

**K Grady, 'Sexual Exploitation and Abuse by UN Peacekeepers: A Threat to Impartiality' (2010) 17(2) International Peacekeeping 215-228**

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This article reconceptualizes the idea of the impartiality of UN peacekeeping in light of allegations of sexual exploitation and abuse by peacekeeping personnel. It considers the role that sexual exploitation and abuse play both during and after conflict. This paper argues that sexual exploitation and abuse are political acts which bring about financial and propagandist benefits for the warring parties. It then tracks the history of neutrality in UN peacekeeping – originally defined as objective inaction against the warring parties – and its development into impartiality – now identified as unbiased interference, but with greater reference to core universal values such as fairness and justice. Peacekeepers' involvement in sexual exploitation and abuse is of political advantage to the parties and therefore breaches the principle of impartiality.

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This article considers the role that neutrality and impartiality have played in UN peacekeeping doctrine and the impact that allegations of sexual exploitation and abuse (SEA) by peacekeepers have had on these principles. Much has been written about the neutrality/impartiality of various specific peacekeeping missions *vis-à-vis* the parties involved in the conflict and the relationship between the mission mandate, its execution and the peacekeepers themselves.<sup>1</sup> However, very little has been written about the threat posed to neutrality/impartiality by SEA by UN peacekeepers. The UN identifies a potential for such a threat, but has little to say about how or why this might have arisen, and the impact that it might have. Thus, the purpose of this article is to explore in more detail the manner in which SEA constitutes a threat to the neutrality/impartiality of UN peacekeeping. The article begins by analysing the historical development and meaning of the principles of neutrality and impartiality. It argues that the principle of neutrality that was originally applied to UN peacekeeping underwent mandated reform after the conflicts of the early 1990s, and was replaced by the principle of impartiality. This section of the paper explores the different meanings of those terms 'neutrality' and 'impartiality' and the catalyst that brought about this change. It examines the importance of neutrality/impartiality for peacekeeping doctrine and (arguably) for the legal status of peacekeeping operations.

The terms 'neutrality' and 'impartiality' have controversial meanings in peacekeeping doctrine. The UN definition of these terms is discussed below, but some studying these concepts have argued for the need to distinguish between the mandate of a peacekeeping mission and the practice of the mission in the field. Nicholas Tsagourias differentiates between the two on the basis that '[n]eutrality refers to the character of a PKO [peacekeeping operation], whereas impartiality is an operational term and refers to the conduct of the operation.'<sup>2</sup> Jane Boulden on the other hand retains use of the term 'impartiality', rather than 'neutrality', but contends that 'the impartiality of a UN mandate needs to be considered

separately from the impartiality of the implementation of that mandate.’<sup>3</sup> Whatever terminology is applied, it seems that there is a distinction between the nature of a peacekeeping operation, determined by the mandate given to it by the Security Council, and the way in which that operation is actually executed in the host state. This article is concerned with the latter situation. Moreover, among academics and staff in the UN itself, the terms ‘neutrality’ and ‘impartiality’ have at times been seen as synonymous and interchangeable. It is only relatively recently that they have been treated as distinct concepts. For the sake of clarity this article maintains the current usage of the words, as distinct concepts, with distinct meanings.

Finally, the term ‘sexual exploitation and abuse’ is used here according to the UN definitions. Thus SEA 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... [or the] actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.<sup>4</sup>

The term ‘SEA’ is used here to cover instances of non-consensual sexual contact as well as sexual contact that is ostensibly consenting, for example, where the women involved are engaged in survival prostitution,<sup>5</sup> with either UN personnel or personnel from parties to the conflict.

### **The Politicized Role of Sexual Violence in Conflict**

Security Council Resolution 1325 recognized that women require special protection from gender-based violence during armed conflict.<sup>6</sup> Yet UN peacekeepers have themselves been implicated in SEA, raising serious questions about their responsibility to protect and their impartiality in peacekeeping operations.

The SEA of women has been observed to be a common and widespread feature of military conflict, both historically and in the present age.<sup>7</sup> Indeed, instances of rape by military personnel during wartime have been shown to be significantly higher than both civilian rapes during wartime and military rapes during peacetime.<sup>8</sup> All too often, the SEA of women is viewed as the ‘natural’ and ‘inevitable’ consequence of the breakdown of law and order in a conflict-ridden state. But SEA is far from ‘natural’ or ‘inevitable’. Rather, it is often a conscious political act deeply rooted in the political economy of war.<sup>9</sup> Two dominant trends can be identified.

First, SEA has emerged as a consequence of the development of ‘transborder shadow economies’.<sup>10</sup> In brief, the existence of shadow trade in resources and services has become a major source of funding for rebel forces since the end of the Cold War. Thus, ‘those seeking

to oppose or replace the state in a violent manner engage in asset accumulation through parallel or shadow economies, including trafficking in minerals, gems, timber, gold, illegal drugs and humans.<sup>11</sup> Such asset accumulation substitutes for the role of the conventional state-based war economy – it allows weapons to be bought and fighters to be paid, furthering the rebel’s goal of using military might to achieve political and economic power.<sup>12</sup> The abduction, sale and purchase of human beings is a common feature of shadow economies,<sup>13</sup> with the sexual trafficking and prostituting of women and children a profitable way of boosting the coffers. ‘Military and non-military trade becomes entwined’.<sup>14</sup> In addition, members of both state and rebel forces may seek to take advantage of their place in this black market economy by securing such commodities for themselves: sexual and domestic slavery and the taking of temporary wives have become commonplace during such conflicts.<sup>15</sup> According to Amnesty International, the trafficking of women and girls for SEA and forced labour takes place in 85 per cent of conflicts,<sup>16</sup> with cases of abduction, trafficking, sexual slavery and prostituting of women documented in Angola, Colombia, the Democratic Republic of Congo (DRC), Liberia, Uganda, Sierra Leone,<sup>17</sup> Sudan,<sup>18</sup> Mozambique<sup>19</sup> and Serbia,<sup>20</sup> for example. The SEA of women in an arena of conflict is thus an essential element of the war economy created to supply resources to the different warring factions.

