

UNSC Resolution 2272: Progress against Sexual Abuse in UN Peacekeeping?

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KELLY NEUDORFER, APR 21 2016

Once again stories of UN peacekeeping troops sexually exploiting and abusing the local population can be seen on the news. This time, the Central African Republic is the focus of attention, with over one hundred alleged victims speaking to UN representatives within only a few weeks. Unfortunately, the problem is hardly a new one. Over the last few decades, scandals involving peacekeepers sexually abusing the local population have continued to pop up in the international media, and while the UN has implemented numerous programs and measures to fight the problem, UNSC Resolution 2272 is the first resolution by the Security Council to address the issue exclusively. So what is new about 2272? And more importantly, what are the chances that it will have a noticeable impact on sexual exploitation and abuse (SEA) in UN peacekeeping?

In short, UNSC Resolution 2272 has the potential to have far-reaching effects on the way the UN and troop-contributing countries relate,[1] as it sets up sanction mechanisms not only for individuals involved in SEAs but for entire units and even the contributing countries. Whether these positive results are seen depends entirely on whether the UN can now effectively implement the resolution, something far from certain. As a first step, a very brief history of the UN's efforts to combat sexual exploitation and abuse in the past will be outlined (see Neudorfer 2015). The background for the resolution, that is, the annual report from the Secretary-General on preventing sexual exploitation and abuse, and the changes that report underwent this year will be discussed. This is then followed by an analysis of the primary sanction mechanisms foreseen by the resolution: collective repatriation of entire units and the repatriation of a country's entire contingent if the country does not adequately investigate and prosecute previous SEA allegations against its troops. Finally, the potential positive effects of the resolution are mentioned and an outlook is given.

Brief History of UN Efforts to Combat Sexual Exploitation and Abuse

The first time sexual exploitation and abuse was brought to the public's attention was in 1993 when accusations were made that UN peacekeepers in Cambodia had been sexually abusing locals. The UN Special Representative to the operation at the time, Yasushi Akashi, responded by saying, "Boys will be boys," a phrase that was to become a verbal symbol of the military culture deemed by many to play a large role in the abuse (Ward et al. 2007, 79). The Dyncorp scandal in the UN operation in Bosnia-Herzegovina in the 1990s, in which US private military contractors were shown to be involved in forced prostitution and human trafficking, once again brought the topic to the forefront of the international community's consciousness, but there were few consequences. In 2001, Save the Children UK published a report that sexual exploitation and abuse of children by aid workers closely connected with UN peacekeeping operations was pervasive in several West African countries (Ndulo 2009, 141, see also Save the Children 2002).

The UN introduced several measures to combat this phenomenon. To name just a few, the UN wrote a new Code of Conduct in 1998 specifically regulating soldiers' sexual activity,[2] passed UNSC Resolution 1325 on Women, Peace, and Security in 2000[3] and its successor resolutions, appointed an advisor to the Secretary-General on sexual exploitation and abuse by UN peacekeeping personnel in 2004, created a strategy to eliminate sexual exploitation and abuse in the future in 2005, and began to record and publish data on these incidents starting in

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2003. Still, in 2006, the UN under-secretary-general for peacekeeping operations stated that his “operating presumption is that this is either a problem or a potential problem in every single one of our missions” (Ward et al. 2007, 79).

The UN continued to improve its efforts at combatting SEAs by assigning Conduct and Discipline Units to missions, creating posts for Gender Advisors (or gender focal points), starting awareness-raising campaigns to inform the local populace of their rights, and organizing more extensive training concepts for incoming peacekeepers (for detail analysis see Neudorfer 2015). SEAs continue to occur despite these measures, though, as the recent revelations of abuse in the Central African Republic show.

UNSC Resolution 2272: Background

As mentioned above, starting in 2003 the UN began publishing annual reports on preventing sexual exploitation and abuse. These reports included descriptions of some SEA incidents, measures taken, and between 2006 and 2011 a monthly breakdown of how many SEA allegations were reported in which operations. The identity of the alleged perpetrators and even their nationalities remained confidential however, and the reason typically given was that any “naming and shaming” would result in troop-contributing countries being more reluctant to send troops. After all, if they feared that bad behavior on the part of their troops could reflect poorly on their international reputation as a whole, they would be less likely to contribute troops. Since it is often difficult to raise enough troops for the operations anyway, for years the UN declined to release the nationality of the troops against whom allegations were made. The annual report released on 4 March 2016 was groundbreaking in that, for the first time, the nationalities of the alleged perpetrators were included in the report (UN Secretary-General 2016).

