Accountability of the UN and Peacekeepers: A Focus Study on Sexual Exploitation and Abuse

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By the time I had reached the end of this eye-opening collection of smart articles, I had concluded that it requires a truly exceptional combination of skills and attributes to hold all the actors in peacekeeping operations accountable for implementing all parts of resolution 1325 – that is, in order to hold these officials accountable for turning a deaf ear to the voices of girls and women and for their accompanying refusal to challenge (others’ and their own) masculinized cultures and practices.¹

I. INTRODUCTION

The purpose of peacekeepers in post-conflict societies is not solely for the carrying out of combatant disarmament, but also ‘... the rebuilding of communities and longer-term conflict prevention’² for a more sustainable peace. The sexual exploitation and abuse (hereafter SEA) by peacekeepers represent the failures in protecting the very people that the UN, NGOs and international organisations are meant to protect. Whilst the international community has attempted to impose strategies, which address this catastrophe, the purpose of this Article is to find ways to improve the accountability of peacekeepers who commit such crimes. This will be done by analysing the feasibility of different approaches, such as incorporating women's experiences of war in existing strategies or even developing new strategies that specifically target accountability. The aim and desired outcome of these strategies are to significantly reduce, and in the long-term eliminate, peacekeepers’ perpetration of these serious crimes in the mission’s host and neighbouring countries.

This analysis will be based on the idea that women’s experiences of war exist in a continuum. Since ‘war is seen as a creation and creator of the social reality in which it thrives …’, the violence brought by war becomes part of this continuum of violence that women are subjected to. Thus, war in that perspective does not start by the first bullet and end by the last. In that regard, the pre-existing intersectional factors affecting structures of power before war need to be altered in order for the power imbalances during- and post-war to do so as well. This is fundamental when thinking about what constitutes or should constitute a serious crime, and what strategies are most effective in combating SEA in post-conflict societies to enable a long-lasting, all-encompassing and sustainable approach.

To address the ways in which accountability can be improved and imposed on peacekeepers when involved in acts of SEA, this Article will firstly identify what these serious crimes actually are. This will be followed by an in-depth analysis on the fundamental issues regarding the construction of the UN. The predominantly patriarchal, heteronormative and racially hierarchical structure can be reasoned to ultimately have an impact on the actions of peacekeepers and their attitude through the focus on gender analysis. To end with, this Article will seek to identify the existing strategies, and assess their effectiveness, or lack thereof, in achieving accountability.

II. WHAT ARE THESE ‘SERIOUS CRIMES’?

For the purpose of this Article, ‘serious crimes’ which are perpetrated by peacekeepers will be limited to SEA. There will also be a brief discussion on ‘sexual violence’ to illustrate how these crimes affect the justification for peacekeeping missions. As an initial step towards fully understanding what needs to be done in order to increase accountability and reduce the perpetration of the aforementioned crimes, it is essential to provide some background information on what constitutes these crimes.

2.1 Sexual Exploitation and Abuse (‘SEA’)

According to the UN definition, sexual exploitation is defined as:

[A]ny actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not

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3 For the purpose of this Article, the term ‘continuum’ will specifically allude to the continuous sequence of sexual and gender based violence women endure pre-, during- and post-conflict.

4 Carol Cohn, ‘Women and Wars: Toward a Conceptual Framework’ in Carol Cohn (ed) (n 2).
limited to, profiting monetarily, socially or politically from the sexual exploitation of another ... [whilst] the term “sexual abuse” means the actual or threatened physical intrusion of a sexual nature, whether it is by force or under unequal or coercive conditions.5

This includes consensual (such as ‘survival prostitution’) and non-consensual sexual contacts by UN personnel, or other personnel from parties to the conflict.6 The concern and reports regarding the abusive nature of sexual relationships by peacekeepers is ‘nothing new’7 but has significantly increased since the early 2000s.8 Grady made two important observations regarding SEA and peacekeeping operations. First, that ‘no peacekeeping operation has been exempt’9; secondly, there have been a disproportionately higher number of SEA allegations in Africa because of the larger concentration of missions.10

Women’s experiences of war are often seen as inevitable consequences of the breakdown of a state. However, whether or not SEA is a natural or inevitable consequence is highly contentious, with some referring to it as a ‘conscious political act deeply rooted in the political economy of war’.11 Grady argues that there are two dominant trends behind the existence of SEA in post-conflict societies. Firstly, the political act of using ‘... SEA has emerged as a consequence of the development of ‘transborder shadow economies’’.12 In other words, the so-called black market has enabled human trafficking and prostitution as ‘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’.13 Such illegal markets offer a quicker way to earn money than that of the state-based post-war economy.14 For this reason, the SEA of women in an arena of conflict is