Second, the SEA of women that takes place during conflict is often used for propaganda purposes by parties to the conflict. SEA – both actual and threatened – becomes a political act in and of itself, used as propaganda either to frighten the enemy’s men and women or to provide a rallying cry for support of the ally’s cause. ‘At the heart of this rhetoric is the notion that women – and in particular women’s bodies, sexuality and reproductive capacity – are the repositories of the community’s honour.’<sup>21</sup> Thus, where SEA is threatened or used against an enemy, the honour of the enemy nation is tarnished and the masculinity of its men called into question by their inability to protect ‘their’ women. Where it is threatened or used by the enemy against the ally, this ‘is commonly used to strengthen the sense of communal solidarity and increase fear and distrust of the “enemy”’.<sup>22</sup> Catherine MacKinnon, for example, cites the use of films of the rape of allegedly Serbian women in propaganda aimed at stirring-up Serb nationalism.<sup>23</sup> Amnesty International reports that the rape of Muslim women in the Indian state of Gujarat arose out of the ‘distorted history [that] was used to promote the myth and imagery of the virile, violent Muslim man and the victimized Hindu woman’,<sup>24</sup> and therefore justified such ‘revenge’ rapes by Hindu men. The propaganda value of the widespread rape of women during the Rwandan genocide is well-known. SEA is therefore used as a tool to manipulate perceptions at home and among the enemy and to provide valuable propaganda in support of the war effort.

The SEA of women can thus be viewed as an overtly political act.<sup>25</sup> In a war zone, there is a distinct likelihood that SEA will have both political causes and political consequences. By securing a source of income that helps underwrite the war economy and by fulfilling a propaganda role, SEA invariably provides political benefit to one party, and a collateral detriment to the other(s). Moreover, SEA often extends into the post-conflict period when UN or other peacekeeping forces have been deployed. In part, this is because the distinction

between the onset of conflict and its end is somewhat semantic – the systems, infrastructure and attitudes that operate during a conflict are likely to continue well after a ceasefire or peace agreement is signed.<sup>26</sup> In addition, the propaganda value will not have diminished, as parties continue to distrust each other, particularly if one or more groups are unhappy with their spoils from the peace negotiations. Trafficking is also likely to continue as vulnerable, displaced individuals continue to be targeted, and those already caught in a trafficker's web are unlikely to be released merely because the fighting is supposed to be over. In addition, as the UN identifies, '[o]ften the same figures that were in a position to exploit war-time economies are in a position to move quickly into high revenue, illicit goods and service economies in post-conflict environments', including the trade in humans.<sup>27</sup> Further, if there was no human-trafficking during the conflict itself, there is a distinct likelihood that it will begin to occur after. SEA is thus likely to be a lasting feature of any post-conflict society. It is against this backdrop that we examine SEA by UN peacekeepers.

### **Allegations of Sexual Exploitation and Abuse by UN Peacekeepers**

The problem of SEA committed by UN peacekeepers came to a head in the early 2000s, with allegations of inappropriate sexual conduct between foreign personnel and women and children in the state to which a peacekeeping mission had been sent. As Kofi Annan remarked, it 'brought shame upon the United Nations and upon those in its service.'<sup>28</sup> The UN took steps to address the issue, both specifically and as part of its broader work on gender and peace and security, of which Resolution 1325 is a key tenet. However, the problem was not new and certainly did not begin with the allegations by aid agencies working in West Africa in the early 2000s. Academic, activist and media reports indicate that allegations have been made in missions as disparate as Bosnia and Herzegovina, Burundi, Cambodia, Côte d'Ivoire, the Democratic Republic of Congo, Ethiopia and Eritrea, Haiti, Kosovo, Liberia, Mozambique, Rwanda, Sierra Leone, Somalia, Sudan and Timor Leste.<sup>29</sup> The then UN Assistant Secretary-General for Peacekeeping Operations, Jane Holl Lute, contended that it was '[m]y operating presumption that this is either an ongoing or potential problem in every single one of our missions.'<sup>30</sup> It appears that almost no peacekeeping operation has been exempt,<sup>31</sup> but the concentration of missions in Africa means that a disproportionately high number of allegations tend to come from there.

The level of such accusations is difficult to determine and varies significantly from mission to mission. Since 2003, the number of allegations made to the UN against its civilian and military personnel (the latter on loan from troop-contributing countries) is documented in annual reports to the General Assembly. These demonstrate that from 2003 to 2006, 358 military personnel were investigated after allegations of SEA were made.<sup>32</sup> However, there are two problems with these figures. First, there is limited information about how many of these allegations were substantiated. Anecdotally, it has been suggested that some cases are likely to have been fabricated, particularly in return for financial gain. Second, and conversely, there are undoubtedly many cases that have never come to light because the victims have not reported the occurrence out of shame or fear, or because they have, in some

cases, 'chosen' to engage in sexual activities such as prostitution. Overall, it seems almost certain that the number of incidents is higher than documented by the UN because of such underreporting. A survey among peacekeeping personnel in Cambodia confirms the view that SEA is widespread as a consequence of peacekeeping deployments. Indeed, 45 per cent of Dutch personnel participating in the UN Transitional Authority in Cambodia had 'had sexual contact with sex workers or other members of the local population during a five month tour of duty'.<sup>33</sup> If this statistic is replicated across the UN system, with 79,147 troops in the field at March 2009,<sup>34</sup> the true figures of incidents of SEA are likely to run into the thousands.

