

# Sexual violence by UN peacekeepers

How to fight impunity in the Democratic Republic of Congo



©Worldwide News

**Ryanne Dekker**

Radboud University Nijmegen

July 2020

# Sexual violence by UN peacekeepers

How to fight impunity in the Democratic Republic of Congo

**Ryanne Dekker**

S1022746

**Radboud University Nijmegen**

Human Geography

Conflict, Territories and Identities

2018-2020

**Master thesis**

Supervisor: Dr. Ir. M. van Leeuwen

July, 28, 2020

**Front cover:** Picture on the website of Worldwide News Canada:

‘South African peacekeepers face allegations of sexually exploiting women in Democratic Republic of Congo.’

(Worldwide News Canada, 2018).



**Radboud Universiteit**

## Preface

This thesis is written as a finalization of the master Human Geography and the specialization Conflict, Territories and Identities at the Radboud University in Nijmegen. The process of finding information, researching and writing about the topic of sexual violence by UN peacekeepers in the DRC was very interesting and I really enjoyed conducting interviews with several experts on this topic. Despite a major setback, a concussion, which delayed the thesis process, I look back at a very interesting experience. However, this would not be possible if it wasn't for the help of some people that I want to thank below.

First, I want to thank my supervisors. I want to thank my first supervisor François Lenfant for his help with framing the topic of sexual violence by UN peacekeepers and his constructive feedback on my proposal. I also appreciate the fact that he encouraged me to take my time after I got my concussion. After going back to writing my thesis, which was about 8 months later, F. Lenfant left the university and my new supervisor was Dr. Ir. Mathijs van Leeuwen. Without him I would not be able to finish this thesis. I want to thank him for his continued feedback on my chapters and the quick responses via email. Thank you for always being enthusiastic about my research and for providing helpful ideas and criticisms.

Second, I want to thank my colleagues at my research internship Centre for African Justice, Peace and Human Rights. During the three months that I worked there, they showed me the importance of research on sexual violence against the male gender. Thank you for inspiring me to learn more about this topic, which led me to incorporate it in this thesis.

Third, I want to thank my respondents for taking the time to talk to me. Without them it would not be possible to write this master's thesis. Thank you for finding a way to talk to me in between your busy schedules and for being so honest and open about your own experiences and ideas about the topic of sexual violence by UN peacekeepers in the DRC.

Finally, I would like to thank my family and friends for always being there for me and cheering me up whenever I needed it.

Ryanne Dekker

Spier, the Netherlands

July 28, 2020

## Abstract

Worldwide there is impunity of sexual violence committed by United Nations (UN) peacekeepers. They are not prosecuted and victims do not get justice for the harm that has been done to them. This research examines the problem of impunity of sexual exploitation and abuse (SEA) crimes by UN peacekeepers in the Democratic Republic of Congo (DRC) and what proposals with a high potential for success might make a chance to remove this impunity. Through literature research and semi-structured interviews with various experts, the obstacles that contribute to this impunity and proposals with a high potential for success were evaluated. Obstacles were related to the UN, as an organization, its peacekeeping mission, the DRC and the international community. The set-up of the UN system, its policies, the immunities that peacekeepers enjoy, the reporting system where victims report the abuse and political considerations were seen as obstacles that prevent UN peacekeepers from being prosecuted. Obstacles regarding peacekeeping missions are the short period of militaries in missions, trainings, Code of Conduct, male domination in missions, the protection of colleagues and the culture of TCCs. Related to the DRC, there were obstacles to prosecution by Congolese authorities and fear of stigmatization by the victims following the submission of a complaint. Finally, there were obstacles on an international level, in general and related to the DRC, that contribute to the impunity problem. The assessment of proposals with a high potential for success brings out that a hybrid tribunal, a mixed court, an independent special court mechanism, litigation against states, and the complementary measures of NGOs and technology, could work as mechanisms to prosecute UN peacekeepers who committed SEA in the DRC, but obstacles still have to be overcome. Eventually, no matter the mechanism, prosecuting UN peacekeepers and dealing with SEA should be a multi-stakeholder responsibility, whereby a clear mechanism is developed independent of the UN.

## Table of Contents

<b>Preface .....</b>	<b>iii</b>
<b>Abstract .....</b>	<b>iv</b>
<b>List of Abbreviations.....</b>	<b>viii</b>
<b>1. Introduction.....</b>	<b>1</b>
1.1 Research objective and research questions.....	2
1.2 Relevance .....	3
1.2.1 Societal relevance.....	3
1.2.2 Scientific relevance.....	5
1.3 Thesis outline.....	6
<b>2. Theoretical Framework .....</b>	<b>7</b>
2.1 Sexual violence or sexual exploitation and abuse.....	7
2.1.1 Definition .....	7
2.1.2 Manifestation of SEA by UN peacekeepers.....	8
2.1.3 Cause .....	10
2.2 Impunity .....	11
2.3 Impunity in post-conflict settings.....	12
2.4 Impunity and peacekeeping missions .....	13
2.5 Effective policy making.....	14
<b>3. Methodology .....</b>	<b>16</b>
3.1 Case study.....	16
3.1.1 Critiques on case studies .....	16
3.1.2 Reliability and validity .....	17
3.2 Data collection.....	18
3.2.1 Literature research .....	18
3.2.2 Semi-structured interviews .....	18
3.2.3 Selection of participants.....	19
3.3 Data analysis.....	20
3.3.1 Transcribing and coding .....	20
<b>4. UN Mission in the DRC .....</b>	<b>21</b>
4.1 History of conflict in the Democratic Republic of Congo .....	21
4.2 DRC's conflict and sexual violence .....	22
4.3 UN peacekeeping operations .....	23
4.3.1 Immunity of civilian peacekeepers.....	25
4.3.2 Exclusive jurisdiction for troop-contributing countries.....	26
4.4 Sexual abuse by UN peacekeepers in the DRC.....	27
4.4.1 Problems with a UN peacekeeping mission .....	28
4.5 UN responses.....	29

4.6 The structural problems of the UN.....	31
4.6.1 UN system .....	31
Monitoring system .....	33
4.6.2 Policies.....	33
Lacks of laws and accountability .....	35
4.6.3 Problems with the immunities .....	35
4.6.4 Difficulties of reporting abuse in the UN system .....	37
Quality of investigations.....	38
4.6.5 Political considerations.....	39
4.6.6. Obstacles within peacekeeping missions .....	39
Rapid rotation of staff and mandatory trainings.....	40
Code of Conduct .....	41
Male domination .....	41
Protection of colleagues.....	42
4.6.7 Culture in troop-contributing countries .....	42
Norms and values of peacekeepers .....	42
No policies to prosecute for crimes that happened extraterritorially .....	44
Bad investigations by TCCs .....	44
TCCs political will .....	45
4.7 Conclusion .....	46
<b>5. Obstacles to Prosecution in the DRC .....</b>	<b>48</b>
5.1 Literature .....	48
5.2 Analysis of obstacles.....	50
5.2.1 Obstacles to prosecution by the Congolese authorities .....	50
DRC's conflict.....	50
The level of development of the DRC.....	51
DRC's government.....	54
DRC's political will .....	55
5.2.2 Fear for stigmatization by the victims following the submission of a complaint.....	56
5.2.3 Obstacles on an international level .....	57
The international communities political will .....	58
5.3 Conclusion .....	59
<b>6. Proposals for Change .....</b>	<b>61</b>
6.1 Alternative Proposals from the literature .....	61
6.2 Possible alternatives for prosecution in the DRC.....	63
6.2.1 Involvement of the UN in the prosecution process .....	64
6.2.2 Changes within the UN system.....	65
6.2.3 Hybrid tribunal and a mixed court .....	65

6.2.4 Independent Special Court Mechanism and Litigation against states .....	67
6.2.5 Non-governmental organizations.....	69
6.2.6 Technology .....	70
6.2.7 Additional mechanisms .....	71
6.3 Impossible alternatives for prosecution in the DRC.....	72
6.3.1 Removing exclusive jurisdiction .....	72
6.3.2 International Criminal Court.....	73
6.3.3 National Prosecution .....	74
6.4 Conclusion .....	75
<b>7. Conclusion .....</b>	<b>76</b>
7.1 Conclusion .....	76
7.1.1 Summary of findings.....	76
7.2 Recommendations for future research .....	78
7.3 Recommendations for praxis .....	79
7.4 Reflection on the process.....	80
<b>References .....</b>	<b>81</b>
<b>Appendix A – Interview Guide .....</b>	<b>93</b>
<b>Appendix B – Interview respondents.....</b>	<b>97</b>

## List of Abbreviations

ADFL	Alliance of Democratic Forces for the Liberation of Congo
CDU	Conduct and Discipline Unit
DPKO	United Nations Division of Peacekeeping Operations
DRC	Democratic Republic of Congo
FARDC	Forces Armées de la République Démocratique du Congo
ICC	International Criminal Court
MONUC	United Nations Mission in the Democratic Republic of Congo
MONUSCO	United Nations Organization Stabilization Mission in the Democratic Republic of the Congo
MOU	Memorandum of Understanding
NGO	Non-Governmental Organization
OIOS	United Nations Office of Internal Oversight Services
SEA	Sexual Exploitation and Abuse
SOFA	Model Status of Forces Agreement
TCC	Troop-Contributing Country
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV and AIDS
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
WHO	World Health Organization



## 1. Introduction

“Every time the interpreter saw me, he said do not be afraid of them...they won’t do anything to you.... he invited me to come by him...he wanted me to have sex with him. I didn’t want to, he forced me. I said NO, NO, NO, NO!... I thought they were coming to provide security for real. When they came, we now see they came to rape people” (Kassim, 2019). This girl was only 11 years old when she was raped by a UN peacekeeper who persuaded her with food. She became pregnant and after being raped again by a peacekeeper when she was 13, she suddenly was a mother of two children while still being a child herself (Kassim, 2019). Unfortunately this is only one example of the occurrence of sexual violence by UN peacekeepers.