7 Jacobson (n 2) 221.
8 Grady (n 6) 218.
9 ibid.
10 ibid.
11 ibid 216.
12 ibid.
13 ibid 216-17; Dyan Mazurana, ‘Gender and the Causes and Consequences of Armed Conflict’ in Dyan Mazurana, Angela Raven-Roberts and Jane Parpart (eds), Gender, Conflict and Peacekeeping (Rowman & Littlefield Publishers 2005) 32 (emphasis added).
14 Grady (n 6) 217.
an essential element of the war economy created to supply resources to the different warring factions.\(^\text{15}\)

Secondly, the existence of SEA is the result of tactical methods in political and economic exploitation during and after war. As mentioned above, SEA can be seen as an “overtly political act” that continues into the post-conflict society in the regions where peacekeeping forces have been dispatched.\(^{16}\) It is important to remember that SEA does not necessarily end because bullets have stopped falling and it should be tied into our understanding of women’s continuum of experiences in war. The UN recognised that ‘often 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’.\(^{17}\) Grady adds that this includes human trade,\(^{18}\) which illustrates that SEA can become part of an illicit organisation for the purpose of gaining money and power.\(^{19}\)

Seeing SEA as a political act means that there are ‘... financial and propagandist benefits for the warring parties’.\(^{20}\) Thus, we see SEA being used in conflict for propaganda purposes to intimidate the enemy.\(^{21}\) Women in many societies are representatives of the nation’s honour and reproduction. Some academics argue that the use of SEA in this way feminises the enemy and humiliates as well as scars men who feel that they have failed to protect their women.\(^{22}\) This feminisation of the enemy is based on the idea of hegemonic masculinities where men who do not meet the ‘hyper masculinity’ standard become subordinate to those who do.\(^{23}\) Therefore, propaganda about SEA is used to manipulate perceptions\(^{24}\) but it can also, as noted by Grady, be used to bring the allies closer together and create distrust in the enemy when their participation in SEA is exposed.\(^{25}\) For example, films portraying the rape of alleged Serbian

\(^{15}\) ibid.

\(^{16}\) ibid.


\(^{18}\) Grady (n 6) 218.


\(^{20}\) Grady (n 6) 215.

\(^{21}\) ibid 217.

\(^{22}\) ibid.

\(^{23}\) Cohn (n 4).

\(^{24}\) Grady (n 6) 217.

\(^{25}\) ibid.
women were used as propaganda to stir up Serb nationalism, when in fact the films were fabricated and depicted non-Serbian women.26

The use of propaganda however, does not necessarily diminish with peace as distrust between parties continues, particularly if a group is unsatisfied with the peace negotiations. Consequently, ‘the systems, infrastructure and attitudes that operate during a conflict …’ are most likely to continue even after the signing of a peace agreement.27 This reverts back to the idea of war being part of a continuum of experiences.

The use and effects of propaganda revolving around SEA can also be used by local actors to diminish the support for the UN’s participation in peace building. The participation of peacekeepers in SEA means that those opposing the UN’s presence in post-conflict societies can influence other citizens to distrust the UN and resist the presence of peacekeeping missions. This creates a highly volatile situation, as the UN’s presence in a post-conflict society must be based on trust for the mission to have a chance of accomplishing its aims. Once again, creating accountability is a possible solution, as will be discussed in the following sections.

Jennings also argues that the economies, which develop around peacekeeping missions, stimulate the continued existence of SEA in the host country and its neighbouring countries. Even though they might not be the sole actors in allowing for the existence and flourishing of SEA economies, it can be argued that peacekeeping economies lay the foundation for their thriving success. Accordingly, to address this issue, they should take responsibility through preventative measures and a corporate social responsibility should be imposed on the UN. Some may argue that to do so would require resources that they do not have. This in turn provokes an array of questions as to why measures that could potentially contribute to the protection and awareness building of women’s rights are often afforded less funding.

2.2 Sexual Violence

With reference to Cohn’s conceptualisation of women’s experiences of war existing in a continuum, Ndulo recognises that ‘[s]exual violence happens during war for the same reasons it happens during peacetime. It is a phenomenon rooted in inequality, discrimination, male domination, poverty,

27 Grady (n 6) 218.
aggression, misogyny and the entrenched socialization of sexual myths’. Rape and other forms of sexual violence have become a ‘tactic of war’ used systematically to repress and feminise one’s enemies. This tactic, referred to by Anderson as a ‘new frontline’, causes women and girls to become particularly vulnerable as a result of being displaced. In other words, when they are displaced, women and girls are being marginalised due to multiple different views on rape and sexual violence; the views of their home state and of the state where they are displaced. Willett argues that this sexual violence persists even after the conflict ends. The social normalisation of sexual violence then causes women to become humiliated, victimised, and degraded, and precludes their participation from public life, thereby enforcing a belief both conceptually and practically of women being held as subordinate. Ndulo asserts that combating sexual violence requires the enforcement of a long-term strategy that eradicates ‘... cultural norms that undermine the dignity of women’.

