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United Nations' International Accountability: Peacekeeping Forces' Sexual Abuse Crimes

The United Nations is an intergovernmental organization that is primarily responsible for the international peace and security of its member states around the world, yet the United Nations has come under fire in the past two decades for causing more harm than good, especially in terms of sexual abuse crimes. The United Nations is responsible for enforcing collective security, economic and social development, international law and human rights, yet its inherent missions run by peacekeepers are corrupt and responsible for a staggering amount of sexual abuse crimes. This paper serves to answer the question how is the United Nations' international accountability defined, in terms of sexual abuse crimes from peacekeeping forces? This paper will define the roles of the United Nations, map out the instances of sexual abuse crimes from the hands of the United Nations peacekeepers, detail the responses from the United Nations and states involved in instances of sexual abuse crimes, detail possible reforms for the United Nations to take responsibility for the sexual abuse crimes that have occurred time and time again and conclude how accountable the United Nations is in terms of sexual abuse crimes. This paper supports the thesis that the United Nations' lacks any international accountability for sexual abuse crimes due to the lack of benefit for the victims of these sexual abuse crimes' in monetary remedies, access to special courts, and survivor prioritization.

In order to define the accountability of the United Nations, it is important to first outline what the United Nations aims to do. The United Nations is an international diplomatic and political organization that fundamentally works to spread international peace and stability. Historically, after the horrendous conclusion of World War II, international leaders met in San Francisco to create a new global organization that would reform the abuses of war that had

occurred and create a new precedence of peace. This new global organization was the United Nations. It initially had 51 member states, and currently, it has 193 members. The United Nations was formed by the United Nations charter, which is essentially a treaty that established the international organization. It is an instrument of international law, as all of the member states that are a part of the United Nations are bound by it. The United Nations' purpose and principles are outlined in the United Nations charter, through its four main purposes: the maintenance of international peace and security, developing friendly relations among nations, achieving international cooperation in solving international problems and being a center for harmonizing the actions of nations in the attainment of these common ends. The United Nations' charter also divided the United Nations into six major organs: the General Assembly, the Security Council, Economic and Social Council, Trusteeship Council, International Court of Justice and the Secretariat. The General Assembly is the policy making body of the United Nations, whose responsibility is to vote upon the decisions that the organization makes. The Security Council is composed of five permanent member states (United States, United Kingdom, Russian Federation, China and France) and 10 non-permanent states voted in by the General Assembly for two-year terms that work to ensure the maintenance of international peace and security. The Economic and Social Council make policy recommendations regarding issues that are economic, social or environmental in nature. The Trusteeship Council works to ensure that the inhabitants of the United Nations' trust territories maintain international peace and security. The International Court of Justice works to settle legal disputes that member states submit in regards to international law. Lastly, the Secretariat which includes the Secretary-General and United Nations staff work to carry out the daily administrative tasks of the organization and work upon international peacekeeping missions. For the purposes of peacekeeping, the most important body

of the United Nations is the Security Council. The Security Council determines the deployment of any new United Nations peacekeeping operation. The organization and the purpose of the United Nations is important when identifying the missions of peacekeepers.

The United Nations, as a body that promotes international peace and security, aims to enforce peacekeeping. Peacekeeping works to help countries that are in a state of conflict move to conditions of peace. Peacekeeping missions are bound by the UN charter, which dictates the establishment of a UN peace operation through Chapters VI, VII and VIII. Chapter VI of the UN Charter deals with the “Pacific Settlement of Disputes,” where several peacekeeping operations have been listed within the chapter. Chapter VII of the UN charter discusses the, “Action with Respect to the Peace, Breaches of the Peace and Acts of Aggression,” which authorizes the deployment of the United Nations peace operations into volatile post-conflict settings where the host country is unable to maintain the security of public order. Lastly, Chapter VIII of the UN Charter dictates the regional agreements and agencies that assist with peacekeeping operations. Every single peacekeeping operation that is deployed by the United Nations Security Council are deployed upon the basis of mandates. Though every single peacekeeping operation cannot have the same mandate, most peacekeeping operations work to support three basic principles: consent of all the parties, impartiality and non-use of force except in self-defence and defence of the mandate. The consent of the parties refers to the fact that both countries, the one issuing aid and the one receiving aid both have to express the desire for peacekeeping operations. Impartiality refers to the fact that peacekeepers must treat every single person in their host country equally and with fairness. Lastly, the non-use of force except in self-defence and defence of the mandate refers to the fact that peacekeepers must behave in a way that is not harmful to the citizens of the host country that they are operating in unless they are put in harm's way or the