Sexual violence is a huge problem all around the world. It has a tremendous impact on victims’ lives. Men, women and children are all victims of this crime. The impacts of sexual violence are seen in different aspects of the victims’ lives (WHO, 2002). One specific form of sexual violence is when it happens during times of armed conflict. It is often being seen as a weapon of war and as an unavoidable consequence of war (Prügl, 2019). It can be visible in, for example, the form of rape, forced prostitution or forced pregnancies (UN, 2019). There are many armed conflicts across the globe and sexual violence plays a huge part in them. The DRC is on top of the list of the countries with the highest number of sexual violence cases. It is used to subdue, punish or revenge people or even entire communities. This is why the DRC is often called the rape capital of the world (Dodds and Larson, 2017; Gilliard, 2012; Meger, 2010; Palermo and Peterman, 2011). In order to bring back peace and end the violence, as well as the sexual violence, the UN installed peacekeeping missions within the DRC (Gilliard, 2012).

UN peacekeepers have been in the DRC since 1999, where they mostly protect civilians, build law and order, promote human rights and monitor cease-fires (Defeis, 2008; Notar, 2006; United Nations Peacekeeping, 2019b). These actions are carried out with varying degrees of success. Despite great accomplishments, there are peacekeepers who do not behave according to the Code of Conduct. They engage in SEA with locals, which leads to the fact that locals do not only have to worry about being sexually abused by members of local armed groups, but also about peacekeepers (Gilliard, 2012; Kassim, 2019). Mistrust is created and this eventually leads to a loss of confidence in peacekeeping in local and international communities (Ndulo, 2009; O’Brien, 2011, 2012, 2017). Due to SEA there is an increase of prostitution, human trafficking and sexually transmitted diseases, like HIV/AIDS (O’Brien, 2011).

The widespread sexual violence by UN peacekeepers in the DRC came to surface in 2004. The amount of allegations against UN peacekeepers in that year were 121 and these were only the ones

reported. This huge amount is when the UN acknowledged that there was a problem and started responding to these accusations. The rules in place were not adequate enough to prevent SEA. Since then many more UN peacekeeping operations had reports that included SEA by its personnel. The increase in military peacekeeping personnel acted as a magnet for SEA and the growth of the sex industry during missions (O'Brien, 2011; Defeis, 2008; Mudgway, 2018; Nordas & Rustad, 2013). The DRC has over 19000 troops who are active in the country. From 2015-onwards, the UN database shows about 100 allegations within peacekeeping mission in the DRC, which is only a small portion of the actual abuse numbers (UNM, 2020). One factor of why this number is not decreasing, is that UN peacekeepers are not being prosecuted for SEA crimes that they committed, which creates impunity.

Measures have been used that try to solve the impunity of UN peacekeepers for SEA crimes. The UN should try to decrease the number of sexually abused, as it has tried before, the troop-contributing countries (TCCs) need to prosecute their own personnel, as is the case with militaries nowadays, the jurisdiction should be with the International Criminal Court (ICC) or the host state should prosecute UN peacekeepers (O'Brien 2011; Odello and Burke 2016; Spencer, 2005). Unfortunately a solution for prosecuting these peacekeepers for SEA crimes has not yet been found. That is why this research will explore alternative proposals with a likelihood of success that could help in removing the impunity of SEA by UN peacekeepers in the DRC. The opinion of several experts on this topic can lead to an assessment of proposals that have high potential for success in the DRC. This could contribute to exploring and understanding which mechanism would operate best in the DRC to solve the problem of impunity.

## 1.1 Research objective and research questions

The research objective of this thesis is to explore the subject of SEA by UN peacekeepers. More specifically, the research will focus on proposals that have a high potential for success for solving the impunity of SEA by UN peacekeepers in the DRC. Several experts will be interviewed about their knowledge about SEA, SEA in the DRC and the DRC and which proposals would work best in the DRC according to them. Alternative proposals with a high potential of success, about how to solve this knowledge gap regarding the impunity of UN peacekeepers who engage in SEA, are drawn from recommendations from previous scientific articles. Additionally, experts can address their own ideas regarding proposals to possibly reduce the impunity rate. In order to evaluate these proposals to end impunity by UN peacekeepers engaging in sexual violence, this research aims to answer the following research question:

*What possible strategies exist for solving the impunity of sexual exploitation and abuse (sexual violence) by United Nations peacekeepers in the Democratic Republic of Congo?*

In order to answer this research question, it is necessary to divide the research question into sub-questions. Before diving into the proposals that have a high potential for success, it is important to have some background about SEA in the DRC and UN responses to SEA, where after the focus can be on the current obstacles in the UN, the DRC and the proposals. This will be done according to the following sub-questions:

- What are the experiences of sexual exploitation and abuse by UN peacekeepers in the Democratic Republic of Congo and what efforts have been taken to punish those?
- What obstacles in the UN system and its peacekeeping mission lead to the impunity of sexual violence by UN peacekeepers?
- What obstacles in the DRC lead to the impunity of sexual violence by UN peacekeepers in the Democratic Republic of Congo?
- What alternative proposals have been identified and how likely is their success in fighting impunity of sexual violence by UN peacekeepers?

The first sub-question will be based on literature research. This question will provide necessary background information on SEA and the efforts taken to better understand the problem. The second and third sub-question will portray the obstacles within the UN system and the DRC that prevent prosecution of UN peacekeepers for SEA crimes. Obstacles from the literature will be compared to the ones given in interviews and new ones will be explored. This same structure will be used in the fourth sub-question about alternative proposals and their likeliness of success. Already existing proposals will be assessed and new ones will be explored with the obstacles in mind.

## 1.2 Relevance

### 1.2.1 Societal relevance

The problem of sexual violence by UN peacekeepers has been acknowledged for quite some time now, but despite the documents and initiatives that the UN has taken, such as the zero-tolerance policy, they seem inadequate to give justice to the victims and punish perpetrators of these crimes

(Defeis, 2008; Odello and Burke, 2016). In many societies, SEA still goes unreported or is being ignored in general. We have knowledge of several reasons that can account for this. The reputation of the peacekeepers is being protected by the UN, the TCCs have the exclusive jurisdiction over their personnel, a lack of transparency and accountability and no effective judicial mechanism in the DRC (Defeis 2008; Gilliard, 2012; Grady, 2010; Notar, 2006; Odelle & Burke, 2016; Spencer, 2005).

The UN is afraid of losing the support of TCCs, which would mean that TCCs are not sending militaries to peacekeeping countries anymore. This is why the UN often protects the reputation of peacekeepers (Defeis, 2008; Nordas & Rustad, 2013). The fact that TCCs have exclusive jurisdiction over their personnel is part of the immunities that military peacekeepers enjoy. This means that the host state and the UN have no influence on the process of prosecution. The peacekeepers can be repatriated, but further punishment is up to their nation state, which often does not happen (Odello & Burke, 2016; Spencer, 2005).

Notar (2006) points out that the United Nations Office of Internal Oversight Services (OIOS) found several problems regarding the investigation of SEA cases. First of all, there was a lack of transparency. The United Nations Division of Peacekeeping Operations (DPKO) was not allowed to write to the TCCs of the peacekeepers who took part in the abuse in the report. Instead they handed the report to the countries and told them to investigate themselves. In this way, countries would not be negatively affected in the media. Second of all, there is a lack of accountability. The peacekeepers did not see the seriousness of the allegations of sexual violence, which led them to continue the practice. There is a need to sanction the perpetrators (Notar, 2006).

Meger (2010) stated that there is no effective judicial mechanism to deal with the sexual violence that the DRC endures (Gilliard, 2012). A special investigative team was sent to the DRC to try to limit the occurrence of sexual violence. In that report it was recommended that a permanent investigative body should be installed independent of the DPKO and peacekeeping missions (Notar, 2006).