Despite the fact that these “tactics of war” are not being committed by peacekeepers with that specific purpose in mind, it is worth mentioning as these SEA occurrences still contribute to women’s experiences of war. The failure in holding peacekeepers accountable by offering them immunity for their participation in SEA also affects how we address the punishment of sexual violence as a war tactic. By treating the latter as a punishable crime and giving the former immunity, an imperial dichotomy of “us and them” is created. This threatens the effectiveness and the acceptance of UN peacekeeping strategies, which will be analysed further in the following Section. According to Willett, the UN’s conventional strategies that focus on a responsibility to protect fail to ‘... provide effective protection for those women who live under the shadow of sexual violence’.

On that account, peacekeepers’ involvement in sexual violence and SEA contradicts their role and purpose in post-conflict societies, i.e. to empower women through gender mainstreaming.

30 ibid 154.
31 ibid 159.
32 Willett (n 29) 154.
III. THE FUNDAMENTAL ISSUES WITH THE CONSTRUCTION OF THE UN AND THEIR HAMPERING EFFECT ON ACCOUNTABILITY

SEA came to the fore of public attention some years ago through Resolution 1325, which led to much analysis and discussion on how to improve and create strategies that aim to impose accountability and hinder these crimes. However, little has been done to create real long-lasting improvements. The reasons for this are deeply rooted in the construction of the UN as a patriarchal heteronormative and racially hierarchical structure; in order to accurately address and create accountability for these crimes, the unequal structure of the UN that negates and hampers the creation of accountability strategies must be critically deconstructed. The effects of these characteristics will be analysed together with potential solutions to the underlying issues.

3.1 The UN as a Patriarchal Structure

The misleading conception that the organisational structure of the UN is neutral is premised on the UN’s inability to examine itself because of the failure of peacekeeping accountability. Many academics, when applying gender analysis to the UN, argue that it is a patriarchal institution. More specifically, the “able-bodiedness” of UN personnel and fighters in war are based on the male norm of capacity; the yardstick for capability is set from the perspective of a strong, tough, courageous, aggressive and violent man; and therefore, a ‘... 'good soldier’ [is] synonymous with having the characteristics of being a ‘real man’. If anyone falls below this norm of hegemonic masculinity, they are automatically seen as subordinate and less able-bodied to participate in war. Consequently, in order to achieve a “gender-neutral” UN, we must look beyond the strategies taken to achieve formal equality and seek to achieve transformative equality by changing how we view “able-bodiedness”. Furthermore, Cohn recognises that as militaries have a significant effect on deploying ideas about femininity as well, to deconstruct this, it is important to recognise that ‘femininity need not be incompatible with strength and capacity for protection’.

33 Cohn (n 4) 16.
34 ibid 17.
35 ibid 22.
36 ibid 17-18.
37 ibid 19.
38 Lesley J Pruitt, ‘All-Female Police Contingents: Feminism and the Discourse of Armed Protection’ (2013) 20(1) International Peacekeeping 67; Cohn (n 4) 2.
Previous UN responses to pressing situations also highlight the patriarchal nature of the institution. For example, in the aftermath of a conflict, issues directly affecting women are sidestepped for other issues considered more pressing. The issues affecting women include their ‘physical security, resettlement, protection of their productive assets, access to decision-making, land-rights, health and reproductive care’.

Moreover, peace negotiators often ignore local female peacemakers when discussing issues of peace and future security, turning instead ‘… to the leaders of local militias and notorious warlords’. The consequence of this is the creation of peace agreements that do not appreciate and incorporate the experiences and needs of women post-conflict.

The lack of incorporation of issues that affect women renders their experiences and agencies invisible despite the fact that women still suffer the effects of war even though the bullets have stopped raining. If we ignore and marginalise women’s concerns in this manner, it can lead to grave backlashes in women’s rights in the future. These backlashes vary in form throughout history and within different cultures and socio-economic regions, but two types can be identified as being ‘[a]n anti-woman discourse associated with restrictions on women’s choices in the social political and personal spheres [and] the continuation, and even expansion, of gender-based violence’. This backlash has a tremendous effect on women’s empowerment in post-conflict societies; if issues creating this backlash are not addressed early on in the peace processes, they will become difficult to combat later on in the transitional justice phase of reconstruction and development of post-conflict societies.

In addition, the hegemonic masculine structure of UN peacekeeping forces is an inevitable consequence since they ‘… are recruited from the highly masculinized security forces of UN member states’. A social construction is created within the UN regarding the ‘natural bond’ between the ‘protector’ and the ‘protected/victim’. Assumptions infused within military forces tend to be filled with ‘… masculine privilege, the prestige and acumen of the warrior and their role as the protector of women and children’. This construction creates a distorted dichotomy of power relations between the protector, who is often

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39 Willett (n 29) 156.
40 ibid 147.
41 ibid 151; even though Resolution 1325 art 8 calls for more women being present in peace negotiations.
42 ibid 156.
43 ibid.
44 ibid.
45 ibid 146-47.
46 ibid 147.
47 ibid.
masculinised and claims to speak for the protected, who are feminised in the structure of liberal peace.\textsuperscript{48} Thus, the peacekeepers think that they, compared to the victims they are protecting, can see the bigger picture because they are stronger.