mandate that the peacekeeping operation they are issued makes them use force. Peace operations mandates' typically can involve: deployment to prevent conflict outbreaks, leading states to transition into a government with democratic principles, economic development and stability, the making of comprehensive peace agreements as well as creating an environment for the parties of destabilized countries to create a peace agreement. Due to the fact that these countries are typically in a state of dire conflict, peacekeepers are important as they are vital in many peacebuilding activities such as: demobilization of opposing parties, electoral assistance, the promotion of social and economic recovery and development, promotion of human rights, the security sector reform. The United Nations' Security Council has defined the tasks of the UN peace operations and tasks of peacekeepers through Security Council resolutions, including Security Council resolution 1325 on women, peace and security, Security Council resolution 1612 on children and armed conflict, and Security Council resolution 1674 on the protection of civilians in armed conflict. Typically, peacekeeping operations are defined into five major categories: members of the national military contingents and military officers, United Nations civilian police and military observers, United Nations civilian staff, United Nations volunteers and individual contractors. The United Nations peacekeepers, including troops, civilians, and the United Nations staff are all granted functional immunity as being a part of an international civil service. The Convention on the Privileges and Immunities of the United Nations, in 1946, as a part of the United Nations Treaty Series established that United Nations peacekeepers are protected from the legal process for acts they perform in their official capacity. The functional immunity aspect that is granted to the peacekeepers of the United Nations is vital when understanding the results of these sexual abuse crimes that have been linked to the United Nations' peacekeepers.

Historically, the United Nations has completed 57 peacekeeping missions. Currently, it has 15 active peacekeeping missions right now. The issue with the United Nations peacekeeping missions is that they have a history of crimes, specifically sexual abuse crimes. The United Nations defined sexual abuse as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal coercive conditions. Sexual abuse crimes include rape, sexual assault, sex with a minor, transactional sex, exploitative sex and the trafficking of persons for sexual exploitation. Out of the 57 missions that have been completed by the United Nations, there have been sexual abuse crimes at 11 missions. The first instance of sexual abuse crimes that occurred were in the United Nations Operation in Somali II in response to the Somali Civil War that took place from 1993 to 1995. The United Nations Operation in Somali II had 5 incidents of sexual abuse. The next instance of sexual abuse crimes that occurred were in the United Nations Observer Mission Uganda-Rwanda in response to the Rwandan Civil War in 1993 to 1994, where 65 incidents of sexual abuse occurred. The next instance of sexual abuse crimes that occurred were in the United Nations Mission in the Democratic Republic of the Congo in response to the Second Congo War in 1997 to 2017, with 150 incidents of sexual abuse occurring. In addition, the United Nations Mission in Ethiopia and Eritrea in response to the Eritrean-Ethiopian War in 1998 to 2002 experiences 70 incidents of sexual abuse. The next instance of sexual abuse crimes occurred in the United Nations Mission in Sierra Leone in response to the Sierra Leone Civil War that took place from 1999 to 2006, with 50 incidents of sexual abuse. In addition, the United Nations Operation in Burundi in response to the Burundi Civil War that took place from 2000 to 2007 experienced 80 incidents of sexual abuse. Next, the United Nations Interim Administration Mission in Kosovo in response to the Kosovo War from 1999 to 2006 experienced 800 incidents of sexual abuse. In addition, the United Nations Mission

in Liberia in response to the Second Liberian Civil War that took place from 2003 to 2018 experienced 30 incidents of sexual abuse. In addition, the United Nations Operation in Côte d'Ivoire in response to the Côte d'Ivoire Civil War experienced 500 incidents of sexual abuse. In addition, the United Nations Stabilization Mission in Haiti that occurred from 2004 to 2017, in response to the 2004 Haitian coup d'état experienced 110 incidents of sexual abuse. Lastly, the United Nations Mission in Sudan in response to the Second Sudanese Civil War that occurred from 2005 to 2011 experienced 400 incidents of sexual abuse. Over 2,000 allegations have been made over peacekeeping missions from Cambodia to Bosnia, to the Democratic Republic of Haiti, yet only 53 uniformed peacekeepers and one civilian peacekeeper have ever been sent to prison for sexual offences. The *New York Times* in October 2005 released an editorial that stated that, "nothing discredits the United Nations more than continuing sexual abuse of women and girls by soldiers belonging to its international peacekeeping missions." The United Nations has been committing these awful acts of sexual abuse and exploitation from United Nations peacekeepers, that have allowed for abuse to occur time and time again.