This research aims to partly fill the knowledge gap regarding impunity of sexual violence by UN peacekeepers. Various obstacles that lead to this impunity are known and mechanisms to fight this impunity have been proposed, but not thoroughly explored and implemented until now. Not much is known about the best way to fight impunity, which mechanisms work and which do not. The focus will be on the impunity of UN peacekeepers who engaged in SEA and how this can best be solved within the DRC based on the opinions of several experts. At the end of this thesis the current obstacles will be known and which proposals would work best for the DRC. It could be implemented in the country and in this way victims can have justice for what has been done to them. Only when

perpetrators are prosecuted there is a chance that the SEA by peacekeepers will be less. This could lessen the amount of SEA cases and restore trust between the UN and Congolese.

### 1.2.2 Scientific relevance

As stated in the societal relevance paragraph above, there is a lack of prosecution of SEA by UN peacekeepers. In order to fill this gap, it is important to look at other options, different mechanisms, that would lead to the punishment of perpetrators of SEA crimes. Higate (2007) states that the concept of impunity, and then especially of UN peacekeepers, needs more attention in the authors' discussions about peacekeeper SEA. When we look at the numbers of peacekeepers who are convicted, they appear to be negligible (Higate, 2007). Although more research has been done nowadays, I noticed that more research is focused on preventing SEA instead of prosecuting peacekeepers for SEA. The UN took several measures to end impunity, which will be mentioned in Chapter 4, but it did not work to decrease the number of offenses.

Several authors have explored alternative strategies to promote prosecution of UN peacekeepers in general. Discussions exist about the ICC as a potential alternative proposal for ending impunity of SEA by UN peacekeepers. O'Brien (2011), Mudgway (2018) and Williams (2012) explored this possibility and all came to the conclusion that in its current state, the ICC is not the right judicial mechanism to prosecute peacekeepers for SEA crimes (O'Brien 2011; Mudgway, 2018; Williams, 2012). A hybrid tribunal or mixed court could also be a potential mechanism, like the ones in Sierra Leone and Cambodia, but still many obstacles need to be overcome in order for it to work (Kitharidis, 2015; Mudgway, 2018). These are a few authors that have focused their work on exploring alternative proposals for prosecuting peacekeepers who committed SEA crimes. To what extent these might also work in the DRC needs further exploration. This research tries to do this.

Regarding sexual violence in general, in the DRC, the country decided that a specialized mixed chamber within the Congolese system should help end impunity of sexual violence, but until now it has never been implemented (Williams, 2012). There are many non-governmental organizations (NGOs) working on sexual violence in the DRC, but when looking for NGOs specifically on SEA by UN peacekeepers, they cannot be found. If there are NGOs working on this topic, will these be of any help in the prosecution of UN peacekeepers who engaged in SEA against locals?

Within current debates, a solution for the impunity of UN peacekeepers who committed SEA in the DRC has not been found. In this thesis, different proposals with a high potential for success will be explored by experts as a possible strategy for prosecuting peacekeepers in the DRC. These proposals will be evaluated with the current obstacles in the DRC in mind. The opinions will contribute to the debate about potential successful proposals regarding UN peacekeepers who

engaged in SEA in the DRC. The evaluation of the proposals could also be used for countries who have a similar context and similar obstacles as the DRC. Other authors can use the information in this thesis for further research about alternative proposals or SEA in other countries. As Zinsstag said, fighting impunity could lead to deterrence (Ndulo, 2009).

### 1.3 Thesis outline

Chapter 2 of this thesis provides the theoretical framework. The most important current academic debates on SEA, impunity, impunity in post-conflict settings, impunity and peacekeeping missions and effective policy making are explored.

Chapter 3 is the Methodology whereby the research methods that are used in this thesis are described. The choice for a case study, the data collection and data analysis will be explained.

In Chapter 4, the first two sub-questions are answered. The history of conflict and sexual violence in the DRC, UN peacekeeping operations, SEA by UN peacekeepers in the DRC, the UN responses to SEA, obstacles in the UN system, peacekeeping missions and problems with the culture of TCCs that prevent prosecution of UN peacekeepers for SEA crimes are described. Obstacles from the literature and my interviews are combined.

The third sub-question will be explored in Chapter 5. Obstacles to prosecution by the Congolese authorities, fear for stigmatization following the submission of a complaint and obstacles on an international level are discussed by my respondents.

Chapter 6 contains the last sub-question. Proposals with a high potential for success will be explored by my respondents.

Finally, in Chapter 7, an answer will be given to the main research question, as well as, recommendations for praxis and future research.

## 2. Theoretical Framework

The theoretical framework will give insight in the current academic debates about sexual violence and SEA by peacekeepers, impunity and effective policy making. This chapter will start with various definitions of sexual violence and which one is used within this thesis. Following, the manifestation, and cause of SEA by peacekeepers are described. Here after various definitions of impunity will be explored and what the debate is around the reasons for impunity for SEA crimes by UN peacekeepers. This section is followed by linking impunity to post-conflict settings and peacekeeping missions. It will finish with a debate about effective policy making.

### 2.1 Sexual violence or sexual exploitation and abuse

Several definitions exist of what sexual violence entails. Each author uses a different term to describe it. Sexual violence, sexual exploitation, SEA, sexual abuse etcetera. In this section, different definitions of sexual violence will be given and it will be explained which one will be used in this thesis. Further, the manifestation and cause of SEA by peacekeepers are described.

#### 2.1.1 Definition

Defining sexual violence is a difficult process and there does not exist one single definition of this concept. Each person or institution has a slightly different explanation of the concept. The World Health Organization (WHO) describes sexual violence in their World Report of Violence and Health as ‘any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work’ (WHO, 2002, 149). Included within their definition of sexual violence is rape. Described as physically forced or coerced penetration of the vulva or anus, using a penis, other body parts or an object. Coerced undressing and sexual mutilation can also be part of the broader category of sexual violence (WHO, 2002; Wood, 2006). The UN uses the term SEA to refer to the sexual violence committed by its peacekeepers. The definition of SEA is set out in the 2003 Bulletin on *Special Measures for Protection from Sexual Exploitation and Sexual Abuse*. The first part of the definition refers to the sexual exploitation and the second part to the sexual abuse. It is defined as “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” (Burke, 2012, p. 5; Grady, 2010, p. 2). According to the ICC, there is a broad definition of sexual violence, but ultimately whether it is sexual violence or not depends on the

specific circumstances of a case (O'Brien, 2011). Sexual violence is often presented in literature as an issue that happens to women. Female victims and survivors are given a voice through the media while male victims and survivors of this crime are often forgotten. Both genders should be valued equally regarding this crime (Grey & Shepherd, 2013; Kirby, 2015).

Within this thesis, elements from both of the definitions above are used to explain sexual violence by UN peacekeepers. The definition of the WHO describes in detail what the actions of sexual violence can look like and that it does not matter what the relationship and setting between victim and perpetrator is. The UN's definition adds to that, that the sexual violence is committed by a person who misuses his power to abuse more vulnerable people. In this thesis this can be seen as a peacekeeper who misuses his power to abuse locals. The terms sexual violence and SEA are used interchangeably.

Nordas & Cohen (2014) did research on conflict-related sexual violence, which means that sexual violence is directly or indirectly linked to a conflict, whereby they researched a sexual violence dataset that includes 129 active conflicts during a period of 20 years. Perpetrators include state and non-state actors (Nordas & Cohen, 2014; Wood, 2014; UN, 2019a). Within the UN mission in the DRC (MONUC), figures showed that 40% of sexual violence was perpetrated by the Forces Armées de la République Démocratique du Congo (FARDC), an armed group (Baaz & Stern, 2009; Nordas & Cohen, 2014). These numbers show the relatively large involvement of armed groups as perpetrators of conflict-related sexual violence, but according to Kirby (2015), focusing only on armed groups excludes a huge amount of the sexual violence. Rape is not exclusively practiced by militaries. Only focusing on military perpetrators neglects a large proportion of other violence within conflict areas (Kirby, 2015). Other perpetrators of sexual violence are civilians, humanitarian and peacekeeping personnel (Bastick et al., 2007). How this sexual violence by peacekeeping personnel manifests itself will be elaborated on below.

### 2.1.2 Manifestation of SEA by UN peacekeepers

UN peacekeepers work in an environment where there is poverty, limited law and order, the displacement of communities and populations, weak judicial systems, corrupt and inefficient law enforcement and suffering and traumas for civilians due to conflict. By seeing the local population vulnerable, because they need the help of the peacekeepers within a certain conflict, they are easy prey for SEA by those same peacekeepers (Bastick et al., 2007; Ndulo, 2009; O'Brien, 2017).

In the early 1990s, Cambodia, Bosnia and Herzegovina and Somalia were the first operations who were known for SEA against women by UN peacekeepers. A report was being established by the OIOS which acknowledged the presence of SEA, but could not state that it was widespread (Defeis,



2008; Mudgway, 2018). Around 2001 it was portrayed in the media for the first time, which led to the worldwide attention of the problem. As before, the OIOS investigated the problem, but it could not find proof for the allegations in Sierra Leone, Liberia and Guinea. It did acknowledge that there was a problem of sexual violence by peacekeepers (Ndulo, 2009). Around 2004, when the DRC became known for widespread SEA allegations, the UN decided to take preventative actions (Higate, 2007).