There is a benefit to this discourse; ‘[t]hose who have an investment in peacekeeping have a stake in portraying the world as a dangerous place, that justifies interventions, in which the spectre of suffering women and children is inevitably used to mobilize public support for peacekeeping’.\textsuperscript{49} Be that as it may, it is very detrimental because it does not always represent the \textit{de facto} situation of post-conflict citizens, and therefore does not offer genuine protection; ‘peacekeepers may become sexual predators on local women’s vulnerabilities, they collude to make the insecurity of women in conflict situations and post-conflict societies invisible, they ignore the proactive voices of women’s peace groups and in many scenarios they collude with warlords and military commanders to reinforce male privilege and power and enforce women’s subordination in the aftermath of war’.\textsuperscript{50} This illustrates the UN’s role in trumping cultural relativism when accepting this discourse by omission.

However, there has been a slight change towards a more gender-neutral approach in the UN. Feminists dedicated to gender analysis in the 1990s, along with non-governmental women’s groups motivated by liberal understandings of feminism, actively lobbied the UN Security Council to bring attention to the consequences and impacts of war on women and girls, and the issues of gendered inequality in international efforts to contain conflict.\textsuperscript{51} Resolution 1325 and the following Resolutions focusing on gender, sexual violence and SEA can be seen as a result of this lobbying for empowerment of women. While this remarkable step towards shedding some light on women’s experiences of war should not be downplayed, it is insufficient for several reasons. For instance, it is based on liberal feminist assumptions and fails to unpack those inequalities entrenched in societies due to cultural differences. Therefore, it can be seen as out-dated, as it does not provide for transformative equality. Consequently, as aforementioned, institutions conveniently rely on specific perceptions about gender in order to operate, thereby producing ideas about ‘... appropriate

\textsuperscript{49} Willett (n 29) 147.
\textsuperscript{50} ibid.
masculinities and femininities – and these, in turn, have cultural and structural impacts beyond the bounds of the institution itself’. This issue needs to be deconstructed so that more appropriate strategies can be formed.

This analysis is important to keep in mind when creating accountability principles as it sets out the defects of the already existing strategies. If we are aiming to improve or create new strategies to increase peacekeepers’ accountability, we must first deconstruct these unequal structures and the UN must take responsibility in doing so. The UN has a responsibility to incorporate transformative equality in order to show that its respect for women lies at the core of its institution because this can set precedence for its personnel in terms of how to treat women. This arguably bold request requires extensive work by the UN to change its deep-rooted patriarchal structure, which implies that it is most likely not going to take place in the near future. Nevertheless, we must ask ourselves: why should we accept any less? Perhaps we should not stop with the accountability of peacekeepers but go on to question the accountability of the UN as a whole.

3.2 The UN Is a Hierarchical Heteronormative Structure

This hegemonic masculine structure is also very heteronormative as seen in the Security Council Resolutions. Whilst they aim at protecting women and girls from SEA and sexual violence, they ignore the considerable evidence that indicates that men and boys also experience these horrible crimes in armed conflict and post-conflict societies. As indicated by Sivakumaran, ‘what remains unknown is the precise extent to which this occurs’. This omission silences male experiences of war and must be properly addressed, like the SEA of women and girls, in order to build a sustainable post-conflict society and to ensure all-encompassing accountability.

Resolution 1820 demands ‘the immediate and complete cessation by all parties to armed conflict of all acts of sexual violence against civilians with immediate effect’. There was a slight change in the terminology, which placed an emphasis on civilians rather than women and girls in an attempt to foster more gender inclusivity. Sivakumaran acknowledges that despite this change, the

52 Cohn (n 4) 19.
Resolution is still highly focused on women and girls and not enough weight is given to include a more gender sensitive approach. In other words, he implies that even though men and boys are sometimes included in the Resolutions’ language, it does not necessarily imply gender neutrality and is still not enough to address and combat the structural violence experienced across gender borders. Accordingly, this brief recognition has not translated into concrete efforts on behalf of male victims, be they mechanisms for raising awareness of the problem, focused research agendas on the issue, or strategies for prevention.

Sivakumaran also highlights that although Resolution 1888 is highly gender neutral and inclusive in its language, the Resolution’s focus on civilians fails to address the sexual violence happening against combatants.

The heteronormative structure of the UN affects peacekeepers’ accountability makes assumptions about their behaviour and can lead to legitimisation. As Cohn has stated:

'[I]f prevalent gendered meanings include constructions of male sexuality as heterosexual and as a constant overwhelming force that “naturally” must have an outlet – and this is combined with a vision of women as objects of male desire rather than subjects of their own, and with a normative belief that sees women as lesser beings than men – it is easier for men to feel legitimate in committing acts of sexual violence.'