Within these sexual abuse crimes, there are personal stories that give light into the issue even more. Within the first instance of sexual abuse crimes in Somalia in 1993, there is a story of Canadian peacekeepers in Somalia beating, raping and torturing a young Somali teenage boy. Within in the United Nations mission in the Democratic Republic of the Congo from 1997 to 2017, there were instances of transactional sex. In 2003, civilians from Bunia in eastern Democratic Republic of the Congo took refuge in the United Nations camps. *The Independent* reported the story of a 13 year old girl, who became pregnant after repeated rapes by peacekeepers, and did not have any support from her father because she was an unmarried mother. In the United Nations' headquarters with a camp for internally displaced people, this girl

and her baby faced starvation and so she had to exchange sex for a simple banana. The sexual abuse crime of transactional sex in this instance is absolutely awful. The United Nations' zero-tolerance policy clearly prohibits the exchanges of money, employment, goods and services for sex - yet the issue kept occurring in this case. Furthermore, the United Nations Sexual Abuse Scandal documentaries highlights the stories of women in the Democratic Republic of the Congo facing further sexual abuse crimes. A victim, Daniella, stated that a French peacekeeper took her off the street, and raped her. Due to the fact that Daniella and her family did not know how to make a complaint to the United Nations' officials, the rape went unrecorded. Another victim Manda, who was 11 at the time, stated that she was grabbed by force on her way to the grocery store by an a peacekeeper and was raped. After the peacekeeper had slept with her, he bribed her with money and told her not to discuss the issue, even though she ended up becoming pregnant after these sexual abuse crime had taken place. One of the most disturbing instances of sexual abuse crimes occurred within the United Nations' Interim Administration Mission in Kosovo, where the arrival of peacekeepers made for an increase in trafficking. Peacekeepers within this mission were implicated in the use of prostitutes, sex trafficking, purchasing sex slaves, purchasing illegal weapons from brothel owners and covering up illegal activities. Within Kosovo especially, trafficking and forced prostitution was not an issue that was occurring prior to the arrival of peacekeeper, showing that peacekeepers often were responsible for more harm than good. When peacekeepers are deployed, there is an expectation of professionalism, discipline and dedication to the goals of the United Nations. The fact that all of these sexual abuse crimes occurred at the hands of peacekeepers really goes against the mission of the United Nations' and peacekeeping as a whole.

The main problem with the United Nations' sexual abuse crimes is that peacekeeping operations are bound by flawed laws and frameworks that govern the immunities and jurisdiction once an allegation is made. Once an allegation of sexual abuse is made against a United Nations' peacekeeper, the United Nations must see if the action that they are accused of was a part of the staff member's official functions and if the staff member's functional immunity was broken through the staff member's official functions. The United Nations' uses their investigatory powers to examine the evidence of the allegations, by acting or done beyond one's legal power or authority. This is important because the United Nations holds all the same powers as employers while seeing if the act is in violation of the peacekeepers' contract with the United Nations and many of these peacekeeping operations occur in places where there are no functioning bodies of government or institutions that are able to conduct legal procedures. Furthermore, the overlap between the countries receiving aid and the United Nations attempting to investigate sexual abuse crimes leads to a lack of responsibility for both parties involved as often times, neither body takes responsibility for the sexual abuse crimes investigations and leads to the mishandling of these allegations. Furthermore, the United Nations will not hand over its peacekeepers to the local authorities in situations where there are issues with the rule of law, human rights, or institutions with host state as well in the case of a fair trial or other fundamental human rights, the United Nations cannot hand over a civilian staff member. These peacekeepers could be prosecuted within their home states, but it would only occur if their home country had the legislation and asserts extraterritorial criminal jurisdiction for peacekeeping operations that occurred in troop contributing countries, which is often difficult to prove. In addition, the United Nations, when peacekeeping operation occur, creates a bilateral status of forces agreement with the host countries that are receiving. The status of forces agreements clearly outline the fact that

there are jurisdictional bars that preclude the host state from using the process of law against peacekeepers who commit crimes while on these missions. This immunity can be waived by the countries that receive troops, however it never occurs. The troop receiving countries must legally investigate and punish peacekeepers who commit sexual abuse crimes under the United Nations, and have 10 days to start an investigation once they receive word from the United Nations regarding allegations from their troops, yet both the obligations of the troop receiving countries as well as the United Nations to follow suit. Furthermore, the accountability of the United Nations is undermined through the fact that the troop receiving countries are unwilling or unable to prosecute the troops' crimes that have occurred while operating abroad. Many troop receiving countries do not have the legal authority to prosecute domestic crimes extraterritorially. There is a major problem within fundamental substantive law which refers to the lack of internationally agreed definitions of sexual abuse. In addition, there is a global situation in where host countries as well as troop contributing countries lack a universal criminal jurisdiction for sexual abuse crimes. In addition, the fact that the United Nations as well as the troop receiving countries are not upholding their obligations in regards to sexual abuse crimes not only undermines the laws but undermines the peacekeeping operations' as a whole.