Specific information about the personnel accused can be difficult to obtain from the UN, which refrains from officially and routinely identifying the nationality of those accused of SEA, due in part to the political weight wielded by Troop Contributing Countries (TCCs) in providing military and police personnel to missions in a context of shortages.<sup>35</sup> Media reports, often tracked by campaigning organisations such as Women's International League for Peace and Freedom,<sup>36</sup> indicate that few TCCs have been untarnished, allegations having been made against peacekeepers from Europe, Asia, Africa, and North and South America. Admittedly, the authenticity and accuracy of many of these reports cannot be independently determined. This is particularly problematic given that the issue can be manipulated for propaganda purposes. Indeed, reports sometimes use the term 'peacekeeper' generically, to refer to civilian staff, police or military personnel not under UN authority. Nonetheless, the volume of reports from a variety of sources does suggest that the challenge facing the UN is on a widespread scale, with few missions and few TCCs exempted from allegations. Moreover, the actual figures of instances of SEA are perhaps less important than perceptions, given that, as the UN itself has identified, 'a crisis of perception in relation to trafficking and the linked issue of sexual exploitation and abuse, which sees peacekeepers branded as more part of the problem than the solution.... The perception of peacekeeper involvement in [SEA] is now widespread.'<sup>37</sup>

Finally, peacekeepers have been accused of committing various types of exploitation and abuse: sex with minors (under 18), employment for sex, sex with prostitutes, sexual assault, rape, and other incidents that include sex in exchange for food or assistance in kind.<sup>38</sup> Media reports also suggest allegations of trafficking of individuals for prostitution and organized prostitution rings, abduction, the making of pornographic films and an organized paedophile ring.<sup>39</sup> The problem of SEA is thus significant and, furthermore, some incidents of SEA will inevitably fall within the paradigm identified earlier in which it is possible to classify sexual violence during and after conflict as a political act.

### **Sexual Exploitation and Abuse as a Threat to Peacekeeping Impartiality**

According to resolution 1325 (para.5), the UN is committed 'to incorporate a gender perspective into peacekeeping operations'. Furthermore, the Department of Peacekeeping Operations (DPKO) has explicitly recognized that the involvement of peacekeepers in SEA damages UN credibility with respect not only to the UN's international reputation but also to

its local reputation among the parties to conflict. It also links the involvement of personnel in SEA to its impact on the principle of impartiality to which all peacekeeping missions are supposed to adhere. UN guidance provided to peacekeepers states that personnel should represent ‘the highest integrity and impartiality’<sup>40</sup> and that they ‘will never become involved in sexual liaisons which could affect our impartiality’.<sup>41</sup> Yet, many cases of SEA represent two types of politicisation.

First, it seems that some of the incidents involving UN personnel have been committed against women who have been trafficked or prostituted by a party to the conflict. UN police frequented Muslim prostitutes who were prostituted by Serb forces for money during the war in Bosnia.<sup>42</sup> As the UN points out ‘it may be extremely difficult to differentiate between trafficking victims and local prostitution’.<sup>43</sup> Thus, ‘there is strong anecdotal evidence of peacekeeping personnel having been involved in the use (knowingly or unknowingly) of sexual services of trafficking victims.’<sup>44</sup> Indeed, the UN has explicitly recognized a nexus between war economies, the SEA of women, and the presence of military personnel: ‘UN peacekeepers should *expect* to find trafficking and exploitation emerging in its areas of operations, even as the first personnel arrive. Senior managers of missions should *assume* that traffickers will target UN personnel for revenue’.<sup>45</sup>

Second, the propaganda value of such behaviour to parties to the conflict can be used to undermine an international presence and the political process that seeks to sustain peace. For example, in Cambodia, the Khmer Rouge used peacekeepers’ frequenting of prostitutes, including Vietnamese prostitutes, to argue that the troops were neglecting to monitor Vietnamese forces in the area and were thus supporting Vietnamese interference in Cambodia.<sup>46</sup> Similar problems occurred in Rwanda, local media accusing the UN Assistance Mission for Rwanda of being pro-Tutsi following incidents between some Belgian troops and Tutsi women.<sup>47</sup> The government of Sudan has also used SEA as a tactic to prevent or delay the deployment of a UN mission to Darfur.<sup>48</sup> As the DPKO acknowledges, such behaviour provides ‘material for anti-UN elements, obstructionists and negative media campaigns... Opponents of peace missions are increasingly aware that the issue can be effectively exploited to undermine the moral authority and political leverage of UN operations’.<sup>49</sup> Thus, for those whose political aim is the continuation of the conflict or to try to secure peace on more favourable terms than might otherwise have been available, SEA provides a useful propaganda tool and is thus a political issue. That is not to say that UN personnel necessarily intend to bring about any of the political consequences that follow from acts of SEA. Being seen to be impartial is a vital element of actually being impartial, and thus, if peacekeepers’ behaviour is seen as partial by the parties to the conflict, motivations are likely to be immaterial.

### **Wider Implications**

Where does the problem of SEA leave UN claims to impartiality? In order to address this question, it is necessary to consider the meaning of the term ‘impartiality’. The UN has

developed theoretical principles that are supposed to be applied to all missions, ensuring that any operation 'is based on the trinity of consent, neutrality/impartiality and the use of force in self-defence'.<sup>50</sup> These elements represent the cornerstones of the deployment of force in the search for peace. Historically, any force deployed was done so only with the consent of the state into whose territory it was deployed, and with the consent of any of the other warring factions involved. Peacekeepers were also supposed to use force only in self-defence, or more expansively, in defence of the mission itself. Practically, the notion of neutrality was established in order to prevent the UN from becoming drawn into the conflicts it was attempting to cajole the parties into resolving. The trinity of inter-related elements – consent, neutrality and self-defence – was necessary (a) to ensure mission viability with limited financial, logistical, and perhaps political, resources available, (b) to provide moral authority over the warring-parties<sup>51</sup> and (c) to keep TCCs sufficiently satisfied that their personnel were not in serious harm's way.<sup>52</sup> Legally, neutrality and impartiality distinguish peacekeeping from peace enforcement, where the aim of the mission is to advance the military position of one or more parties to the conflict,<sup>53</sup> although the distinction between these two types of mission is increasingly blurred.<sup>54</sup> Moreover, Tsagourias notes that the principles of neutrality and impartiality are of such significance and consequence because they correspond with Article 40 of the UN Charter, which provides the illusive legal basis for such missions.<sup>55</sup> It reads: 'In order to prevent an aggravation of the situation, the Security Council may ... call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be *without prejudice to the rights, claims, or position of the parties concerned*' (emphasis added).