Furthermore, the UN does not itself stand as a gender-neutral structure, thereby creating an imperial discourse when it asks host countries to be more inclusive and potentially trumps cultural relativism.

### 3.3 The UN Is a Racially Hierarchical Structure

Not only is the UN a hegemonic masculine and heteronormative structure, but it can also be seen as highly racially constructed. This affects peacekeeping missions, as most commanding positions are held by white men of the Global North, whilst lower positions are held by citizens of the Global South. This leads to complications as it creates a discourse of “able-bodiedness” based on

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55 Sivakumaran (n 53).
57 ibid.
58 Cohn (n 4) 31.
59 ibid 9.
60 ibid 9.
white hegemonic masculinities. Thus, the structure of peacekeeping operations is formed to accommodate white men, rendering the work and ideas of women and men from the Global South automatically subordinate. The UN is consequently conceptualised as an imperial structure lacking cultural relativism.

In order to form a more all-encompassing accountability strategy that stands to include the versatile experiences of the world, this racially hierarchical structure needs to be addressed or else it will trump cultural relativism and make essentialist assumptions about the experiences of victims. As Thobani stated in her speech that received considerable attention for its bold and controversial statements after 9/11:

[T]hird World women, I want to say for decades, but I need to say for centuries, have been making the point that there can be no women’s emancipation, in fact no liberation, unless the fundamental divide between the north and the south, between Third World people and those in the West, who are now calling themselves ‘Americans,’ is transformed. There will be no emancipation for women anywhere on this planet until the Western domination of the planet is ended.61

3.4 The Reporting Process

Another issue that affects the way in which the UN deals with SEA is the way in which it reports on peacekeepers’ involvement in the acts. Grady noted two problems with the reporting. Firstly, once allegations had been made, there was then little follow-up on whether these were substantiated. Secondly, sometimes victims fail to report occurrences because of shame or fear, or because in some cases they have chosen to engage in sexual activities such as prostitution. As a result, there are unquestionably numerous cases that have never come to light. In conclusion, the number of incidents is undeniably higher than those documented by the UN.62

There are various reasons for the irregularities and lack of sufficient reporting. It is primarily important to remember that there is not one UN army but several Troop Contributing Countries (TCC) from all around the world that supply the UN with personnel.63 One reason why it might be difficult to obtain accurate

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62 Grady (n 6) 218-19.
63 ibid.
information from the UN is that they are in a vulnerable position and need to
give ‘political weight’ to the fact that if they choose to release that information,
they risk losing military and police personnel by the TCC whose personnel is
accused of this involvement.64 The UN might not afford such risk since it is
already difficult to encourage countries to become TCCs.

Another irregularity in the reporting process involves the authenticity of media
reports on TCCs. For example, the definition of peacekeeper has been broadly
defined in reports on SEA. This affects the accuracy of the reports because they
then tend to not only include UN personnel but also civilian staff, police or
military personnel. As illustrated by Grady, ‘… 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’.65 It has also been observed that focusing on the actual figures
regarding UN personnel’s involvement in SEA can brand peacekeepers as
‘more part of the problem than the solution’.66

Despite the predicament of the UN’s dependence on good relations with TCCs
and national and international security, there is something to gain from
accurate reporting; it makes more people involved in the accountability process
and acts as checks and balances to keep the UN and its personnel in line with
their duties. Thus, proper reporting would greater add to the process of UN
accountability and might deter further peacekeepers’ involvement in SEA.

IV. EXISTING STRATEGIES ON INCREASING PEACEKEEPERS’
ACCOUNTABILITY AND HOW THEY CAN BE IMPROVED

There have been many suggestions on strategies to reduce, eliminate and
impose accountability on peacekeepers for their participation in SEA. There is
the zero tolerance approach which the UN has currently taken, which means
that peacekeepers on duty cannot engage in any kind of sexual activity with
locals, whether consensual or not. The approach illustrates that gender sensitive
training of the UN personnel to prevent SEA has not been taken seriously.67 It
has additionally been condemned for removing the agency of the women of the

64 ibid 219.
65 ibid.
66 DPKO (n 17) para ii; Grady (n 6) 219.
67 Willett (n 29) 152.
Global South, and confirms the status of the UN as a heteronormative masculine racially hegemonic structure.\footnote{Machico Kanetake, ‘Whose Zero Tolerance Counts? Reassessing a Zero Tolerance Policy against Sexual Exploitation and Abuse by UN Peacekeepers’ (2010) 17(2) International Peacekeeping 200.}

Another measure is Grady’s impartiality/neutrality concept, which implies that there needs to be a fundamental change in how the UN sees itself as impartial and neutral. She contends that peacekeepers’ involvement in SEA makes them partial;\footnote{Grady (n 6) 223.}

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.\footnote{ibid; Mazurana (n 13) 34-35.}