In response to these sexual abuse crimes, the United Nations have attempted to implement a number of policies to try to address the sexual abuse crimes. Previous United Nations' Secretary Generals Kofi Annan and Ban Ki-Moon in 2002, announced a "zero-tolerance policy," upon sexual abuse. The current United Nations General Secretary Antonio Guterres has expanded upon the zero tolerance policy. The policy includes that there is a zero tolerance policy with respect to sexual exploitation and abuse, including acts of sexual activity with minors, threatened physical intrusion of a sexual nature by force, acts of transactional sex,

and exploitative relationships. The United Nations has developed a three-pronged strategy to address all forms of sexual abuse through the prevention of misconduct, enforcement of UN standards of conduct and remedial action. The zero-tolerance policy includes more training, awareness-raising campaigns in the host country, clear standards of conduct that are defined within, “The Ten Rules: Code of Personal Conduct,” investigations and disciplinary measures, and assistance to victims of sexual abuse committed by UN personnel. Despite the fact that the zero-tolerance policy has been implemented, increased education and training, the Under-Secretary of Peacekeeping Operations acknowledged that not all of the host countries receiving peacekeeping operations support the zero-tolerance policy, which allows for more sexual abuse crimes to keep occurring. Furthermore, the United Nations personnel enjoying functional immunity from prosecution by the host state of where the peacekeeping operation is occurring allows for the culture of sexual abuse to continue on as well as the peacekeepers being subjected to the exclusive jurisdiction of the respective troop contributing country. Though the United Nations, has tried to institute the zero-tolerance policies for peacekeepers through military publications, it is very ineffective. The United Nations has implemented standards of conduct for their peacekeepers in two publications known as the *Ten Rules: Code of Personal Conduct for Blue Helmets (Ten Rules)* and *We Are United Nations Peacekeepers*, which clearly prohibit sexual abuse and exploitations. The fourth rule of *Ten Rules* requires peacekeepers to not engage in, “immoral acts of sexual, physical or psychological abuse or exploitation of the local population of United Nations staff, especially women and children.” *We Are United Nations Peacekeepers* states that peacekeepers must not commit acts that result in, “physical, sexual or psychological harm or suffering to members of the population.” Though both of these handbooks that are given to peacekeepers outline how peacekeepers should not be engaging in sexual abuse

with victims, it is the host countries' that are receiving the aid of United Nations peacekeeping to be responsible and discipline their troops. The United Nations has no authority to criminally prosecute perpetrators of sexual abuse, and legal institutions within the countries receiving peacekeepers are responsible for criminally holding their perpetrators to account for their actions. If the troop receiving countries are not following suit with the United Nations attempts at reforming sexual abuse crimes, it allows for the sexual abuse crimes to continue occurring as well as shape the United Nations for not having any accountability for the sexual abuse crimes that have previously occurred.

Due to the fact that the United Nations' does not have a lot of accountability, there are reforms that the United Nations should implement to address all of the sexual abuse crimes that have occurred at the hands of peacekeepers. The first thing that the United Nations should revise is the immunity that is given to every single peacekeeper. Under the Convention on the Privileges and Immunities of the United Nations, United Nations peacekeepers are immune from criminal prosecution by national authorities for acts that are performed in their official duties. The immunity that is given to the United Nations staff should be revised in a new Convention that allows for the peacekeepers to still enjoy functional immunity, but not protect the peacekeepers under crimes including sexual exploitation and abuse. Though a new Convention implementation would take time to come into force and could only be implemented with the consent of the Member States, the Convention would allow for a new accountability for the United Nations staff and allow for more successful missions in the future that do more good globally rather than harm. The next step would be more of an increase in education for both the troop receiving country as well as the Member State that is working with the United Nations to help the host country. Once a Member State agrees to provide troops to a specific country, both parties should

