

**Secretary-General's Bulletin on Special measures for protection from sexual exploitation and sexual abuse, 9th October 2003 (ST/SGB/2003/13), OXIO 85**

United Nations [UN]

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## Core Issues

1. The scope of the prohibited acts of 'sexual exploitation and abuse' under the 2003 United Nations Secretary-General's Bulletin on special measures for protection from sexual exploitation and sexual abuse ('Bulletin')
2. The steps taken by the United Nations to apply the standards in the Bulletin to all United Nations peacekeeping personnel.

This headnote pertains to: Secretary-General's Bulletin on Special measures for protection from sexual exploitation and sexual abuse, an act of an international organization. [Jump to full text](#)

## Background

The act under review is the United Nations (UN) Secretary-General's Bulletin on Special measures for protection from sexual exploitation and sexual abuse ('Bulletin') which sets out the zero tolerance policy of the UN with respect to sexual exploitation and abuse committed by UN staff. For the first time, the U N Secretary-General promulgated the UN's internal codes of conduct specifically to address sexual exploitation and abuse. Despite its novelty, the Bulletin revealed its limited applicability with respect to UN peacekeeping personnel, whose sex scandals garnered media attention shortly after the issuance of the Bulletin. This necessitated a series of reforms at the UN in order to uniformly apply and implement to peacekeeping personnel the prohibition of sexual exploitation and abuse. The Bulletin thus contributed to the development of codes of conduct applicable to all UN peacekeepers, and, at the same time, helps us understand the complexity of legal frameworks regulating the conduct of UN peacekeepers.

The Bulletin was adopted against the Report of the Secretary-General on the activities of the Office of Internal Oversight Services: Investigation into Sexual Exploitation of Refugees by Aid Workers in West Africa, issued in October 2002 by the UN's Office of Internal Oversight Services (OIOS), which investigated allegations of sexual exploitation of refugees by aid workers in West Africa (see Report of the Secretary-General on the activities of the Office of Internal Oversight Services: Investigation into Sexual Exploitation of Refugees by Aid Workers in West Africa). While the OIOS did not verify the allegations, it still recommended that the UN take preventive measures. On 15 April 2003, the United Nations General Assembly ('General Assembly') requested the Secretary-General to issue a bulletin (United Nations General Assembly Resolution 57/306 on Investigation into Sexual Exploitation of Refugees by Aid workers in West Africa, para 12). In response, on 9 October 2003, Secretary-General Kofi Annan promulgated the Bulletin for the purpose of preventing and addressing cases of sexual exploitation and abuse.

## Summary

The Bulletin defined the terms 'sexual exploitation' as 'any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes', and 'sexual abuse' as 'the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions'. [Section 1] The Bulletin applies to all UN staff, including staff of separately administered organs and programmes of the UN. [Section 2.1]

Recognizing that sexual exploitation and sexual abuse 'violate universally recognized international legal norms and standards' and the Staff Rules and Staff Regulations of the United Nations ('UN Staff Regulations and Rules'), the Bulletin specifically lays down two specific prohibitions: first, prohibiting sexual activity with children (persons under the age of 18), regardless of the age of majority or age of consent locally; and second, prohibiting the exchange of money, employment, goods, or services for sex, including sexual favours or other forms of humiliating, degrading, or exploitative behaviour. [Sections 3.1, 3.2(b), 3.2(c)] On top of these prohibitions, the Bulletin

strongly discourages sexual relationships between UN staff and ‘beneficiaries of assistance’ in general, on the basis that such relationships build on ‘inherently unequal power dynamics’.  
[Section 3.2(d)]

Sexual exploitation and sexual abuse are regarded as ‘acts of serious misconduct’, which would be grounds for disciplinary measures, including summary dismissal, pursuant to the UN Staff Regulations and Rules. [Section 3.2(a)] The Bulletin also envisages the possibilities for referral to national authorities for ‘criminal prosecution’. [Section 5]

## Analysis

The deployment of UN blue helmets, who engage in arduous yet critical tasks in war-torn territories, cannot be separate from the possibility of misconduct and of crimes being committed by them against local populations. In order to both prevent such acts and take disciplinary actions, the UN has developed a series of codes of conduct, of which the Bulletin—an administrative issuance of the UN Secretariat—is a part.