Furthermore, she argues that the political consequences flowing from their involvement makes it difficult to maintain ‘… the cooperation of the parties to the conflict in the search for a peaceful solution’.\footnote{Grady (n 6) 224.} If impartiality is crucial to the UN’s philosophy of peacekeeping, any threat to it should not be accepted. Therefore, ‘framing SEA as a threat to peacekeeping impartiality …’ gives feminists a greater voice at the UN.\footnote{ibid.}

In addition to the aforementioned academics, Ferstman observed that there has been a lot of rhetoric on the issue of SEA, yet little has been done to actually fill the gap of responsibility. This gap is seen in the limits of extra-terrestrial jurisdictions of courts as many accusations against peacekeepers are dropped due to lack of jurisdiction. She argues that a solution to this would be to create a court within the UN, which could aid and assist the national post-conflict societies that would otherwise be inadequate to do so. She also suggests that one should use the existing resolutions to create a ‘… more precise set of principles for troop-contributing countries to be signed off before UN acceptance of their troops’.\footnote{Carla Ferstman, ‘Criminalizing Sexual Exploitation and Abuse by Peacekeepers’ (United States Institute of Peace Special Report 335, 2003) 13.}

\footnote{Grady (n 6) 223.}
\footnote{ibid; Mazurana (n 13) 34-35.}
\footnote{Grady (n 6) 224.}
\footnote{ibid.}
\footnote{Carla Ferstman, ‘Criminalizing Sexual Exploitation and Abuse by Peacekeepers’ (United States Institute of Peace Special Report 335, 2003) 13.}
the process of enhancing accountability: the UN, the peacekeepers and the victims. As stated in Resolution 1888:

[E]nding impunity is essential if a society in conflict or recovering from conflict is to come to terms with past abuses committed against civilians affected by armed conflict and to prevent future such abuses, drawing attention to the full range of justice and reconciliation mechanisms to be considered, including national, international and ‘mixed’ criminal courts and tribunals and truth and reconciliation commissions, and noting that such mechanisms can promote not only individual responsibility for serious crimes, but also peace, truth, reconciliation and the rights of the victims.  

Ferstman also suggests that a more detailed reporting procedure, where both TCCs and the UN would be more involved, would increase the check and balances and lead to greater transparency. It has also been suggested that the UN should prohibit TCCs from sending peacekeepers who have previously been accused of committing SEA, as forcing TCCs to take actual steps towards combatting the current lack of punishment could be an effective step towards increasing accountability. Nonetheless, the approach that will be afforded most attention in this analysis is the effect of gender mainstreaming peacekeeping operations, which demonstrates the fundamental issues with the inherent construction of the UN.

4.1 Gender Mainstreaming Peacekeeping Operations

There is wide debate about the concept of gender but for the purposes of this analysis it is understood as multiple social structures of power that interact with various factors, i.e. intersectionality, which is constantly produced and reproduced. In other words, there is a ‘… necessity seeing that there are not only power differentials between each category, but also within each ... intersection of these structures that produce multiple masculinities and femininities, and concomitant power differentials, within each category’. 

This definition is important to bear in mind when reading and interpreting Resolution 1325, as the Resolution can be interpreted to be based on liberal

75 Ferstman (n 73) 10.
76 Cohn (n 4) 3, 4.
77 ibid 9-10.
78 ibid. 5.
feminist definitions of gender, and therefore the gender mainstreaming processes suggested therein are based on their idea of achieving formal rather than transformative equality. It is also important to remember that gender is sometimes interpreted synonymously with ‘woman’,\(^{79}\) in which case gender issues actually refer to women’s issues. This can be highly problematic because it does not accurately address the core of the problem and creates a hegemonic masculine discourse.\(^{80}\)

Sustainable gender mainstreaming in peacekeeping refers to changing the relationship between the masculinised protector and the feminised protected, i.e. the aforementioned dichotomy of power relations. To create a working concept of accountability, one must first define how gender mainstreaming changes the view and treatment of victims of SEA; and the ‘key goal is to ensure that the ideas of masculinity and femininity that are linked to violent behaviour are not uncritically carried over in post-conflict situations as part of daily life’.\(^{81}\) Additionally, the extent to which the UN has succeeded in its attempt to reduce SEA by employing more female peacekeepers will be analysed. Notwithstanding that the below analysis does not specifically identify the individual peacekeeper’s accountability, it addresses how the UN deals with its vicarious responsibility to make sure that SEA is reduced.

Resolution 1325’s ‘... approval marked a milestone in the struggle for greater gender equality at all levels of peacekeeping, peacemaking, peacebuilding and post-conflict reconstruction and it was significant because the UN had fully identified women as constructive agents of peace, security and post-conflict reconstruction’.\(^{82}\) Despite the fact that Resolution 1325 was seen as a breakthrough for gender equality, it is important to remember that it is not a treaty\(^{83}\) and the language used can be interpreted rather vaguely. In paragraph 5, the UN merely expresses ‘... its willingness to incorporate a gender perspective into peacekeeping operations, and urges the Secretary-General to ensure that, where appropriate, field operations include a gender component’.\(^{84}\) There has also been ‘[a] general lack of operational coherence for implementing the UN’s 1325 commitments. Partly, this can be attributed to the fact that there has been no lead agency within the UN tasked with implementing 1325’\(^{85}\).

