provides that the United Nations and the host Government shall assist each other in obtaining such access. Accordingly, all requests for such access should be made through the Head of Mission.

5. Paragraph 5 of the present article and paragraph 6 of article 7 quater place reciprocal obligations on the Government and the United Nations respectively to share with each other the findings of their respective investigations. To the extent that they have not already done so pursuant to paragraph 2 of article 7 quater and paragraph 3 of the present article, they also place reciprocal obligations upon them to share with each other information gathered in the course of those investigations.

Article 7 septiens **Accountability**

1. If either a United Nations investigation or an investigation conducted by the competent authorities of the Government concludes that suspicions of misconduct by any member of the Government's national contingent are well founded, the Government shall forward the case to its appropriate authorities for the purposes of prosecution or disciplinary action, as the case may be. The Government agrees that those authorities shall take their decision in the same manner as they would in respect of any other offence or disciplinary infraction of a similar nature under its laws or relevant disciplinary code. The Government agrees to notify the Secretary-General of the outcome of the case

and will submit progress reports to him or her every 120 days after a case has been referred to it, until the case is finalized.

2. The Government agrees that it shall forward to its relevant authorities, for consideration in the same manner as a domestic claim of a similar nature, child-support claims forwarded by the United Nations, if accompanied with credible evidence to indicate that any member of the Government's national contingent is the father of the child.

3. In the event that the United Nations forwards to it a claim for the payment of child support by any member of its national contingent, supported by credible evidence that the member concerned is the father of the child, the Government shall assist the claimant in filing and pursuing that claim before its competent national authorities, including by ensuring that the claimant is assigned legal assistance, in any case where the interests of justice so require, and without payment if the claimant does not have sufficient means to pay for it.

Commentary

1. Paragraph 1 implements a number of recommendations made by the Adviser (A/59/710, paras. 79 and 92), specifically, that the model MOU provide: first, that if a United Nations investigation concludes that an allegation of a criminal offence is well founded, the troop contributor should be obligated to forward the case to its national authorities to be considered for prosecution; secondly, that the troop-contributing country give an assurance that those authorities will take their decision whether to prosecute and, if so, how in the same manner as they would for an offence of a similar grave nature falling under the laws of that country; thirdly, that, if those authorities conclude that prosecution is not appropriate, the troop-contributing country submit a report to the Secretary-General explaining why this is so; and, fourthly, that the troop-contributing country agree to inform the Secretary-General within 120 days after a case has been referred to it of measures it has taken under its national law and to inform him of progress achieved every 120 days thereafter until the case is finalized.

2. At the same time, paragraph 1 has been broadened to include all cases of misconduct. It is necessary that there be accountability not only for acts of misconduct that involve the commission of crimes, but also for other forms of misconduct. The undertaking on the part of the Government to refer cases to its national authorities to be considered for possible prosecution or disciplinary proceedings has also been broadened to extend to cases in which the Government's own investigation concludes that allegations or suspicions of misconduct by any member of its national contingent are well founded. This is a corollary of the Government's undertaking in article 7 quinquies to exercise its criminal or other disciplinary jurisdiction with respect to crimes, offences or acts of misconduct that may be committed by any member of its national contingent.

3. The Adviser noted the obligations upon United Nations staff to honour family and child support obligations as promulgated in the Staff Regulations and Rules (see ST/SGB/1999/4). He encouraged the Organization to help victims of sexual exploitation and abuse who have credible evidence that a staff member is the father of their child to seek court orders for child support where there is a functioning legal system in the area of operations (see A/59/710, para. 76). Similarly, the Adviser noted that, when such claims are made against any personnel of national

contingents, the United Nations should assist the mothers concerned, or those acting on their behalf, to make claims that could be forwarded to the troop-contributing country for consideration (ibid., para. 77). Paragraph 2 implements the Adviser's recommendation that the MOU provide that the troop-contributing country "agree to process such claims in accordance with its laws". At the same time, it broadens the scope of this agreement to encompass all child-support claims, whether arising out of sexual exploitation and abuse or not.

4. A troop contributor generally cannot take action on a child-support claim forwarded by the United Nations in the absence of a court order from its competent national authorities. The Adviser's recommendation implemented in paragraph 2 would not therefore, in and of itself, lead to a greater likelihood of genuine child support claims involving personnel of national contingents being met. An obligation is therefore placed on the Government to assist claimants to file and pursue such claims. Paragraph 3 sets out this obligation and outlines the nature of that assistance and the conditions under which it is to be granted.