In the first place, it must be highlighted that the Bulletin prohibits a broad range of sexual conduct. The Bulletin forbids not only child prostitution but also prostitution in general. [Sections 3.2(b-c)] Furthermore, the Bulletin not only discourages sexual conduct between UN staff and beneficiaries but also effectively constitutes this as a proscribed misconduct, given that the Bulletin regards such relationships as inherently unequal, and that sexual exploitation and abuse encompass any ‘abuse of a position of vulnerability’, and sexual conduct under ‘unequal’ conditions. [Sections 1, 3.2(a), 3.2(d)]

Contrary to the Bulletin’s assertion, the comprehensive prohibition does not necessarily reflect universally recognized norms. [Section 3.1] For instance, the 1979 Convention of the Elimination of All Forms of Discrimination against Women does not claim prostitution *per se* to be exploitative. Needless to say, not all of the acts prohibited under the Bulletin constitute a crime in a host country. Such broad coverage in the Bulletin must be understood not as the translation of universal norms, but rather in the context of the UN’s institutional urge to prevent sex scandals and restore public confidence in peacekeeping.

Second, the all-encompassing prohibition is somewhat in contrast to the Bulletin’s limited applicability *ratione personae*. The Bulletin applies to ‘all staff of the [UN]’ that are subject to the appointing authority of the Secretary-General, as provided in Article 101(1) of the Charter of the United Nations, and Regulation 1.2(c) of the UN Staff Regulations and Rules, and that are thereby bound by the Bulletin and other administrative issuances of the Secretary-General. [Section 2.1]

In the context of UN peacekeeping, this means that the Bulletin is not directly applicable to the following categories of personnel: members of national military contingents; formed police units; UN police; military observers; UN volunteers; and consultants and individual contractors. Although Section 2.2 of the Bulletin refers to UN forces, this section does not extend the application of the Bulletin itself to military contingents, but merely reiterates the prohibited act under the Secretary-General’s Bulletin on Observance by United Nations forces of international humanitarian law. [Section 2.2]

## Impact

The issuance of the Bulletin and the realisation of its limits were followed by a series of reforms at the UN to apply the uniform standards to all peacekeeping personnel, and to strengthen disciplinary and criminal procedures. The roadmap for the reforms was primarily drawn in 2005 by the Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations (‘Zeid Report’), the Report of the Special Committee on Peacekeeping

Operations and its Working Group, and United Nations General Assembly Resolution 59/300: Comprehensive Review of a Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations.

The universal application of the prohibition of sexual exploitation and abuse has been effectively ensured by the UN, albeit on a patchwork basis. For instance, the UN incorporated the standards of the Bulletin into an undertaking to be signed by UN police and military observers on appointment.

The UN also revised the draft model memorandum of understanding between the UN and national contingent contributors, in order to apply the Bulletin's standards to members of national military contingents and formed police units (see Report of the Special Committee on Peacekeeping Operations and its Working Group on the 2007 resumed session: Revised draft model memorandum of understanding). The UN also established the Conduct and Discipline Unit ('CDU') at the UN's headquarters, and its mission-based Conduct and Discipline Teams ('CDT') which, together with the OIOS, serve as the depository of allegations of misconduct, including those of sexual exploitation and abuse.

A major difficulty for the UN in implementing the standards set by the Bulletin is during the phase of disciplinary and criminal measures against military members of national contingents, which can only be taken by contributing countries. What the UN can do is to take an administrative step to repatriate those members who committed serious misconduct. Putting pressure on contingent contributing countries to take disciplinary and criminal procedures is a sensitive task for the UN—which, after all, requires political and material support from contingent contributing countries to maintain the functioning of UN peacekeeping.

Overall, the Bulletin represents the UN's determination to prevent sex scandals, which tarnish its reputation and potentially jeopardize its operational effectiveness. At the same time, the uniform implementation of the Bulletin's standards requires cooperation, not only from the UN's Secretariat and staff, but also from contingent contributing countries, host state authorities, and ultimately, victims themselves, and their immediate communities.