Sexual violence can occur in any type of conflict and within every cultural context (Bastick, et al., 2007; Russell, 2007; Wood, 2006). Being sexually assaulted during conflict happens in various settings. It can happen during detention, at home, in public, in military sites, at refugee camps or whilst performing daily chores, like collecting water (Bastick et al., 2007; Wood, 2006). The varying degrees of rape differ between conflicts and organizations (Wood, 2009, 2014). Within the term of sexual violence, peacekeeping personnel have been accused of various types. There is a distinction between direct physical force, like rape, and transactional sex, like prostitution (Nordas & Rustad, 2013). Most frequent types are sex with minors, employment for sex, sex with prostitutes, making of pornographic films, sexual assault, rape, and other incidents that include sex in exchange for food or assistance. Sometimes local boys are used as intermediaries, where they have to find girls for the peacekeepers. The media also connects peacekeeping personnel to trafficking of individuals and abduction (Grady, 2010; Higate, 2007; O'Brien 2011, 2017).

While sexual violence against women and girls is acknowledged by a large amount of people, men and boys' sexual violence is highly underestimated. It is still mainly undocumented nowadays and the problem is often marginalized. With men and boys even more than with women and girls (Kirby, 2015; Russell, 2007). Within articles about SEA by peacekeepers, boys are almost never mentioned. Despite underreporting of the topic, sexual violence in conflict settings can be very harmful for men and boys. It has been present in 25 conflicts around the world, the DRC included. Men and boys who are sexually assaulted should be fully integrated and included into international and national laws. Currently, in many African countries, men are not recognized as victims of sexual violence. International tribunals often have male sexual violence included in their definitions, but this violence is mostly not included in national laws. The prosecution of perpetrators of this violence by the International Criminal Tribunal for the former Yugoslavia and the inclusion of male victims in the crime of rape in the laws of the DRC are the beginning (Russell, 2007). Despite different resolutions and laws, which led to the growing recognition of sexual violence as a violation of rights and a crime at both the international and domestic level, the occurrence of sexual violence in conflict areas has not declined (Ndulo, 2009). In the next section, it will be described what causes the occurrence of

SEA and in section 2.4 the impact of SEA on peacekeeping missions will be discussed in relation to impunity.

### 2.1.3 Cause

The view of authors, UN officials etcetera of why UN peacekeepers engage in SEA against local women has changed throughout the years. Peacekeepers have different motives as to why they sexually violate local men or women.

In peacekeeping countries there exists a hyper-masculine culture that seems to encourage SEA. In the early 1990s when UN peacekeepers were involved in SEA cases, Yasushi Akashi, head of the UN Transitional Authority in Cambodia, made the statement of 'boys will be boys', as to why the abuse happened (Allais, 2011; Defeis, 2008). Additionally the violence of women was seen as spoils of war (Ndulo, 2009; Prügl, 2019). After the Cold War era, SEA was being seen as a potential unintended consequence of peacekeeping. "Sexual and gender-based violence is seen as part of a permissive environment arising from the breakdown of law and order, socioeconomic infrastructure and socio-cultural norms in post-conflict societies where the natural checks and balances that would otherwise contain and manage potential negative effects are absent" (Allais, 2011, p. 3; Aoi, De Coning & Thakur, 2007).

It is stated that war provides the opportunity for widespread rape and that many male militaries will take advantage of it. This strategy could also be used for wider goals, usually economic or political (Kirby, 2015; Wood, 2006). UN peacekeepers' involvement in SEA can also be seen as a political act. SEA during conflict is seen as an essential element of the war economy that is supplying resources to the different non-state armed groups involved, since SEA can be committed against trafficked women, and the armed groups involved can use SEA by peacekeepers as a source of propaganda, either to receive support or negative portray the UN mission (Grady, 2010).

Sexual violence could be committed randomly, by individuals or groups, or as a strategy to destabilize populations. Armed groups, as well as peacekeepers, seek sexual gratification or the feeling of having power and dominance over others (Baaz & Stern, 2009; Bastick et al., 2007; Boesten, 2017; Cohen & Nordas, 2014; Russell, 2007; UN, 2019a; Ward & Marsch, 2006; Wood, 2006, 2014). Further, sexual violence can serve as a 'morale booster' or 'reward for bravery' for armed groups and in, for example, the DRC there is a cultural belief that having sex with a virgin gives you magical powers and invincibility (Bastick et al., 2007). In the setting of conflict, many regulatory mechanisms are weaker, which leads to higher opportunities and incentives to engage in sexual violence (Wood, 2006).

While SEA by UN peacekeepers has been tolerated either implicitly or explicitly, nowadays the perception of this problem is slightly changing. The impunity that UN peacekeepers enjoy is increasingly being challenged and addressed (Allais, 2011).

## 2.2 Impunity

The word impunity is often circulated within news articles. But what exactly does it mean within the context of this thesis? It is difficult to find one fitting solution for impunity, since it has so many different forms worldwide. Generally, it is described as ‘the exemption from penalty or punishment’ (Penrose, 1999). Louis Joinet, the UN Special Rapporteur on the question of the impunity of perpetrators of violations of human rights describes the concept as “the impossibility, de jure or de facto, of bringing the perpetrators of human rights violations to account – whether in criminal, civil, administrative, or disciplinary proceedings – since they are not subject to any inquiry that might lead to them being accused, arrested, tried and, if found guilty, convicted” (Vinuales, 2007, 117). A few years after this definition, new pieces were added. After the word convicted, it stated “[A]nd, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims” (Penrose, 1999; Vinuales, 2007, 117). Mr. El Hadji Guissé specified that his definition of impunity, whereby an absence exists of appropriate penalties and/or compensation, that it is applicable to civil, political, economic, social, cultural, collective and communal rights (Vinuales, 2007). Impunity can happen within many stages of the judicial process. Beforehand, which means a crime is not investigated in the first place or during the process which could mean that there is not enough evidence after all, the perpetrators are not brought to trial or there is no conviction.

One problem that contributes to the remaining of the problem of SEA is thus impunity. Due to the fact that perpetrators are often not being punished, this phenomenon remains despite several efforts that have been done to prosecute perpetrators. When we look at several authors who write about the impunity of SEA crimes by UN peacekeepers, we can identify a debate about different reasons that contribute to this impunity. The major ones are immunities of peacekeepers, TCCs and the UN. The immunities that peacekeepers enjoy, in combination with the exclusive jurisdiction that TCCs have over their militaries, is often mentioned as an obstacle that leads to impunity. TCCs do not want to prosecute their militaries or do not have the laws to prosecute, due to the immunities, the UN and host states cannot intervene to guarantee punishment (Defeis 2008; Deschamp et al., 2015; Freedman, 2018; Gilliard, 2012; Ladley, 2005; Mudgway, 2018; Simic, 2010; Stern, 2015; Tate, 2015). Deschamp et al. (2015), Ladley (2005) and Freedman (2018) also blame the UN for the impunity of SEA crimes by UN peacekeepers. The UN has problems within its organization, which leads to bad internal investigations, the current system in peace operations is fragmented and patchy and the UN

fails to uphold existing obligations (Deschamp et al., 2015; Freedman, 2018; Ladley, 2005). Other obstacles that could lead to impunity are weak judicial systems that cannot prosecute peacekeepers or governments that do not want to prosecute peacekeepers (Freedman, 2018; Gilliard, 2012; Kitharidis, 2015), cultural issues, like stigmatization and financial resources, (Kitharidis, 2015; Stern, 2015), gaps in substantive laws (Freedman, 2018) and the limited efforts of the international community to prevent SEA (Gilliard, 2012). Although the reasons for impunity are diffuse among authors, immunities that peacekeepers enjoy and the lack of prosecutions by TCCs are most often mentioned as the reason for the impunity of UN peacekeepers for SEA crimes.

### 2.3 Impunity in post-conflict settings

When reading articles, as well as this thesis, it is described that we have to fight impunity and punish perpetrators for the crimes they committed, but why is it so important? In this section it will be described what the effect of impunity is on post-conflict settings, how does it affect the stability in that particular country?

To start with, Manjoo & McRaith (2011) state that when there are levels of impunity during a conflict, it will contribute to a rise in the occurrence of sexual violence, since perpetrators are not being punished and become more aggressive in their crimes against women (Manjoo and McRaith, 2011). Then how will impunity affect the amount of sexual violence after conflict? Costi (2006) begins his article with the question 'Is it necessary to bring alleged international criminals to justice?'. The fact that there is a duty to punish perpetrators preserves a common belief that we should establish a legal order that punishes perpetrators and it deters others from committing those same crimes. When such crimes are not being prosecuted it sends out the wrong message to people who might consider to commit these kind of crimes. For international crimes, nowadays, there is transitional justice, that tries former leaders in genocides for the crimes they committed (Costi, 2006). "It stands for the principle that compliance with the demands of justice is a prerequisite to peace and stability" (Costi, 2006, p. 238). Manjoo & McRaith (2011) also acknowledge the fact that punishing perpetrators for their crimes is necessary to live in a peaceful society post-conflict. There are two major sources that lead to continued impunity, underreporting combined with inefficient judicial systems. Reforming the security sector and strengthening the judicial system will reduce impunity (Manjoo & McRaith, 2011). "When perpetrators of gender based war crimes are rarely held accountable, the social acceptability of gender based violence is normalized and reinforced" (Manjoo & McRaith, 2011, p. 31). It has to be kept in mind that reforming law enforcement agencies is only one part of eliminating impunity. A holistic approach is needed that changes communities attitudes, provides care, financial support and legal assistance and protection (Medie, 2017).