Derek Bowett, for example, suggests that this was the legal basis for the first UN mission in the Congo.<sup>56</sup> Peacekeeping was seen as a 'provisional measure' and the requirement that it be 'without prejudice to the ... parties' was therefore equated with the principle of neutrality. In essence, the political and military status of the parties should not be affected by the stationing of troops on disputed territory: the parties retain the political position that they held at the point when the UN force was deployed. Thus, peacekeeping forces should be apolitical.<sup>57</sup> If this interpretation of the Charter is correct, a peacekeeping force must act in a neutral and impartial way in order to remain *intra vires*.<sup>58</sup> Even if this interpretation is incorrect, UN and academic understanding has stuck so doggedly to the principles of neutrality and impartiality that they are said to 'have acquired constitutional status'<sup>59</sup> as a foundation stone for peacekeeping missions. Yet the meaning and use of the terms 'neutrality' and 'impartiality' have developed over the evolution of peacekeeping operations.

### **Development of the Two Principles**

The notion of neutrality was developed first and covered peacekeepers' relations with the parties: '[t]hey were not there to advance the interests of one party against those of the other.'<sup>60</sup> The use of the term 'parties' was taken to mean the warring factions, between which the UN attempted to establish a buffer-zone with a view to facilitating negotiations.<sup>61</sup> One of the first UN peacekeeping missions, the UN Emergency Force (UNEF) deployed in Egypt in

1956, established this tenet on the basis that troops would be stationed within the sovereign state, but with ‘no intent... to influence the military balance in the present conflict and, thereby, the political balance affecting efforts to settle the conflict’.<sup>62</sup> Moreover, the deployment of force ‘was not meant to and could not effect any change in their [the conflicting parties’] prior *status juris*’.<sup>63</sup> This made the stationing of foreign troops in a state acceptable to the sovereign host government and others with claims to the territory.<sup>64</sup> Being neutral meant, in part, being seen to be neutral. As Shashi Tharoor remarks,

the only way peacekeepers can work is by being trusted on both sides, being clear and transparent in their dealings, and keeping lines of communication open. The moment they lose this trust, the moment they are seen by one side as the ‘enemy’, they become part of the problem they were sent to solve.<sup>65</sup>

From UNEF on, neutrality was established as a prerequisite for the deployment of a peacekeeping operation.<sup>66</sup>

However, since the development of so-called ‘robust peacekeeping’ in the 1990s, this core principle has been modified. In particular, the difficulties in Somalia, Rwanda and the former Yugoslavia ‘sometimes obliged peacekeepers to maintain normal relations with a party whose behaviour was being censured by most of the international community’.<sup>67</sup> The UN was thus seen to be acquiescing in incidents of genocide and crimes against humanity. Subsequently, the Report of the Panel on United Nations Peace Operations (the Brahimi Report) argued neutrality be replaced with the revised concept of impartiality. The Brahimi Report contended that ‘[i]mpartiality for such operations must therefore mean adherence to the principles of the Charter and to the objectives of a mandate that is rooted in those Charter principles ... impartiality is not the same as neutrality or equal treatment of all parties in all cases for all time, which can amount to a policy of appeasement.’ In particular, where there were ‘obvious aggressors and victims’ in a conflict, peacekeepers could be ‘operationally justified’ as well as ‘morally compelled’ to ‘oppose obvious evil’, for example, by the use of force against *genocidaires*.<sup>68</sup>

The previously ‘neutral’ position of UN peacekeepers was thus jettisoned in favour of a stance of ‘impartiality’.<sup>69</sup> Impartiality implies that a peacekeeping operation should actively espouse certain principles, including those of fairness and justice, which may require active involvement in order to further such ideals.<sup>70</sup> In the early 1990s when the UN was accused of failing to respond appropriately to widespread violence against civilians or to defend the mandate of operations, which increasingly referred to civilian protection, a new discourse became fashionable: ‘After the Safe Havens, neutrality is a four-letter word’ ... ‘[i]mpartiality is what the UN is supposed to be doing’.<sup>71</sup> This impartiality requires that the treatment of the parties is subject to the principles in the Charter: peacekeepers are expected to behave in a fair and unbiased way, without prejudice to the parties’ conflicting political interests, but at

the same time behaving in accordance with international law and human rights.<sup>72</sup> The 2008 *Principles and Guidelines* for peacekeeping operations, states,

United Nations peacekeeping operations must implement their mandate without favour or prejudice to any party. Impartiality is crucial to maintaining the consent and cooperation of the main parties, but should not be confused with neutrality or inactivity ... Just as a good referee is impartial, but will penalize infractions, so a peacekeeping operation should not condone actions by the parties that violate ... international norms and principles.<sup>73</sup>

Moreover, this idea of impartiality, framed as being subject to overriding Charter ideals, is increasingly compelling when considered in the context of the ‘emerging norm’<sup>74</sup> of the responsibility to protect. This concept posits that ‘there is a collective international responsibility to protect, exercisable by the Security Council authorizing military intervention as a last resort, in the event of genocide and other large-scale killing, ethnic cleansing or serious violations of international humanitarian law which sovereign Governments have proved powerless or unwilling to prevent.’<sup>75</sup> While the concept is highly contested on a variety of grounds,<sup>76</sup> the notion that UN missions should protect civilians and not contravene liberal norms has gained ground.<sup>77</sup>