The report paved the way for Resolution 2272 in two major ways. Firstly, the release of the alleged perpetrators’ nationalities enables a punitive system based on the home country of the perpetrators. Whether this is a positive or negative development will be discussed below, but without the publication of nationalities, it would not be possible. Secondly, the report showed that there was an increase in the number of SEA allegations in 2015 as compared to the previous year. That is not the first time that has been the case, but when it happens there can be no back-patting because the situation is improving. Instead, it is a motivating factor to take some sort of action to make sure the numbers go back down. These factors combined to enable the Security Council to pass a resolution that takes decisive action against SEAs and makes use of the information about alleged perpetrators’ nationalities now made available to the public.

The core of the resolution itself contains a 2-step program of action. If there is “credible evidence” that a certain unit is engaging in “widespread and systematic” abuse, then the entire unit can be sent home to be replaced by a different unit (UNSC Resolution 2272 2016). In these and other cases of individuals being accused of committing sexual exploitation and abuse crimes, the troop-contributing country has the chance to carry out criminal proceedings against the alleged perpetrators. If the country does not do so, or not to the satisfaction of the UN, then the resolution requests that the Secretary-General repatriate that country’s entire peacekeeping force from that mission. The next section will analyze these two steps as to their logic and likely effectiveness.

Step One: Punishment of Many for the Crimes of a Few

The biggest objection to the first step is that it punishes an entire unit for the crimes of a few of the unit’s members. While this does seem to be unfair at first glance, when considering the realities in the field, it is unlikely to have a great effect. “Credible evidence” of “widespread and systematic” abuse are phrases that are rather vague when it comes to enforcement. Assuming the criterion of credible evidence is met, what counts as widespread and systematic? Is it sufficient for a certain number of allegations to be substantiated? Some countries only send a few troops to the UN operations while others send thousands. If a strict number threshold is used (e.g. if there is credible evidence that at least 10 members of the unit engaged in SEAs), this begs the question of what to do with smaller units. If a country only sends 8 military troops and all 8 of them engage in SEAs, for example. A percentage threshold might therefore make more sense, but how would the percentage be determined? Is it enough to be deemed “widespread and systematic” if 10% of a unit engage in SEAs? 20%? 80%? In other words, the resolution is

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formulated in such a way that it must be made very concrete if there is to be any chance of enforcing it without being accused of bias against (or for) certain countries.

Even if the question of numbers is resolved, however, the “credible evidence” threshold remains. This is something that is even more difficult to quantify. Does the evidence have to be credible enough to substantiate the allegations? Investigations typically take a minimum of several months, and the military units are usually in the country for no longer than 3-6 months. Even if the widespread and systematic incidents occur at the beginning of the tour of duty and the investigation starts immediately, it is likely that the troops will already be back in the home country by the time the allegations are substantiated. The unit may still be in the operation, but with an entirely new roster of soldiers. In this case, it would seem to be a strange punishment to send them home when it was their predecessors who had engaged in the abuse. If the threat of being repatriated is to be effective, there must therefore be a way to establish “credible evidence” in a relatively short period of time so that the people who are involved in the abuse are the ones who are sent home. On this point the resolution does request that the Secretary-General gather and preserve evidence of sexual exploitation and abuse, but it will remain to be seen how this request is implemented in reality and whether investigations can be accelerated enough to present enough credible evidence of widespread and systematic abuse to repatriate the concerned unit before its tour of duty is over anyway.