Justice in post-conflict settings is also important when we talk about peacekeeping. When we look at the field of peace and security, in general SEA annihilates the basic sense of security (Pruitt, 2012). Kolbe (2015) states that SEA of civilians by UN peacekeepers undermines the fragile stability of post-conflict countries and prevents the establishment of effective state institutions (Kolbe, 2015). This shows that the statements that Costi (2006) and Manjoo & McRaith (2011) made about the importance of justice for peaceful societies are true for SEA crimes by UN peacekeepers.

Various authors write about why post-conflict justice is important. Justice is needed to heal traumas left by crimes, which is necessary for peace and reconciliation and when perpetrators are not punished it can undermine the legitimacy of the government, the UN and encourage future conflict (Gloppen, 2005; Mani, 2002; O'Brien, 2017; Shraga, 2004). Binningsbo, Gates & Lie (2007) researched whether post-conflict justice has an effect on the duration of peace after conflict. It appears post-conflict justice measures do prolong peace, but the results are weak and insignificant. Some measures lead to a higher chance of a peaceful society, namely trials, but it does depend on how the conflict is terminated, reparation to victims and truth commissions. Amnesties often increase the risks to peace failure in post-conflict societies (Binningsbo et al., 2007). The UN often protects peacekeepers from punishment, which could be viewed as the UN giving amnesties to peacekeepers. As shown above, this could have a negative effect on peace in post-conflict setting. It seems that impunity does have an influence on the stabilization in post-conflict settings. In order to create a lasting peaceful society and reduce impunity, it is important to punish UN peacekeepers for SEA crimes and give justice to victims. How this should be done differs per country.

## 2.4 Impunity and peacekeeping missions

This thesis is about the fact that UN peacekeepers are not punished for the SEA crimes that they committed, but does SEA in fact lead to damage for further missions? What is its impact?

While no missions have failed due to its unintended consequences, like SEA, the effectiveness of missions have been negatively affected (Allais, 2011; Aoi, De Coning, Thakur, 2007). A UN investigation, in 2013, declared SEA “the most significant risk to UN peacekeeping missions, above and beyond other key risks including protection of civilians” (Westendorf & Searle, 2017, p. 1). In Ndulo’s (2009) article he states that both the UN as well as the TCCs acknowledged that SEA is a major problem and that it can undermine peacekeeping operations (Ndulo, 2009). Other authors agree with the fact that SEA can have a negative effect on peacekeeping missions. SEA creates distrust of local people towards male peacekeepers and having cooperation and support of the local population is essential for the effectiveness of a mission (Grady, 2010; Karim & Beardsley, 2016; Martin, 2005). Various mission units, their morale and effectiveness, is also affected. In order for a

mission unit to work smoothly it needs cohesiveness, which develops due to trust, camaraderie and morale. SEA and other negative behavior reduce the ability of peacekeeping troops to work effectively (Sagala, 2006). As a consequence, SEA crimes by peacekeepers can affect international peace and security through endangering the mission itself (O'Brien, 2012b).

The UN itself is also aware of the negative consequences that SEA has on its peacekeeping missions. In a 'Commanders guide on measures to combat SEA in UN military', related to their missions it states that SEA undermines troops discipline and integrity, it damages the image of the units and the contributing countries, it endangers the ability of the UN to efficiently execute mandated tasks, it has a negative impact on the image and credibility of UN missions and the Organization and it threatens peace and security (UN Peacekeeping, 2017). In order for further missions to operate smoothly, it is necessary that SEA disappears. To fight this impunity it is important to put the needs of the victims at the front, that there are reparation programs accessible for everyone and that the victims feel empowered to come forward (OHCHR, 2016).

## 2.5 Effective policy making

Peacekeepers benefit from immunity and the UN has to rely on the TCCs to take action against their militaries (Grady, 2010). Several actions have been taken to prevent SEA from happening within MONUC, like new policies, gender awareness training, prohibiting of brothels and the creation of a disciplinary office, but SEA is still present (Gilliard, 2012). Problems of the immunities are visible, so why is nothing done to resolve these problems? Why are interventions, that everybody knows are essential, not being executed?

Various authors described why policies to eliminate SEA have failed until now. Westendorf & Searle (2017) explored the effectiveness of policy frameworks of the UN and international humanitarian community. One of the main reasons for the failure of policies to eliminate SEA is that the UN is concerned with both protecting its image and developing a good framework for SEA. The first one creates incentives to downplay difficulties in a framework for SEA which prevents policies that can lead to improvements from being implemented. Additionally, there is a gap between the international development of policies and the implementation on a mission level, obstacles and information from the field is not included in new policies, SEA is framed in such a way that it eliminates the structural and contextual issues and there is a failure of making SEA policies that link to other relevant (international) policies. Finally, there is the structure of the UN. Its structure is vulnerable to bureaucratic demands and the interests of Member States, which obstructs the effective development and implementation of policies (Westendorf and Searle, 2017). Stern (2015) points out the operational challenges to developing effective SEA policies. Victims may be reluctant

to report SEA, due to stigmatization by their community, mistrust of authorities in the country and it can be an economic disincentive since they need money for survival (Stern, 2015; UN Human Rights, 2019). Peacekeepers bring their own cultural attitudes to the missions, which often differ from UN standards, for example the legality of prostitution and peacekeepers are under the authority of TCCs not the UN, who are often reluctant to investigate their militaries (Stern, 2015). In order to successfully develop policies, policy-makers should understand that 'SEA must be dealt with in a manner that recognizes the intersection of multiple risk factors, underpinned by forms of masculinity that produce and encourage such behaviors' (Westendorf & Searle, 2017, p. 386).

Generally, post-conflict peacebuilding has also some obstacles that prevent effective policy making. Whether effective policies are established depends on the political will and the commitment of national governments, it is difficult to delink post-conflict reconstruction to its regional environment, the availability of financial resources, the coordination between actors in assessing their efforts for policies (Tschirgi, 2004). Finally, for effective policy making in post-conflict peacebuilding, just as Westendorf & Searle (2017) mentioned regarding SEA policies, there should be coherence between various policies areas (Tschirgi, 2004). These obstacles and challenges above, prevent the establishment and implementation of effective policies.

### 3. Methodology

This chapter will describe the choices that are made, regarding research methods to collect data, that are used in order to give answers to the four sub-questions of this thesis. The choice for a case study design will be explained, as well as the critiques of this method and the reliability and validity of the research. Afterwards the different methods of data collection are described and how the data was analyzed.

#### 3.1 Case study

In order to gain knowledge about the obstacles that prevent prosecution of UN peacekeepers for SEA crimes and which alternative proposals with a high potential of success would work best in the DRC, it is important to do in-depth research. The reason why I chose to do a case study design is because it allows for an investigation of a contemporary problem within a real-life context. Within a case study a small geographical area or a very limited number of individuals is selected as the subjects of study to be examined in detail (Gerring, 2006; Noor, 2008; Zainal, 2007). The design can narrow down a broad field of research where after an in-depth study of a particular research problem is possible where you can rely on a variety of sources. It can be very useful when not much is known about an issue or whether a certain model actually applies to phenomena in the real world (Gerring, 2006; Noor, 2008). There are a couple advantages when using case studies as a research method. The exploration of the data mostly happens in the context where the phenomenon takes place, it is possible to examine the data with quantitative and qualitative analyses and it helps to examine the complexities of real-life situations which otherwise may not have been discovered through, for example, surveys (Zainal, 2007).

A case study design is very useful for this thesis since the broad field of sexual violence is being researched and there is a specific, relatively unknown, problem that needs to be researched within it, the impunity of sexual violence by UN peacekeepers. Various experts contributed to gain in-depth knowledge of this problem, thereby discussing alternative proposals that could work in the case of DRC. With this topic it is useful to go in-depth instead of giving a general overview of the problem. We gain a better understanding of the whole.

##### 3.1.1 Critiques on case studies

A few critiques of case studies are often mentioned in articles. The lack of rigor, very little basis for scientific generalization and case studies are often too long and produce a lot of documentation.



The critique of lack of rigor comes from the way the data is analyzed. Analytical statements are based on raw data at the beginning of data collection. As more data is collected, these analytical statements are reviewed over and over until a reasonable answer to the research question is within reach. Since this is not a linear process, critics see this as a lack of rigor, but cases studies use an alternative way to look at the rigor of a research (Hsieh, 2004; Yin, 1984). Retesting statements should be seen as cautious. Due to the longer duration of case studies and the unexpected variables that can occur, data becomes “interwoven with influential but natural factors generated from the real learning context. Analytical statements which consider naturally existing factors are strongly believed to have a more significant impact on learning” (Hsieh, 2004, p. 102).