Yet, the involvement of peacekeepers in SEA in a host state contravenes the principle of impartiality. If SEA during conflict brings about political benefits for the conflicting parties, then peacekeepers’ involvement in SEA cannot be without prejudice to such parties’ positions. Peacekeepers are also failing to abide by UN Charter ideals and liberal norms such as human rights. Thus, SEA renders them partial. Any future implementation of the responsibility to protect would also obviously be compromised by acts of SEA committed by those empowered with such a responsibility. Manifestly, peacekeepers should not abuse those they are sent to protect: as Prince Raad bin Zeid argues, ‘the United Nations has been mandated to enter into a broken society to help it, not to breach the trust placed in it by the local population.’<sup>78</sup> As Dyan Mazurana explains, ‘by taking part in the sex trade, peacekeepers and humanitarian aid workers support economies that maintain instability in the region, perpetuate abuses of women’s, girls’ and boys’ human rights, further entrench systems of inequality and exploitation, and, thus, thwart a return to real peace and human security.’<sup>79</sup> Such breaches are exacerbated by the lack of redress available in cases of SEA, given the immunity from which peacekeepers benefit and the UN’s reliance on the TCC to take action against any of its offending uniformed personnel, which appears rare, despite the Security Council calling for an end to impunity for gender-based crimes in Resolution 1325.<sup>80</sup>

## **Conclusion**

The UN has recognized that sexual behaviour by its personnel ‘has been a source of major embarrassment and political damage’ and that ‘the political and moral stigma attached to this

behaviour can taint entire missions' leaving them 'exposed and vulnerable to attacks on their credibility'.<sup>81</sup> Nonetheless, despite instructing personnel that they should 'never become involved in sexual liaisons which could affect our impartiality',<sup>82</sup> the UN has not elaborated on whether SEA has undermined impartiality in particular cases, and if so, what the consequences were for peacekeeping operations. However, this article has argued that political consequences flow from such behaviour, not least with regard to the difficulty of maintaining the cooperation of the parties to the conflict in the search for a peaceful solution.

For those advocating concerted action against peacekeepers accused of committing acts of SEA, and full implementation of resolution 1325, there is value in examining the issue of impartiality as the concept is part of the dominant discourse of peace operations. Feminists have long debated the merits of addressing gender inequality by engaging with institutional discourses as a vehicle for solving discrimination against women, rather than viewing such institutions as a manifestation of the problem of patriarchy.<sup>83</sup> They have deliberated whether engaging in feminist problem-solving in the international arena disables women from adopting a sufficiently critical perspective. Feminist academics may also accept that in order to be activists it is necessary to engage with those who have the power to alleviate discrimination against women. As Sandra Whitworth suggests, 'in order to be "heard" within this [the UN] context, arguments must be presented in a way that adopts the language of the UN, accommodates itself to UN-produced understandings of peace and security, and is alert to the hierarchies, protocols, and "stories" by which UN personnel define themselves.'<sup>84</sup> Re-envisioning SEA by UN peacekeepers as a threat to impartiality, and identifying the consequences of this for the UN, may have the power to increase pressure on the UN to implement and extend existing policies. Furthermore, if impartiality is central to the philosophy of UN peacekeeping, then anything which threatens it should not be tolerated. By framing SEA as a threat to peacekeeping impartiality, feminists can be 'heard' at the UN.

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<sup>1</sup> See Hilaire McCoubrey and Nigel White, *The Blue Helmets: Legal Regulation of United Nations Military Operations*, Aldershot: Dartmouth Publishing, 1996, pp.75–81; David Gibbs, 'The United Nations, International Peacekeeping and the Question of "Impartiality": Revisiting the Congo Operation of 1960', *Journal of Modern African Studies*, Vol.38, No.3, 2000, p.359; David Roberts, 'More Honoured in the Breach: Consent and Impartiality in the Cambodian Peacekeeping Operation', *International Peacekeeping*, Vol.4, No.1, 1997, p.1; Todd Howland, 'Peacekeeping and Conformity with Human Rights Law: How MINUSTAH Falls Short in Haiti', *International Peacekeeping*, Vol.13, No.4, 2006, p.462; Hikaru Yamashita, '"Impartial" Use of Force in United Nations Peacekeeping', *International Peacekeeping*, Vol.15, No.5, 2008, p.615.