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\(^{79}\) Willett (n 29) 150.
\(^{80}\) ibid 150-51.
\(^{81}\) Pruitt (n 38) 69.
\(^{82}\) Willett (n 6) 142.
\(^{83}\) ibid.
\(^{84}\) UNSC Res 1325 (30 October 2000), UN Doc S/RES/1325.
\(^{85}\) Willett (n 6) 142-43.
responsibility ascribed to all of the UN departments to implement the gender-mainstreaming tool proved faulty due to the lack of accountability that followed a failure to implement.\textsuperscript{86} This has resulted in many academic and UN writings on the problems of SEA and gender mainstreaming, but minimal action has been taken to ensure the implementation of the strategies in the Resolution. Willet sees the ‘state-centric, patriarchal and militaristic’ structure of the UN as one of the obstacles to that implementation.\textsuperscript{87} Even so, establishing the UN’s efforts on stimulating gender equality is a small step forward to addressing the major problems with gender mainstreaming within peacekeeping missions.\textsuperscript{88}

The Resolution is of importance when analysing accountability as it ‘[c]alls upon the UN and its member states … to train peacekeepers and local security forces in gender awareness; to provide greater funding for measures to protect women during armed conflict; to rebuild institutions that provide essential services to women; and to support women’s organizational efforts in conflict prevention and peacemaking’.\textsuperscript{89} Hence, the UN should automatically be vicariously responsible for SEA crimes perpetrated by peacekeepers. To add on, it should not be possible to circumvent this responsibility on the basis of providing gender training as this could lead to a gap in responsibilities.

Pruitt lists several recognised benefits of the gender mainstreaming of peacekeepers. According to the UN, having more women in peacekeeping helps reduce conflict and confrontation, improves the access and support for local women, empowers women, provides a safer environment for women, shows the UN’s commitment to diversity, and broadens the skills of the peacekeeping mission.\textsuperscript{90} Research shows that female police and mission staff have calmed dangerous situations, reduced cases of HIV, and brought about more civilised behaviour among staff. For example, ‘Indian all-women formed police units … not only managed to reduce incidences of rape and sexual harassment in Liberia’\textsuperscript{91} but also inspired the launch of more women peacekeeping contingents. The Indian FFPU has helped reshape attitudes around women’s

\begin{footnotes}
\item[86] ibid 143.
\item[87] ibid 149.
\item[88] ibid 143.
\item[89] ibid 142.
\item[90] Pruitt (n 38) 68.
\end{footnotes}
role in peace and security by highlighting ‘... that femininity can include strength and the capacity for protection’.92

The inclusion of women adds legitimacy and effectiveness to the mission. This is supplemented by evidence that shows that ‘the presence of women peacekeepers can and does foster a change in male behaviour when women are deployed in PKOs’.93 With reference to the UN’s attempt to increase accountability for SEA, all-female police support operations (PSO) have been deployed. The unit was seen as a success for openly challenging ‘... gender norms that suggest that women are unsuited to security work’.94 These women’s capabilities were measured from the yardstick of masculine able-bodiedness, and many have highlighted that they managed their tasks effectively despite being women.95

Regardless of the aim to gender mainstream peacekeeping missions, reports show that the results are still relatively meagre. In 2008, only 1.98% out of the 77,492 peacekeeping troops were women, most of which came from the Global South and held lower positions.96 According to Willett, this is because of ‘... the resilience of male-dominated power structures within the UN ... In the 60 years of UN peacekeeping (1949–2009) only seven women have ever held the position of special representative to the Secretary-General (SRS G)’.97 The situation is further aggravated by the significant abuse and discrimination faced by female peacekeepers, discouraging prospective female volunteers.98 Female peacekeepers can face the double burden of having to protect victims whilst simultaneously being put in danger of sexual violence and SEA themselves.99

The increase of women in peacekeeping should not be overlooked as it can potentially foster change. ‘Women have been encouraged to join PKOs as ‘sexual violence problem-solving forces’, bearing the complex role of ‘protectors’ of local women, from local men and from male peacekeepers’.100 In acquiring this role of ‘protector’, female peacekeepers also run huge career risks if they decide to challenge their colleagues and superiors who commit SEA.101