Critics state that single case studies are not generalizable, since sampling is not random and the number of participants is often small (Gerring, 2006; Hsieh, 2004; Noor, 2008). Single case studies can be used for broader analysis. “When case studies are considered cumulatively, a wide variety of special conditions can be recognized to ascertain whether the findings are generalizable” (Jensen & Rodgers, 2001, p. 236). In Hsieh (2004), Firestone (1993) suggests that the most useful generalizations are in qualitative studies are ‘analytic, not sample-to-population’. The number of participants is not the only thing that determines the generalizability of a case study, so if a sample size is larger, it does not necessarily mean that it is more generalizable. Non-random sampling and a small amount of participants do not make the outcomes of a single case study less valid. “However, the necessity of generalizing case studies depends on the purposes and the rationale behind the case study” (Hsieh, 2004, p. 109). We shouldn’t focus too much on generalizability, since it is possible that other important features that are needed to understand the case itself are neglected (Hsieh, 2004).

The critique that there is a lot of data in case studies and that the research is often too long can be prevented by the researcher. It is important for researchers that they make sure that the data is of desirable quantity and that it is still analyzable. Not enough data may lack evidence and too much data delays the end date of the project or causes finances to be withdrawn (Hsieh, 2004). A researcher should make sure that its data is stored systematically and check often if data saturation has already set in (Zainal, 2007).

### 3.1.2 Reliability and validity

The terms reliability and validity are often used in quantitative research, but it is also possible to use them in qualitative research (Golafshani, 2003). “Reliability is the degree to which the finding is independent of accidental circumstances of the research, and validity is the degree to which the finding is interpreted in a correct way” (Kirk and Miller, 1986, p. 20).

In order to have reliable data, I tried to describe every step I took in this research. In this way, others can check what I undertook and criticize if the data that has been presented is reliable enough. Also, by transcribing my interviews, I tried to eliminate eventual errors that could occur.

After I transcribed the interviews, I send the transcripts back to some of my respondents. They checked if I understood correctly what they were saying and they could add information, so it would be easier for me to interpret the information correctly. Also, during the interview, I asked for clarification if I did not fully understand what they were trying to explain.

## 3.2 Data collection

In order to give answer to the main research question, but first the sub-questions of this thesis, both primary and secondary data were used. A literature research and semi-structured interviews were conducted to collect data.

### 3.2.1 Literature research

The first sub-question is written with the help of existing databases. To give an answer to the main research question, it is important to know the history of experiences of SEA by UN peacekeepers in the DRC and what efforts have been taken to punish those. These sections are composed of information found in articles on Google Scholar and the Radboud University library.

Additionally, in the first part of Chapters 4, 5 and 6, literature is used to describe already known obstacles to prosecution in the UN and the DRC and proposals that could be successful to prosecute peacekeepers in the DRC. These were then compared to obstacles and proposals that came to surface in the interviews.

### 3.2.2 Semi-structured interviews

In order to answer the sub-questions, in-depth interviews were held with my respondents. The main method for data collection that was used in this thesis are semi-structured interviews. Beforehand an interview guide was made, which was used as a leading mechanism and helped me to remember the topics and questions that I wanted to discuss. The interview guide can also be found in the Appendix A. The questions were not always asked in chronological order, because it was essential that the conversation went smoothly. Through semi-structured interviews with experts it is possible to gain in-depth knowledge about possible obstacles, solutions and their knowledge about the DRC. Due to the fact that the interviews are semi-structured, there is a possibility for them to add their own perceptions about the topic. This will lead to new insights that otherwise would not have been discussed.

The advantages of semi-structured interviews are that a topic can be explored more deeply and that follow-up questions can be asked. This could also be a disadvantage when the interviewer is not experienced with doing these kind of interviews (Kajornboon, 2005; Longhurst, 2003). I had experience with doing semi-structured interviews, but only limited. My ability to ask follow-up questions did develop during the eight interviews that I took.

The interviews were held through Skype, Zoom or Whatsapp call. Most people who have knowledge about the topic of SEA by UN peacekeepers in the DRC do not live in the Netherlands, and if they did, it was impossible to meet in person due to Covid-19. Fortunately, many were still willing to talk to me through other means. Doing interviews through Skype is a different experience than face-to-face, since my respondents did not always want to do a video call, which makes it impossible to see face expressions. On top of that, the Wi-Fi connection was not always working which makes it difficult to follow the conversation.

### 3.2.3 Selection of participants

I have interviewed eight experts on SEA, SEA in the DRC and the country of the DRC in general. All came from different backgrounds, which led to very diverse answers to the questions. Their nationalities were American, Canadian, Dutch, Spanish, Australian, Congolese, Kenyan and Colombian. My respondents worked at NGOs, focused on sexual violence in the DRC, SEA by UN peacekeepers, justice and democracy in Haiti, ending torture and seeking justice for survivors, in the Netherlands as well as overseas, they worked at the UN in the DRC, they are researchers for NGOs in the DRC or they are academics. I used several platforms to search for respondents. First, I got to know various organizations through my internship organization Centre for African Justice, Peace and Human Rights. I contacted these organizations via email, by mentioning my internship organization, asking whether they were willing to do an interview with me. Second, I searched for organizations on the internet and contacted them through email or online contact forms on their websites. I got a few responses back of the many emails that I send. Third, after interviews, I used the method of snowball sampling, I asked my respondents if they knew other people who I could interview. I contacted these people through email or LinkedIn and this gave me the most responses.

The interviews took place at my own home, because I had to use apps, like Skype, to interview my respondents. I asked them what time would suit them best, due to the time difference, and which way to make contact.

### 3.3 Data analysis

“Data analysis in qualitative research is an ongoing, emerging and iterative or non-linear process” (Smit, 2002, p.66). Via transcribing and coding, the analysis of the data will become much easier.

#### 3.3.1 Transcribing and coding

The interviews that I conducted were all recorded, which made it very easy to transcribe each one of them. During an interview, it is important to keep the ethical issues in mind, like confidentiality and anonymity. First, I asked my respondents whether they had a problem with the interview being recorded. This is also a huge advantage to the interviewer, because he or she will be able to fully focus on the interview itself instead of taking notes (Longhurst, 2003, Stuckey, 2014). When recording, I told my respondents that his or her name will not be used in the research, unless they agree to it, and that the recordings will be used for research purposes only.

I started transcribing the interviews right after I conducted them, since the information was still in my mind at that point. By writing the information down, I was already able to make some observations about the various topics. After I transcribed all my interviews, I started coding and categorize my interviews with the program Atlas.ti. This made it easier to analyze the data and write the chapters. I chose to use Atlas.ti as a coding program due to the fact that all sorts of information can be coded, like Word documents and PDF files. Attaching codes, and later code groups, visualized the data of one specific topic in a very clear way. The videos on the website of Atlas.ti and the article of Hwang (2008) helped me in understanding how to use this coding program.

## 4. UN Mission in the DRC

In this chapter it will be discussed whether the UN and its peacekeeping missions are obstacles that lead to the impunity of SEA. The UN is being criticized from a general perspective, but also with regard to its operation in the DRC. Both information from the literature as well as statements from conducted interviews will be combined and compared in order to sketch an image of the current system of the UN. In order to discuss the UN and its peacekeeping mission in the DRC, it is important to have some background information. This chapter will contain the history of conflict and sexual violence in the DRC, an explanation of a UN peacekeeping mission, SEA during MONUSCO and the way the UN reacted to SEA allegations with various measures. This first part will be based on literature research. Finally, the problems that are detected in the literature will be compared with the opinions of several experts that have been collected through semi-structured interviews. Will possible obstacles be confirmed by the interviewees, do they contradict each other or will new ones arise?

### 4.1 History of conflict in the Democratic Republic of Congo

The first time the DRC was exploited by outsiders was in the late fifteenth century by the Portuguese, who went into the profitable slave trade. Towards the end of the 19<sup>th</sup> century, Africa was being divided by the Europeans, whereby Congo became a colony of Belgium (Cahn, 2005). Various European settlers came for the plantations in eastern Congo, whereby they brought several immigrants, like their Rwandan neighbors, into the country to work on these plantations. Rwandophones were already present in the DRC before colonization, but this new wave of Bahutu and Batutsi immigrants developed tensions with locals about their lands, and later about citizenship and political representation, and in the end the tensions became violent (Richards, 2013). Eventually in 1960, Congo got its independence from Belgium (Cahn, 2005). During the following years, tensions rose between different local groups and many new armed groups were formed (Richards, 2013).