- <sup>2</sup> Nicholas Tsagourias, 'Consent, Neutrality/Impartiality and the Use of Force in Peacekeeping: Their Constitutional Dimension', *Journal of Conflict and Security Law*, Vol.11, No.3, 2006, p.465, at p.478.
- <sup>3</sup> Jane Boulden, 'Mandates Matter: An Exploration of Impartiality in United Nations Operations', *Global Governance*, Vol.11, 2005, p.147.
- <sup>4</sup> The definition from the UN Secretariat: UN, 'Secretary-General's Bulletin: Special measures for protection from sexual exploitation and sexual abuse', UN Doc. ST/SGB/2003/13, 9 October 2003, para.1.
- <sup>5</sup> 'Survival prostitution' is generally defined as prostitution to gain a livelihood because circumstances of poverty make it one of the few options available to stay alive. But see Noelle Quéniévet, 'The Dissonance between the United Nations Zero-Tolerance Policy and the Criminalisation of Sexual Offences on the International Level', *International Criminal Law Review*, Vol.7, 2007, p.657, at pp.671-3.
- <sup>6</sup> UN Security Council Resolution 1325, para.10.
- <sup>7</sup> Martin Lalumière, Grant Harris, Vernon Quinsey and Marnie Rice, *The Causes of Rape: Understanding Individual Differences in Male Propensity for Sexual Aggression*, Washington, DC: American Psychological Association, 2005, pp. 23-8 and 153-4.
- <sup>8</sup> Madeline Morris, 'By force of Arms: Rape, War, and Military Culture', *Duke Law Journal*, Vol.45, No.4, 1996, p.651, at p.664.
- <sup>9</sup> Dyan Mazurana, Angela Raven-Roberts, Jane Parpart and Sue Lautze, 'Introduction: Gender, Conflict and Peacekeeping', in Mazurana, Raven-Roberts and Parpart (eds.) *Gender, Conflict and Peacekeeping*, Lanham MD: Rowman & Littlefield, 2005, p.4.
- <sup>10</sup> See Mark Duffield, *Global Governance*, London: Zed Books, 2001, pp.136-60.
- <sup>11</sup> Mazurana, 'Gender and the Causes and Consequences of Armed Conflict', in Mazurana, Raven-Roberts and Parpart (eds), (see n.9 above), p.32.
- <sup>12</sup> Although some argue that civil wars are, in fact, a method of asset transfer within societies and therefore the SEA of women has economic instead of, or in addition to, political purposes: see Meredith Turshen, 'The Political Economy of Rape', in Caroline Moser and Fiona Clark (eds.) *Victims, Perpetrators or Actors: Gender, Armed Conflict and Political Violence*, London: Zed Books, 2001, p.61.
- <sup>13</sup> Duffield (see n.10 above), p.228.
- <sup>14</sup> Cynthia Cockburn, 'The Gendered Dynamics of Armed Conflict and Political Violence', in Moser and Clark (eds), (see n.12 above), p.18.
- <sup>15</sup> Amnesty International, 'Lives Blown Apart: Crimes against Women in Times of Conflict, AI Index: ACT 77/075/2004, 8 Dec. 2004. Although note that such acts can have wider motivations than merely being seen as a 'perk of the job'. Turshen indicates that temporary marriages can in fact be a way of gaining access to women's property: Turshen (see n.12 above), pp.62-3.
- <sup>16</sup> Amnesty International, 'Making Violence against Women Count: Facts and Figures - a Summary', 5 Mar. 2004 (at [news.amnesty.org/index/ENGACTION770342004](http://news.amnesty.org/index/ENGACTION770342004)).
- <sup>17</sup> Mazurana (see n.11 above), p.32.
- <sup>18</sup> Duffield (see n.10 above), p.228.
- <sup>19</sup> Amnesty International (see n.15 above).
- <sup>20</sup> Joshua Goldstein, *War and Gender*, Cambridge: Cambridge University Press, 2001, p.343.
- <sup>21</sup> Amnesty International (see n.15 above).
- <sup>22</sup> Ibid.
- <sup>23</sup> In fact, they were actually rapes of non-Serbian women but the films were dubbed to make it appear that Serbian women were being raped by Croatian or Bosniak men: see Catherine MacKinnon, 'Rape, Genocide and Women's Human Rights', *Harvard Women's Law Journal*, Vol.17, 1994, p.5, at p.14.
- <sup>24</sup> Amnesty International (see n.15 above).
- <sup>25</sup> It is not suggested here that sexual violence in conflict can have *only* these two political purposes: there are undoubtedly many more. See Inger Skjelsbæk, 'Sexual Violence in Times of War: A New Challenge for Peace Operations?', in Louise Olsson and Torunn Tryggestad (eds.) *Women and International Peacekeeping*, London: Cass, 2001, pp.69-84.
- <sup>26</sup> Cockburn (see n.14 above), p.25.
- <sup>27</sup> UN DPKO, 'Human Trafficking and United Nations Peacekeeping', Policy Paper, Mar. 2004, para.4.

<sup>28</sup> UN Secretary General, 'Letter dated 25 May 2006 from the Secretary-General to the President of the General Assembly', UN Doc. A/60/877, 5 June 2006.

<sup>29</sup> Goldstein (see n.20 above), p.343; BBC News, 'UN Sex Abuse Sackings in Burundi', 19 July 2005 (at: [news.bbc.co.uk/1/hi/world/africa/4697465.stm](http://news.bbc.co.uk/1/hi/world/africa/4697465.stm)); Sandra Whitworth, *Men, Militarism and UN Peacekeeping*, Boulder, CO: Lynne Rienner, 2004, pp.67–71; idem, 'UN Probes 'Abuse' in Ivory Coast', 23 July 2007 (at: [news.bbc.co.uk/1/hi/world/africa/6909664.stm](http://news.bbc.co.uk/1/hi/world/africa/6909664.stm)); BBC News, 'Sex Ban on DR Congo Peacekeepers', 10 Feb. 2005 (at: [news.bbc.co.uk/1/hi/world/africa/4252405.stm](http://news.bbc.co.uk/1/hi/world/africa/4252405.stm)); UN Wire, 'UN To Investigate Alleged Sex Abuse By Peacekeepers', 2 Mar. 2001 (at: [unwire.org/UNWire/20010302/13293\\_story.asp](http://unwire.org/UNWire/20010302/13293_story.asp)); Matt Halling and Blaine Bookey, 'Peacekeeping in Name Alone: Accountability for the United Nations in Haiti', *Hastings International and Comparative Law Review*, Vol.31, 2008, p.461, at p.461; BBC News, 'UN Troops Face Child Abuse Claims', 30 Nov. 2006 (at: [news.bbc.co.uk/1/hi/world/americas/6195830.stm](http://news.bbc.co.uk/1/hi/world/americas/6195830.stm)); Ray Murphy, 'An Assessment of UN Efforts to Address Sexual Misconduct by Peacekeeping Personnel', *International Peacekeeping*, Vol.13, No.4, 2006, p.531, at p.531; Roméo Dallaire, *Shake hands with the Devil*, London: Arrow, 2004, pp.183-4; Human Rights Watch, *Sierra Leone: 'We'll kill you if you cry'*, Vol.15, No.1(A) Jan. 2003, pp.48-9 (at: <http://www.hrw.org/reports/2003/sierraleone/sierleon0103.pdf>); Global Policy Forum, 'UN Peacekeepers Criticized', 22 Dec. 2002 (at: [globalpolicy.org/security/peacekpg/general/2002/1223peace.htm](http://globalpolicy.org/security/peacekpg/general/2002/1223peace.htm)); BBC News, 'Sudan to Probe UN Sex Abuse Claim', 5 Jan. 2007 (at: [news.bbc.co.uk/1/hi/world/africa/6233527.stm](http://news.bbc.co.uk/1/hi/world/africa/6233527.stm)); idem, 'Sex Scandal Prompts UN Overhaul', 24 Mar. 2005 (at: [news.bbc.co.uk/1/hi/world/africa/4379971.stm](http://news.bbc.co.uk/1/hi/world/africa/4379971.stm)).