take steps to work with the United Nations' Department of Peacekeeping Operations to assure that every single peacekeeper is education upon how sexual abuse and exploitation is not allowed upon peacekeeping missions, but also have the United Nations work with the host country receiving aid to ensure that all of the United Nations' standards of conduct, mission standards, local laws and regulations, and operations are all going successfully. The next revision that the United Nations could implement to take more accountability for their sexual abuse crimes is by prioritizing the survivors of these awful sexual abuse crimes. The United Nations should provide assistance as well as monetary compensation to victims as well as children that are born because of sexual abuse crimes. The United Nations' should provide access to victims for support in every single host country, and the support could be legal services, medical services, psychological care, awareness in communities, shelter, and educational opportunities. Often times, victims of sexual abuse and assault are unaware of how to report it or how to go about it so there should be implementation of resources that allow for individuals to be able to lodge complaints about the United Nations' peacekeepers confidentially. Another reform that could allow for more accountability of the United Nations' sexual abuse crimes would be through the implementation of more women. According to United Nations figures in 2018, about 4% of military staff and 10% of police personnel in United Nations peacekeeping missions around the world are women. Reforming peacekeeping operations would occur with more women having a presence in peacekeeping operations around the world. In 2007, The United Nations had India deploy an all-female team of United Nations peacekeepers in Liberia's capital, Monrovia along with sponsoring gender experts to examine the impact of female peacekeepers. Within this operation, a UN official noted that, "women in most cases perform better than male officers, namely sexual assault cases and in some instances child abuse cases where the victims-mostly

female, feel more at ease, culturally and emotionally, dealing with a female officer.” The role of women in peacekeeping operations is essential. If there is an increased volume of female peacekeepers sent upon peacekeeping missions, this would allow for the United Nations to lose the ‘boys will be boys’ attitude and reinforce the zero-tolerance policy.

In conclusion, the United Nations does not have accountability in terms of sexual abuse crimes. The United Nations is an international organization that should be responsible for the international peace and security of all of its member states. Within the United Nations’ charter, which is an international treaty, it dictates the purposes of the United Nations: to maintain international security and peace, develop friendly relations among states, building respect for the equal rights and self-determination of people, promotion of human rights and fundamental freedoms as well as serving as a forum to harmonize international collaboration towards solving economic, social and humanitarian conflict. The United Nations’ charter dictates peacekeeping missions. The purpose of peacekeeping is to provide security and peacebuilding support to help countries make the transition from states of conflict to states of peace. If the United Nations’ peacekeeping operations historically have sexual abuse crimes occurring, then peacekeeping is not only unnecessary but causes more harm to these troubled nations rather than allow for a revitalization of peace and security. If historically the United Nations have had 11 missions in which sexual abuse crimes have taken place and over 2,000 victims of sexual abuse crimes, the United Nations’ peacekeeping operations are inherently flawed. The accountability of the United Nations in response to sexual abuse crimes is not present. Accountability, in regards to the United Nations, refers to when a group reports their activities and can take action upon those reports. In relation to sexual abuse crimes and the United Nations peacekeepers’, there are many ways in which accountability is lost. In a basic level, the United Nations’ must provide a forum

in which peacekeepers are held accountable to the victim, their host country and criminal law for sexual abuse crimes. The United Nations' must also work to ensure that the troop receiving, host countries and the United Nations are held accountable to punish sexual abuse crimes by their peacekeepers. The United Nations must work to fix its current measures as well as revise its "zero-tolerance" approach to sexual abuse crimes as if the United Nations' can live up to its reformed policies, the member states that get involved with peacekeeping will follow suit. The United Nations' must ensure that the sexual abuse crimes can be eliminated, that peacekeepers' involved within these sexual abuse crimes immunity is removed so they can be punished and the victims must be compensated. As stated within the reforms that the United Nations' could implement, it is vital that victims of these sexual abuse crimes receive monetary support as well as access to medical services, educational opportunities, legal services, psychosocial services as well as basic material care to allow for the communities that have been affected by the United Nations' peacekeeping crimes to have a chance at a fair, justice system. Furthermore, the United Nations addressing sexual abuse crimes focuses upon the sexual abuse by peacekeepers with three categories: prevention, enforcement and remedial action. Every single reform that the United Nations claims to work upon the addressing of sexual abuse crimes focuses upon the peacekeepers that are committing the crimes, rather than the victims who have experienced these crimes. The main focus for the United Nations' in claiming accountability for peacekeepers' committing sexual abuse crimes, should be victim centric. The creation of a new Convention upon the revisitation of the functional immunity given to peacekeepers, the enforcement of more education for both the host countries as well as the United Nations on sexual abuse crimes, monetary compensation as well as an increased amount of female peacekeepers implemented on the peacekeeping missions by the United Nations will allow for a new revitalization of human rights

across peacekeeping activities. Though the United Nations' currently is not accountable for their sexual abuse crimes, through the increased accountability for the intergovernmental organization, the increased accountability of the host countries as well as the troop receiving countries, it is evident that the United Nations' is capable of becoming accountable for its' sexual abuse crimes.

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