The DRC's civil war has been labelled as 'Africa's World War' and one of the world's worst conflicts since the Second World War due to its connection to other civil conflicts in Africa. This conflict can be understood in light of several other conflicts in the Great Lakes region, the Rwanda genocide and the Sudanese, Angolan and Ugandan civil wars (Cahn, 2005; Kitharidis, 2015; Meger, 2010). The Rwandan genocide led to Hutu refugees and people who took part in the genocide fleeing towards eastern Congo which led to continuing destabilization and the eventual collapse of state authority in this region. This destabilization was partly due to the alliances formed between internal rebel forces and foreign government groups, the Alliance of Democratic Forces for the Liberation of Congo (ADFL), founded in 1996 by Rwandan, Ugandan, Burundian and Angolan governments and

South Sudanese rebel forces. The ADFL attacked the Rwandan refugee camps which started the coup. This rebel group, led by Laurent Kabila, overthrew the then rule by President Mobutu and Kabila claimed himself president. He decided to change the country's name from Zaire to the Democratic Republic of Congo (Cahn, 2005; Kitharidis, 2015; Meger, 2010; Richards, 2013). His actions, backed by the Rwandan Patriotic Army and Uganda's People Defense Force, were mainly financed by the mineral commodities in eastern Congo, which nowadays are still a huge factor for foreigners to invade the Congo (Meger, 2010).

In 1998 another conflict broke out, because Kabila decided to remove high-ranking Rwandans and Ugandans from their position and send them back home. This created lots of tensions and since these countries could not remove Kabila themselves, they supported anti-government rebel forces in eastern Congo. Various rebel groups continued fighting and attacking the government now supported by Angola, Namibia and Zimbabwe. Each group got its funding for the civil war from the illegal exploitation of the DRC's natural resources. This went on for many years and even after his assassination they fought against his son Joseph (Bastick et al., 2007; Cahn, 2005; Kitharidis, 2015; Meger, 2010; Richards, 2013). Peace agreements were signed in 1999 and 2002 to establish a ceasefire, to deploy a UN peacekeeping mission and where a change in government was promised, but despite this the violence between various armed groups and the government continued. This Second Congo war was officially over in 2003, but due to the persistent violence in the eastern provinces another peace agreement was drafted and signed five years later (Bastick et al., 2007; Kitharidis, 2015). In 2017, the security situation in the eastern DRC completely deteriorated and led to another million people being displaced and around 13 million people in need of humanitarian assistance (IRC, 2019). Nowadays eastern Congo is still a vulnerable area where violence happens daily.

The DRC has a long history of corruption which prevented the development of democratic institutions and traditions. Mobutu had a totalitarian rule and corrupt policies which led Zaire to decay. Due to the absence of democratic institutions there were many human rights abuses throughout the years (Cahn, 2005). As a consequence of corruption and conflict, there exists a limited state authority and rule of law in eastern DRC. This absence of state authority is one of the factors that favor the occurrence of sexual violence (UN TOE, 2013). Other factors that favor sexual violence will be further described in Chapter 5.

## 4.2 DRC's conflict and sexual violence

One of the most known features in the DRC's conflict is the massive scale of sexual violence. This specific crime used to be part of a culture of silence. Since the international recognition of the mass

rapes in Bosnia and Herzegovina and Rwanda in the 1990s, conflict-related sexual violence was recognized as a serious crime. Afterwards this topic gained much more policy and media attention, whereby the role sexual violence played in DRC's conflict was regularly portrayed in the media (Baaz and Stern, 2013).

Already since the beginning of conflict, when Mobutu was still president, people were being sexually abused. Within the DRC it is often called a 'weapon of war', since it is used by the military as a strategy to gain international attention. Sexual violence is so prominent in the DRC due to many years of hostile civil-military relationships. Since Mobutu there are human rights abuses by the military and in combination with the low status of state security personnel, the poor conditions civilians live in, land pressure, proliferation of small arms and the illegal extraction of natural resources, there is no mutual trust. Former combatants who have committed these crimes are also reintegrated into the FARDC, with no background check. This exacerbates the problem (Baaz and Stern, 2010; Bastick et al., 2007; Kitharidis, 2015; Meger, 2010; UN TOE, 2013). A good functioning justice system is also missing in the DRC, which leads to the large scale impunity of sexual violence (Baaz and Stern, 2010; UN TOE, 2013).

There is not one main group who is the perpetrator of sexual violence in the region, but all armed groups including the national armed forces, the national police force and UN peacekeepers commit SEA (Meger, 2010; UN TOE, 2013).

After the peace agreements there was no drop in the occurrence of sexual violence. It has been said that the last peace agreement signed in 2008 has been violated 200 times in the three months following the signing. Since eastern Congo is still an area of conflict, sexual violence is higher in these regions. Between 2005 and 2007 there were 32.000 rape and sexual violence cases in South Kivu alone. It is expected that in reality this number is doubled (Kitharidis, 2015; Meger, 2010). Nowadays there have been some improvements in fighting conflict-related sexual violence, like different policies, laws and action plans by the UN, various NGOs and the DRC itself, but in 2018 there were still 1049 documented cases of sexual violence in the eastern provinces of Congo (UN, 2019a).

#### 4.3 UN peacekeeping operations

Before diving into the subject of sexual violence by UN peacekeepers during MONUSCO, it is important to know what exactly a UN peacekeeping operation entails. How will or should this contribute to peace? There is a concern with mechanisms that are in place to assure the proper behavior of peacekeeping troops. It may pose a risk for the occurrence of sexual violence and may result in the impunity of these crimes.

The UN was founded in 1945, right after the Second World War. In 1948, peacekeeping evolved because conflicts could not be solved with a peaceful solution. The Cold War made the need for peacekeeping missions larger, which led to largescale peacekeeping missions to restore peace and create development (Ndulo, 2009). Peacekeeping helps the host country to create a path from conflict towards peace and currently there are 13 active UN peacekeeping operations within three continents (United Nations Peacekeeping, 2019b). The UN peacekeeping operations have been seen as one of the most successful initiatives founded by the UN (Defeis, 2008).

The establishment of a new peacekeeping operation starts with the Security Council. They make sure countries meet certain factors, for example if there is a ceasefire and both parties want a peaceful solution, where after they adopt a Security Council resolution that will set out the mandate and size of the mission (O'Brien, 2010; United Nations Peacekeeping, 2019b). Once this peacekeeping operation has been agreed upon, the General Assembly with its Member States play a key role in financing the mission (United Nations Peacekeeping, 2019b). Afterwards a memorandum of understanding (MOU) between the UN and a Member State is being agreed upon where the administrative, logistics and financial terms are established to govern the contribution of personnel, equipment and services provided in support of a peacekeeping mission and to state the standards of conduct (Burke, 2012; United Nations Peacekeeping, 2019b). Military as well as civilian personnel travel to the country where the operation is taking place and contribute to a peaceful solution for the host country (United Nations Peacekeeping, 2019b).

A peacekeeping mission exists of civilian, police and military personnel. Nowadays, military personnel is the largest, but there are also police and civilian personnel employed. Think about soldiers, military officers, police, development specialists and humanitarian workers (Bastick et al., 2007; United Nations Peacekeeping, 2019b). Due to the fact that the UN does not have its own military they are dependent on other, mostly developing, countries for the delivery of soldiers (Defeis, 2008). Once there is consent and cooperation of the parties involved, the peacekeeping mission can begin without the use of force and the TCCs and the UN will work out the financial and administrative details (Defeis, 2008; Ndulo, 2009).

To make sure peacekeeping personnel have the highest standards of behavior and are being professional and disciplined, the UN established standards of conduct. UN personnel should 'respect local laws, customs and practices, treat host countries inhabitants with respect, courtesy and consideration, and act with impartiality, integrity and tact' (United Nations Peacekeeping, 2019a). Consent, neutrality and self-defense are the three basic principles in peacekeeping. Consent to ensure that the mission would succeed with a minimum of resources, neutrality to stand above the non-state armed groups and self-defense to ensure the TCCs that their personnel was not in any



danger (Grady, 2010; United Nations Peacekeeping, 2019b). Legally, neutrality and impartiality is what distinguishes peacekeeping from peace enforcement. Neutrality was originally applied to UN peacekeeping, but after the conflicts of the 1990s, neutrality developed into impartiality, whereby UN peacekeeping forces can be actively involved in the conflict when certain principles, like fairness and justice, are being threatened (Grady, 2010).

The role of the UN peacekeeping operations is protecting civilians, preventing conflicts, building rule of law and security institutions, promoting human rights, promoting women, peace and security, and delivering operational support (Defeis, 2008; United Nations Peacekeeping, 2019c). They need to create space for mediators and advisors who will try to find a political solution for the conflict and try to tackle the underlying causes of the conflict. They mostly monitor and observe cease-fires, demobilize combatants, assist these ex-combatants in implementing the signed peace programs and protect refugee camps (Ndulo, 2009; United Nations Peacekeeping 2019c).

In order to protect UN peacekeepers during a mission, they are granted various immunities that prevent host state jurisdiction. These have been installed since “the framers of the UN Charter recognized that the Organization would not be able to perform its functions effectively if it were exposed to legal liability and interference by governments that wished to impede the UN and its personnel from carrying out their work” (Code Blue Campaign, 2019). Which immunity applies to them depends on which type of peacekeeper they are (Askin, 2016; Burke, 2012; Jennings, 2017; Freedman, 2018). To make sure that prosecution does not happen in the host state, a Model Status of Forces Agreement (SOFA) is signed between the UN and the host state. This is a bilateral agreement, just like the MOU between the UN and Member States. The SOFA, among others, states that military peacekeepers are subject to their home countries and that they have to respect the local law of where they are deployed (Burke, 2012). Due to the fact that the number of peacekeeping missions has grown very fast, a problem has grown with it. The SEA of local populations by UN peacekeepers during their mission (Ndulo, 2009).