<sup>30</sup> BBC News, 'Fears Over Haiti Child 'Abuse'', 30 Nov. 2006 (at: [news.bbc.co.uk/1/hi/world/americas/6159923.stm](http://news.bbc.co.uk/1/hi/world/americas/6159923.stm)).

<sup>31</sup> Indeed, the UN is not the only organisation to find itself accused: NATO, Economic Community of West African States (ECOWAS) and African Union (AU) troops have also faced allegations.

<sup>32</sup> See UN General Assembly, 'Reports of the Secretary General', UN Doc. A/58/777, 23 April 2004, para.3; UN Doc. A/59/782, 15 April 2005, Annex I; UN Doc. A/60/861, 24 May 2006, Annex I; and UN Doc. A/61/957, 15 June 2007, Annex VI.

<sup>33</sup> UNAIDS, 'Aids and the Military', May 1998, p.2 (at [data.unaids.org/Publications/IRC-pub05/militarypv\\_en.pdf](http://data.unaids.org/Publications/IRC-pub05/militarypv_en.pdf)).

<sup>34</sup> UN DPKO, 'Background Note', 31 Mar. 2009 (at [www.un.org/Depts/dpko/dpko/bnote.htm](http://www.un.org/Depts/dpko/dpko/bnote.htm)).

<sup>35</sup> See Ross Fetterly, 'The Demand and Supply of Peacekeeping Troops', *Defence and Peace Economics*, Vol.17, No.5, 2006, p.457; idem, 'A Review of Peacekeeping Financial Methods', *Defence and Peace Economics*, Vol.17, No.5, 2006, p.395.

<sup>36</sup> Peace Women, *Gender and Peacekeeping News* (at [www.peacewomen.org/un/pkwatch/pknews.html](http://www.peacewomen.org/un/pkwatch/pknews.html)).

<sup>37</sup> UN DPKO (see n.27 above), para.ii, 8.

<sup>38</sup> See UN General Assembly, 'Reports of the Secretary General', UN Doc. A/58/777, 23 Apr. 2004, para.3; UN Doc. A/59/782, 15 Apr. 2005, Annex I; UN Doc. A/60/861, 24 May 2006, Annex I; and UN Doc. A/61/957, 15 June 2007, Annex VI.

<sup>39</sup> Barbara Bedont, 'The Renewed Popularity of the Rule of Law: Implications for Women, Impunity and Peacekeeping', in Mazurana, Raven-Roberts and Parpart (eds), *Gender, Conflict and Peacekeeping*, Lanham, MD: Rowman & Littlefield, 2005, pp.96–7; William Shawcross, *Deliver Us from Evil: Warlords and Peacekeepers in a World of Endless Conflict*, London: Bloomsbury, 2000, p.62; Washington Post, 'UN Sexual Abuse Alleged in Congo', 16 Dec. 2004 (at: [www.washingtonpost.com/wp-dyn/articles/A3145-2004Dec15.html](http://www.washingtonpost.com/wp-dyn/articles/A3145-2004Dec15.html)); Peace Women, 'Peacekeeper Jailed for Porn Films', 23 Jan. 2003 (at: [www.peacewomen.org/un/pkwatch/News/03/Irishpeacekeeper.html](http://www.peacewomen.org/un/pkwatch/News/03/Irishpeacekeeper.html)); BBC News, 'UN Troops Face Child Abuse Claims', 30 Nov. 2006 (at: [news.bbc.co.uk/1/hi/world/americas/6195830.stm](http://news.bbc.co.uk/1/hi/world/americas/6195830.stm)).

<sup>40</sup> UN DPKO Training Unit, 'Ten Rules Code of Personal Conduct for Blue Helmets' (at [www.un.org/Depts/dpko/dpko/Conduct/ten\\_in.pdf](http://www.un.org/Depts/dpko/dpko/Conduct/ten_in.pdf)); a point reiterated by Prince Raad bin Zeid in 'A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations' (Zeid Report), UN Doc. A/59/710, 2005, para.6.

<sup>41</sup> UN DPKO Training Unit, 'We Are United Nations Peacekeepers' (at [www.un.org/Depts/dpko/dpko/Conduct/un\\_in.pdf](http://www.un.org/Depts/dpko/dpko/Conduct/un_in.pdf)).

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<sup>42</sup> Jennifer Murray, 'Who will Police the Peace-Builders? The Failure to Establish Accountability for the Participation of United Nations Civilian Police in the Trafficking of Women in Post-Conflict Bosnia and Herzegovina', *Columbia Human Rights Law Review*, Vol.34, 2003, p.475; Goldstein (see n.20 above), p.343.

<sup>43</sup> UN DPKO (see n.27 above), para.12.

<sup>44</sup> *Ibid.*, para.8.

<sup>45</sup> *Ibid.*, para.6 (original emphasis).

<sup>46</sup> Whitworth (see n.29 above), p.68.

<sup>47</sup> Dallaire (see n.29 above), pp.183-4.