## Further Analysis and Relevant Materials

### Leading Comments

A J Miller 'Legal Aspects of Stopping Sexual Exploitation and Abuse in UN Peacekeeping Operations' (2006) 39 *CornellIntlJ* 71

D Otto 'Making Sense of Zero Tolerance Policies in Peacekeeping Sexual Economies' in Vanessa Munro and Carl Stychin (eds), *Sexuality and the Law: Feminist Engagements* (London, Glass House Press 2007) 259

R S Burke *Sexual Exploitation and Abuse by UN Military Contingents: Moving Beyond the Current Status Quo and Responsibility under International Law* (Leiden Martinus Nijhoff Publishers 2014)

M Kanetake 'Whose Zero Tolerance Counts? Reassessing a Zero Tolerance Policy against Sexual Exploitation and Abuse by UN Peacekeepers' (2010) 17 *International Peacekeeping* 200

### Materials Cited

Staff Rules and Staff Regulations of the United Nations (1 January 2014) UN Doc ST/SGB/2014/1

Report of the Special Committee on Peacekeeping Operations and its Working Group on the 2007 resumed session: Revised draft model memorandum of understanding (12 June 2007)

UN Doc A/61/19 (Part III)

Annex

Resolution adopted by the General Assembly 59/300: Comprehensive Review of a Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations (30 June 2005) UN Doc A/RES/59/300

Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations ('Zeid Report') (24 March 2005) UN Doc A/59/710

Report of the Special Committee on Peacekeeping Operations and its Working Group (2005) UN Doc A/59/19/Rev.1

Part Two — 2005 resumed session

Report of the Secretary-General on the activities of the Office of Internal Oversight Services: Investigation into Sexual Exploitation of Refugees by Aid Workers in West Africa (11 October 2002) UN Doc A/57/465

Secretary-General's Bulletin on Observance by United Nations forces of international humanitarian law (6 August 1999) UN Doc ST/SGB/1999/13

Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) UN Doc A/RES/34/180

Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 892 UNTS 119

United Nations General Assembly Resolution 57/306 on Investigation into Sexual Exploitation of Refugees by Aid workers in West Africa (15 April 2003) UN Doc A/RES/57/306

## Related Materials

Ten Rules: Code of Personal Conduct for Blue Helmets (1996)

We Are United Nations Peacekeepers (1996)

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## Source text

Original Source PDF

The Secretary-General, for the purpose of preventing and addressing cases of sexual exploitation and sexual abuse, and taking into consideration General Assembly resolution 57/306 of 15 April 2003, "Investigation into sexual exploitation of refugees by aid workers in West Africa", promulgates the following in consultation with Executive Heads of separately administered organs and programmes of the United Nations:

## Section 1 Definitions

For the purposes of the present bulletin, the term "sexual exploitation" means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Similarly, the term "sexual abuse" means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

## Section 2 Scope of application

**2.1** The present bulletin shall apply to all staff of the United Nations, including staff of separately administered organs and programmes of the United Nations.

**2.2** United Nations forces conducting operations under United Nations command and control are

prohibited from committing acts of sexual exploitation and sexual abuse, and have a particular duty of care towards women and children, pursuant to section 7 of Secretary-General's bulletin ST/SGB/1999/13, entitled "Observance by United Nations forces of international humanitarian law".

**2.3** Secretary-General's bulletin ST/SGB/253 [abolished and replaced by ST/SGB/2008/5], entitled "Promotion of equal treatment of men and women in the Secretariat and prevention of sexual harassment", and the related administrative instruction<sup>1</sup> set forth policies and procedures for handling cases of sexual harassment in the Secretariat of the United Nations. Separately administered organs and programmes of the United Nations have promulgated similar policies and procedures.

## **Section 3 Prohibition of sexual exploitation and sexual abuse**

**3.1** Sexual exploitation and sexual abuse violate universally recognized international legal norms and standards and have always been unacceptable behaviour and prohibited conduct for United Nations staff. Such conduct is prohibited by the United Nations Staff Regulations and Rules.