Annex F Definitions

Insert the following six additional definitions that read as follows:

1. **Misconduct means any act or omission that is a violation of United Nations standards of conduct, Mission standards of conduct or local laws and regulations.**
2. **Mission standards of conduct means standard operating procedures, directives and other regulations, orders and instructions issued by the Head of Mission, Force Commander or Chief Administrative Officer of [United Nations peacekeeping mission].**
3. **Serious misconduct means any act or omission that is a violation of United Nations standards of conduct, Mission standards of conduct or local laws and regulations and that results in or is likely to result in serious loss, damage or injury to an individual or to the mission.**
4. **Sexual abuse means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.**
5. **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.**
6. **United Nations investigation means a United Nations administrative investigation into allegations or suspicions of misconduct by any member of a national contingent, conducted by the appropriate United Nations investigative office, including the United Nations Office of Internal Oversight Services, in accordance with the rules of the Organization.**

Commentary

1. Definitions 1 and 3 define misconduct and serious misconduct by reference to: breaches of the United Nations standards of conduct contained in annex H, which are applicable to all missions; the Mission standards of conduct, which are specific

to each mission; and, pursuant to paragraph 6 of the model SOFA, local laws and regulations.

2. Definitions 4 and 5 contain the definitions of “sexual abuse” and “sexual exploitation” respectively, taken from the definitions in the 2003 bulletin (ST/SGB/2003/13).

After **annex G**, insert annex H that reads as follows:

Annex H

United Nations standards of conduct

(a) Ten Rules — Code of Personal Conduct for Blue Helmets²

(b) We are United Nations Peacekeepers³

(c) Prohibitions on sexual exploitation and abuse

1. Sexual exploitation and sexual abuse have always constituted unacceptable behaviour and prohibited conduct for personnel of national contingents. Such acts violate universally recognized international legal norms and standards. They also victimize women and children who are frequently the most vulnerable members of the population in the peacekeeping areas.⁴

2. The 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.⁵

3. In order to further protect the most vulnerable populations, especially women and children, the following specific standards must be respected by personnel of national contingents:⁶

(a) Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary action by the appropriate authorities of the troop-contributing country;

(b) Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally unless the member of the national contingent is legally married to someone under the age of 18 years but over the age of majority or consent in their country of citizenship. Mistaken belief in the age of a child is not a defence;

(c) Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is

² The text can be found at: http://www.un.org/depts/dpko/training/tes_publications/publi.htm.

³ Ibid.

⁴ This condition reproduces the substance of the relevant parts of section 3.1 of the Secretary-General’s bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13).

⁵ This condition reproduces section 1 of the 2003 bulletin (ST/SGB/2003/13).

⁶ This condition reproduces the substance of sections 3.2 and 4.4 of the 2003 bulletin (ST/SGB/2003/13).

prohibited. This includes any exchange of assistance that is due to beneficiaries of assistance;

(d) Sexual relationships between personnel of national contingents and beneficiaries of assistance (including the local population and refugees), since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the United Nations and are strongly discouraged;

(e) Where any personnel of a national contingent develops concerns or suspicions regarding sexual exploitation or sexual abuse by another, whether or not within the United Nations system, he or she must report such concerns to the Contingent Commander;

(f) Personnel of national contingents are obliged to help create and maintain an environment that prevents sexual exploitation and sexual abuse. Commanders at all levels of a national contingent have a particular responsibility to support and develop systems that maintain this environment.

4. The standards set out above are not intended to be an exhaustive list. Other types of sexually exploitive or sexually abusive behaviour may be grounds for disciplinary action by the appropriate authorities of the troop-contributing country.⁷

5. If, after proper investigation by the United Nations in consultation with the troop-contributing country concerned, there is evidence to support allegations against any personnel of a national contingent of sexual exploitation or sexual abuse, the cases may, after consultation with the United Nations Office of Legal Affairs, be referred to the competent national authorities of the troop-contributing country for criminal prosecution.⁸

⁷ This condition reproduces the substance of section 3.3 of the 2003 bulletin (ST/SGB/2003/13).

⁸ This condition reproduces the substance of section 5 of the 2003 bulletin (ST/SGB/2003/13).