92 ibid 71.
93 ibid 68; Jacobson (n 2) 222.
94 Pruitt (n 38) 70
95 ibid 71-72.
96 Willett (n 29) 151-52.
97 ibid 151.
98 ibid 152.
99 Pruitt (n 38) 69.
100 Willett (n 29) 152.
101 Jacobson (n 2) 222.
Furthermore, the essentialist assumption that women can relate more easily to each other because of their gender is a flawed one; this is illustrated in the example of female Norwegian peacekeepers, who have reported that people react to their uniform and not their sex. Unfortunately, the idea of “more women” as a solution has been criticised for ‘... masking some other vital areas’. These all-female troops have arguably entrenched heteronormative gender stereotypes and neglected the intersectionality of the women involved. The all-female troop sent to Liberia did not merely entrench existing gender stereotypes but actually reclaimed the meaning of words like “girls”, “mother” and “ladies”. In fact, they did not merely act in the capacity of male able-bodiedness but they, with their agency, shifted the gendered meaning of the concept ‘female peacekeeper’. While not enough research has been conducted on the benefits of having an all-female peacekeeping unit, there have still been some positive effects of the debate on how the UN deals with gender. This is important as it leads to criticism of the UN’s infrastructure and might in the long run pressure the UN to make changes to its institution in order to make it more gender-neutral.

As some might argue, there is danger in focusing on SEA because it diverts attention away from women’s other experiences of war. It is critical that the UN keeps in mind the interconnected web of rights that affects each other and should be properly protected. Simply put, in order to reduce SEA, the UN needs to address the multiple issues leading to the inequality of women in conflict. By accurately addressing women’s basic human needs and rights in the aftermath of conflict, for example, “survival prostitution” might be reduced. So, ‘those who are most affected by insecurities and injustices must be empowered and enabled to participate in their own problem-solving’.

In short, even though gender mainstreaming is extremely important when including women’s roles and experiences of war in peace-building strategies, it essentially depends on the type of constructed gender being mainstreamed. When using gender mainstreaming to include women’s continuum of experiences of war, the concept of gender should be deconstructed in order to avoid entrenching gender stereotypes in a framework meant to deconstruct

102 Pruitt (n 38) 68.
103 Jacobson (n 2) 222.
104 Pruitt (n 38) 69.
105 ibid 74.
106 ibid 69.
107 ibid 76.
108 Willett (n 29) 157.
gender. Post-conflict citizens should not merely be considered as victims, but should be given the potential to fully recognise their capacity as agents of their own lives. Not until this is done can one address the lopsided power dynamics of the world, and deconstruct the current imperial globalisation that the North has over the South that has justified the neglect of effectively dealing with peacekeepers’ accountability. It is appalling how little progress gender mainstreaming has actually had since the creation of Resolution 1325. Academics argue that this is because the Resolution was ‘… grafted onto existing power structures’ and was therefore never going to be wholly successful.\(^\text{109}\) Therefore, the gendered construction of the ‘protector’ and ‘protected’ discussed above implies that the ‘… gender mainstreaming within the UN can do little to challenge the epistemological underpinnings of the dominant masculanist and militaristic discourse’.\(^\text{110}\)

Furthermore, using an all-female PSO to reduce peacekeepers’ participation in SEA has been founded on a heteronormative basis and does not afford long-lasting change because it does not address the root of the problem. This is not a way to increase accountability, but rather a way to sidestep the issue by ‘… diverting responsibility to female peacekeepers’.\(^\text{111}\) As seen in the above analysis, there is a danger that such a strategy further entrenches stereotypical gendered assumptions instead of eradicating them. As women become protectors of other women and intersectionality is ignored, transformative equality is hampered. Without addressing the constructions of masculinity, femininity, heteronormativity and race that are formed within the UN itself, the strategy fails to allocate responsibility on the UN for its personnel’s illicit acts.

V. CONCLUSION

The outrage written by Enloe in “Afterword” revolving around the creation of Resolution 1325 and endless military memos is the same outrage that one feels when discovering the gravity of some of the crimes committed by peacekeepers.\(^\text{112}\) While there has been much work and literature produced to bring attention to SEA in post-conflict societies, there is also the outrage from realising that those who could have actually had an impact have done so little to combat the issue.

\(^{109}\) ibid 143.
\(^{110}\) ibid 144.
\(^{111}\) ibid 152.
\(^{112}\) Enloe, ‘Afterword’ (n 1).
The UN cannot ignore women’s experiences of war anymore; ‘[T]en years on, Security Council Resolution 1325 remains more of a rhetorical than practical commitment. As the following contributions illustrate, for the most part the implementation of 1325 has been woefully inadequate’. The lack of effective strategies to combat SEA is premised on a fear that greater accountability will threaten the willingness of countries to deploy peacekeepers. While the sensitive and burdensome position of the UN should be acknowledged, it does not sufficiently justify a neglect to punish peacekeepers involved in sexual violence and SEA. If the UN fails to enforce long-lasting and real changing strategies or evaluate its own infrastructure for more gender and race inclusivity, then it stands to lose its own purpose as it might lose the justification for its existence. By omitting to make a real effort to change the setting for sexual violence and SEA in post-conflict societies, the UN ignores the experiences of the victims of these crimes. This Article has suggested that we might not need new strategies per se to create a better process of accountability of peacekeepers. An alternative would be to work on improving the UN’s infrastructure itself to effectively implement the already existing strategies. Only then can we turn our outrage into action.

113 Willett (n 29) 156.
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