**3.2** In order to further protect the most vulnerable populations, especially women and children, the following specific standards which reiterate existing general obligations under the United Nations Staff Regulations and Rules, are promulgated:

- (a) Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including summary dismissal;
- (b) Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defence;
- (c) Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited. This includes any exchange of assistance that is due to beneficiaries of assistance;
- (d) Sexual relationships between United Nations staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the United Nations and are strongly discouraged;
- (e) Where a United Nations staff member develops concerns or suspicions regarding sexual exploitation or sexual abuse by a fellow worker, whether in the same agency or not and whether or not within the United Nations system, he or she must report such concerns via established reporting mechanisms;
- (f) United Nations staff are obliged to create and maintain an environment that prevents sexual exploitation and sexual abuse. Managers at all levels have a particular responsibility to support and develop systems that maintain this environment.

**3.3** The standards set out above are not intended to be an exhaustive list. Other types of sexually exploitive or sexually abusive behaviour may be grounds for administrative action or disciplinary measures, including summary dismissal, pursuant to the United Nations Staff Regulations and Rules.

## **Section 4 Duties of Heads of Departments, Offices and Missions**

**4.1** The Head of Department, Office or Mission, as appropriate, shall be responsible for creating and maintaining an environment that prevents sexual exploitation and sexual abuse, and shall take appropriate measures for this purpose. In particular, the Head of Department, Office or Mission shall inform his or her staff of the contents of the present bulletin and ascertain that each staff member

receives a copy thereof.

**4.2** The Head of Department, Office or Mission shall be responsible for taking appropriate action in cases where there is reason to believe that any of the standards listed in section 3.2 above have been violated or any behaviour referred to in section 3.3 above has occurred. This action shall be taken in accordance with established rules and procedures for dealing with cases of staff misconduct.

**4.3** The Head of Department, Office or Mission shall appoint an official, at a sufficiently high level, to serve as a focal point for receiving reports on cases of sexual exploitation and sexual abuse. With respect to Missions, the staff of the Mission and the local population shall be properly informed of the existence and role of the focal point and of how to contact him or her. All reports of sexual exploitation and sexual abuse shall be handled in a confidential manner in order to protect the rights of all involved. However, such reports may be used, where necessary, for action taken pursuant to section 4.2 above.

**4.4** The Head of Department, Office or Mission shall not apply the standard prescribed in section 3.2 (b), where a staff member is legally married to someone under the age of 18 but over the age of majority or consent in their country of citizenship.

**4.5** The Head of Department, Office or Mission may use his or her discretion in applying the standard prescribed in section 3.2 (d), where beneficiaries of assistance are over the age of 18 and the circumstances of the case justify an exception.

**4.6** The Head of Department, Office or Mission shall promptly inform the Department of Management of its investigations into cases of sexual exploitation and sexual abuse, and the actions it has taken as a result of such investigations.

## **Section 5 Referral to national authorities**

If, after proper investigation, there is evidence to support allegations of sexual exploitation or sexual abuse, these cases may, upon consultation with the Office of Legal Affairs, be referred to national authorities for criminal prosecution.

## **Section 6 Cooperative arrangements with non-United Nations entities or individuals**

**6.1** When entering into cooperative arrangements with non-United Nations entities or individuals, relevant United Nations officials shall inform those entities or individuals of the standards of conduct listed in section 3, and shall receive a written undertaking from those entities or individuals that they accept these standards.

**4.2** The failure of those entities or individuals to take preventive measures against sexual exploitation or sexual abuse, to investigate allegations thereof, or to take corrective action when sexual exploitation or sexual abuse has occurred, shall constitute grounds for termination of any cooperative arrangement with the United Nations.

## **Section 7 Entry into force**

The present bulletin shall enter into force on 15 October 2003.

*(Signed)* Kofi A. **Annan**

Secretary-General

**Footnotes:**

<sup>1</sup> Currently ST/AI/379 [abolished and replaced by ST/SGB/2008/5], entitled "Procedures for dealing with sexual harassment".