<sup>48</sup> BBC News, 'Sudan to probe UN sex abuse claim', 5 Jan. 2007, (at [news.bbc.co.uk/1/hi/world/africa/4379971.stm](http://news.bbc.co.uk/1/hi/world/africa/4379971.stm)).

<sup>49</sup> UN DPKO (see n.27 above), para.ii, 7.

<sup>50</sup> Tsagourias (see n.2 above), p.465.

<sup>51</sup> Marrack Goulding, 'The Evolution of United Nations Peacekeeping', *International Affairs*, Vol.69, No.3, 1993, p.451, at p.454.

<sup>52</sup> *Ibid.*

<sup>53</sup> See Nigel White, *Keeping the Peace*, Manchester: Manchester University Press, 1997, p.235. Peace enforcement covers situations where force is designed to be used for significantly more than just self-defence.

<sup>54</sup> See Mazurana et al, (n.9 above) p.19 and Tsagourias (n.2 above), pp.467-79.

<sup>55</sup> Tsagourias (see n.2 above), at p.479; White (see n.53 above), p.235.

<sup>56</sup> Derek Bowett, *United Nations Forces*, London: Stevens, 1964, pp.175-8.

<sup>57</sup> Tsagourias (see n.2 above).

<sup>58</sup> Some have disputed this interpretation of Article 40: see Tsagourias (n.2 above), p.479.

<sup>59</sup> *Ibid.*, p.466.

<sup>60</sup> Goulding (see n.51 above), p.454.

<sup>61</sup> Salman Ahmed, Paul Keating and Ugo Solinas, 'Shaping the Future of UN Peace Operations: Is There a Doctrine in the House?', *Cambridge Review of International Affairs*, Vol.20, No.1, 2007, p.11, at p.13.

<sup>62</sup> Quoting the report submitted to the General Assembly by Dag Hammarskjöld, UN Doc. A/3302, in United Nations, 'Summary Study of the Experience Derived from the Establishment and Operation of the Force: Report of the Secretary General', UN Doc. A/3943, 9 October 1958, para.12.

<sup>63</sup> *Ibid.* (original emphasis).

<sup>64</sup> The consent of the host state and neutrality/impartiality are thus best seen as co-requisites for a peacekeeping operation. See Goulding (n.51 above), p.454.

<sup>65</sup> Shashi Tharoor, 'Should UN Peacekeeping Go 'Back to Basics'?', *Survival*, Vol.37, No.4, 1995, p.52, at p.58.

<sup>66</sup> Although some have argued that the UN was not always successful in this endeavour: See Boulden, (n.3 above). Some have also disputed this transfer from neutrality to impartiality, arguing that impartiality was expected throughout previous peacekeeping missions too: see Gibbs (n.1 above), p.360.

<sup>67</sup> Goulding (n.51 above), p.455.

<sup>68</sup> United Nations, 'Report of the Panel on United Nations Peace Operations' (Brahimi report), UN Doc A/55/305, 2000, para.50.

<sup>69</sup> Although see Dominick Donald, who argues that the transfer from 'neutral' to 'impartial' is not so clear cut since UN use of the terms reveals confusion and misunderstanding about their different meanings and roles within peacekeeping: Donald, 'Neutrality, Impartiality and UN Peacekeeping', *International Peacekeeping*, Vol.9, No.4, 2002, p.21, at p.23 et seq.

<sup>70</sup> Donald adopts a similar definition of impartiality, with the same active/passive distinction: *ibid.*, p.22. Gibbs' description also follows the same line of thought, with his explanation that peacekeepers serve 'universalistic interests' but not 'the parochial interests of specific foreign powers': Gibbs (see n.1 above), p.360. Yamashita adopts a comparable position in arguing that 'new impartiality' has come to mean the robust implementation of peacekeeping mandates which include significant humanitarian protection components: Yamashita (see n.1 above), p.627.

<sup>71</sup> Quotes taken from interviews with desk officers at the UN Secretariat by Donald (see n.69 above), p.32.

<sup>72</sup> On the relationship between UN peacekeeping operations and international human rights law, see 'Peace Operations and Human Rights', *International Peacekeeping*, Vol.13, No.4, 2006, pp.457-595.

<sup>73</sup> UN DPKO Peacekeeping Best Practices Section, *United Nations Peacekeeping Operations Principles and Guidelines*, New York, 2008, p.33. The document also states that peacekeepers are expected to honour international human rights and humanitarian law, at pp. 14-6.

<sup>74</sup> United Nations High-Level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility*, 2004, para.203.

<sup>75</sup> Ibid.

<sup>76</sup> See generally David Chandler, 'The Responsibility to Protect? Imposing the Liberal Peace', *International Peacekeeping*, Vol.11, No.1, 2004, p.59 and Jennifer Welsh (ed.), *Humanitarian Intervention and International Relations*, Oxford: Oxford University Press, 2004.

<sup>77</sup> UN General Assembly, '2005 World Summit Outcome', UN Doc. A/60/L.1, 2005, para.139.

<sup>78</sup> United Nations, Zeid Report (see n.40 above), para.6.

<sup>79</sup> Mazurana (see n.11 above), pp.34-5.

<sup>80</sup> Although it should be noted that this was a general statement about gender-based crimes rather than specific to acts of SEA committed by UN peacekeepers. See UN Security Council Resolution 1325, para.11.

<sup>81</sup> UN DPKO (see n.27 above), para.7.

<sup>82</sup> UN DPKO Training Unit (see n.41 above).

<sup>83</sup> Although see Cynthia Enloe, who argues that patriarchy is 'the big picture': Enloe, 'What if Patriarchy Is 'the Big Picture'? An Afterword', in Mazurana, Raven-Roberts and Parpart (eds), (see n.9 above), pp.280-3.

<sup>84</sup> Whitworth (see n.29 above), p.120.