Those practical considerations mean that we are likely still quite far from an implementation of the resolution, but even still, the more fundamental question remains unanswered. Is it just to send home an entire unit because of the crimes of a few? Although it cannot be discussed in-depth here, a few relevant aspects will be mentioned. When answering this question, it should be emphasized that the punishment being discussed is not a fine or imprisonment. The punishment would be that the innocent parties would be sent home with their guilty comrades. When they return to their home country, they will not (or at least should not) be subject to any prosecution or other punishment. The soldiers or police who did take part in the abuse are to be tried and punished, as will be discussed in the next section. The ones against whom no allegations were brought, however, will continue on as before. It should therefore be made clear that the innocent parties will have to go home sooner than anticipated, but they will not be subject to any criminal proceedings.

If a unit is sent home for this reason, then in the host country the signal would be sent that this kind of behavior on the part of UN troops will absolutely not be tolerated. The removal of the entire unit of which many abusers were a part would (hopefully) come as a relief to the victims. The international community including future peacekeepers would understand that if they want to take part in peacekeeping operations, they must follow the Code of Conduct or there is a real possibility they could be sent home. One hope (albeit rather idealistic) in relation to this group punishment would be that there could even be some self-policing. If members of a unit see that their fellow soldiers are engaging in SEAs, they may try to exert pressure on the guilty parties to stop so that the entire unit is not sent home.

On the one hand, we have the negative aspect of repatriating the innocent members of a unit. They would not be subject to subsequent criminal prosecution, unlike the guilty parties. On the other hand, repatriating an entire unit would send a strong message to the local population, the international community, and future peacekeepers that the UN is getting very serious about sexual exploitation and abuse. Whether those potential positive effects outweigh the unfair treatment of the innocent soldiers in a unit is an ethical question that cannot be definitively answered here but is certainly worthy of more debate.

Step Two: Exclusion of Countries from the Operation

The second request of the Security Council is just as revolutionary as the first. It requests that if the troop-contributing country does not appropriately investigate the allegation(s) or prosecute the perpetrator(s), the Secretary-General should replace all of that country's units in the operation in question with troops from another country. In addition, if the troop-contributing country does not show evidence of taking appropriate steps in the investigation of even one allegation, the resolution requests the Secretary-General to consider barring the country from contributing to future missions. Interestingly, implementing this request could prove easier than the first. In the first request, deciding what constitutes credible evidence or widespread and systematic abuse could be very difficult and subjective. But if a country fails to produce evidence that it has investigated allegations brought against its troops or failed to follow

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through with criminal prosecution where it was required, that would be a clear trigger for this sanction mechanism.

With this request, the question is less how the UN can create clear criteria for when to apply the sanction and more what the UN will do if it finds itself needing to replace a large contingent or multiple contingents. In the past, many countries have been less than diligent in reporting the outcome of investigations to the UN. If this resolution means that countries are more likely to follow through with investigations and criminal prosecution where indicated, that will be a huge success. Still, the UN could find itself in a difficult position as the number of peacekeeping operations and troops needed continues to grow while it could at the same time be cutting itself off from some of its largest troop contributors.

Conclusion

Overall, UNSC Resolution 2272 can rightly be called groundbreaking in the fight against sexual exploitation and abuse in UN peacekeeping operations. It remains to be seen whether it will be effectively implemented, however, since the reputation of countries is at stake and the UN may find itself in a bind if it excludes numerous countries from contributing troops and police when it often has difficulties finding enough peacekeepers in the first place. If it were to be implemented, it has the potential to have positive effects for the local population, who would see that their reports of allegations have an effect and could result in units that engage in systematic sexual abuse being removed from their country. It could have positive effects within the units, as members might start “policing” each other to avoid being sent home along with the guilty parties. It might also result in countries becoming more diligent in investigating and prosecuting crimes committed in the operations once their peacekeepers come home to save face internationally and avoid being barred from future peacekeeping operations. There is therefore a great deal of potential good that could come from this resolution, but whether these positive effects are realized depends entirely on how it is implemented.

Notes

[1] Whenever troops or troop-contributing countries are mentioned, police and police-contributing countries are also meant unless otherwise stated.

[2] Peacekeeping personnel were given cards with the ten codes of conduct written on them to carry with them while on the mission. Number five states: “Do not indulge in immoral acts of sexual, physical or psychological abuse or exploitation of the local population or United Nations staff, especially women and children” (UN Conduct and Discipline Unit, 1998)

[3] UNSC Resolution 1325 did not focus on sexual exploitation and abuse, but it did mention it.

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