#### 4.3.1 Immunity of civilian peacekeepers

Within the peacekeeping forces, different people enjoy different kinds of immunity. There is a distinction between military, police and civilian peacekeepers. Civilian peacekeepers are directly employed by the UN, police can be employed as civilian peacekeepers, experts on mission or troops and military peacekeepers are sent by their governments to fulfill military positions and remain under the jurisdiction of their national country (Freedman, 2018; Jennings, 2017). UN civilian peacekeepers enjoy functional immunity while on mission. It means that “it protects peacekeepers from legal process for acts they perform in their official capacity, but should not apply for acts

undertaken outside of their official function” (Jennings, 2017). This is different from full immunity, but since it can be hard to draw a line of what is an official duty in practice, peacekeepers often do not get prosecuted and enjoy full immunity. It is not about whether a civilian peacekeeper was on duty, but rather if the act that was being carried out that led to a crime was part of the peacekeeper carrying out his or her job (Freedman, 2018). It is the investigative task of the UN to determine whether functional immunity applies in each situation (Freedman, 2018; Jennings, 2017).

The Secretary-General is also able to waive immunity, but this rarely happens (Burke, 2012; Freedman, 2018). Host countries often have failed judicial systems. If a host country has problems with its rule of law, human rights or institutions the UN will not hand over a civilian staff member. This is an exception on the rule of handing over civilians to national courts for prosecution (Freedman, 2018). If a sanction is given for a crime during a mission, it is usually administrative. Peacekeepers are suspended, investigated by internal oversight units, and potentially repatriated, demoted or fired. Criminal sanctions are seldom given (Askin, 2016; Jennings, 2017). Usually the peacekeepers are sent home, because it is not sure whether their actions would fall under the immunity rule and the TCCs have to prosecute their nationals, but this often does not happen. Just being sent home is not a good enough measure, since many peacekeepers want to go home anyway (Askin, 2016).

On top of this, the highest UN civilian staff, like the Secretary-General himself and heads of peacekeeping operations, receive personal immunity. This immunity “protects an individual from all legal processes at any time” (Freedman, 2018, p. 966).

#### 4.3.2 Exclusive jurisdiction for troop-contributing countries

The same as with civilian peacekeepers, military peacekeepers, who are sent by national governments, have a limited risk of being prosecuted for crimes while they are on mission. When turning to military peacekeepers, only the TCCs are allowed to prosecute their militaries for crimes they committed on missions. The host state has no influence on this process. This immunity has been installed due to several reasons. The host state often has no working legal system, it is seen as a matter of state sovereignty and the control over their troops is seen as integral to the functioning of their own armed forces (Burke, 2012; Higate, 2007).

SC Resolution 2272 states that Member States have to investigate and hold perpetrators accountable whenever there is evidence of SEA. To prevent and combat impunity they need to act against these allegations. After the abuse, TCCs have ten days to start an investigation and hold their nationals accountable for these crimes and report the process to the UN. Otherwise the UN may initiate an administrative investigation or repatriate the peacekeeper, but they have no power to sue

them (Askin, 2016; Burke, 2012; Freedman, 2018; Jennings, 2017). Prosecutions can take place in the host state, if peacekeepers are court-martialled in situ, but the decision on how to go from there is entirely up to the TCCs since they have the exclusive jurisdiction over their soldiers (Freedman, 2018).

There are various reasons why TCCs do not prosecute their soldiers. First, many TCCs are not able to exercise extraterritorial jurisdiction over acts committed by their peacekeepers on missions. If they are able to exercise jurisdiction, there is often the problem of insufficient evidence or national political implications it might have for the country. Second, whenever the prosecution happens outside of the host state, victims have a lack of access to justice (Burke, 2012; Freedman, 2018). Some TCCs do investigate and punish their peacekeepers regarding allegations, India was recently in the news for punishing a few of its soldiers for sexual abuses that took place in the DRC, but those were military disciplinary measures, not criminal sanctions (Mariner, 2015). Others turn a blind eye as happened in the Central African Republic. Carrying out criminal sanctions under national laws is proven to be difficult and elusive (Askin, 2016).

The UN took measures to improve the accountability of TCCs, by 'naming and shaming' the countries who turned a blind eye, but military peacekeepers can still only be prosecuted in their home country (Askin, 2016; Jennings, 2017). The UN is dependent on the TCCs for the delivery of military personnel, which means the UN needs peacekeepers, and with the limited amount of TCCs, they have to be content with who they get. They cannot set high standards for their personnel which often leads to untrained male personnel (Higate, 2007). This is a serious challenge, but Member States have not been willing to adopt tougher measures regarding crimes committed during UN missions (Askin, 2016; Jennings, 2017).

Overall, the UN has various mechanisms in place to prevent SEA within their peacekeeping missions. However, many of these mechanisms do not work out as planned, so to improve the system new measures have been taken, but whether they work has to be seen.

#### 4.4 Sexual abuse by UN peacekeepers in the DRC

The problem of sexual violence by UN peacekeepers also manifested itself in the DRC. Following the war in the DRC in 1998, the UN Security Council decided to implement peacekeeping forces into the country in 1999. This specific peacekeeping mission was called MONUC and in 2010 the name of the mission changed to MONUSCO. During MONUC and MONUSCO, allegations surfaced of sexual violence. While many peacekeepers tried to help the DRC out of conflict, there were others who used different forms of violence on the Congolese civilians. Within MONUC, there are multiple types of peacekeepers. Included are the UN peacekeepers, civilians, volunteers, military observers, police

units, United Nations High Commissioner for Refugees (UNHCR) and United Nations Development Programme (UNDP) personnel (Gilliard, 2012).

Around 2004-2005, articles surfaced about the rape, torture and pornographic videotaping of Congolese civilians by UN peacekeepers. According to a report of the OIOS and the Ambassador of Jordan there were different forms of SEA present during MONUC and they have existed for many years. Prostitution is one of them, also because this is often the only source of income for women in the DRC, which is why they want to be seen by peacekeepers. They are lifting their skirts to get attention and go to a bar to meet with peacekeepers in order to earn some money (Higate, 2007). Further, sex slaves were bought for goods, there were different cases of rape, human trafficking and pornographic pictures. A total of 121 allegations of SEA were made. Often girls were persuaded by UN peacekeepers to have sex with them in exchange for something else, for example food or money. All these things are scarce in the DRC, so once they were told by their community that they were 'contaminated because of the rape' they decided to ask money for sex with peacekeepers (Bastick et al., 2007; Ndulo, 2009; Notar, 2006; O'Brien, 2011). A year later the amount of allegations rose to 340 and even 357 the year after. These allegations are of missions worldwide, but the greatest amount of accusations came from MONUC (Ndulo, 2009).

#### 4.4.1 Problems with a UN peacekeeping mission

Within the literature, there are a few authors who have criticized the design of a peacekeeping mission and MONUSCO specifically. The victims of the abuse are directly affected, but peacekeeping missions are indirectly affected as a consequence of SEA.

The legitimacy and efficiency of the missions is being questioned. It is undermining the mandates set by the UN and the overall image of the UN is negatively portrayed in the media. (Ndulo, 2009; O'Brien, 2012a, b; O'Brien, 2017). The DPKO made clear that the UN's international as well as local reputation among parties damages the credibility of the UN when its peacekeeping personnel is involved in sexual violence (Grady, 2010; O'Brien, 2017).

When UN peacekeepers take part in SEA a threat is posed to the neutrality and impartiality of the mission. Where is their responsibility to protect? Neutrality refers to the nature of the peacekeeping operation and impartiality to the behavior of peacekeeping personnel during the operations. To prevent that the impartiality is being affected, peacekeeping personnel should never become involved in sexual contacts (Grady, 2010).

The problem is that many peacekeepers who engage in sexual violence do not think about the long-term consequences of their actions. UN peacekeepers think they can get away with SEA. They either do not think they are doing anything wrong or they believe there will be no negative

consequences for their actions. Personnel in peacekeeping missions is being changed every 3 to 6 or 6 to 12 months to prevent permanent traces to be found in the country of operation. They are only there for a few months which makes sanctioning not worth it. There is also a chance that a local woman gets pregnant from a peacekeeper, but since they are there for such a short time, they do not think about eventual babies. And if they do acknowledge it, they often do not care. This leads to abandoned 'peacekeeper babies' (Gilliard, 2012; Higate, 2007; Ndulo, 2009; O'Brien, 2011, 2017).

Additionally, fellow peacekeepers often protect each other when they are being investigated by countering the investigation, they do not feel any surveillance because their commanders are also engaging in the abuse (Higate, 2007; Ndulo, 2009). The UN often wants to protect the reputation of the peacekeepers so that TCCs are still willing to deliver troops to peacekeeping operations and to prevent that 'whistle-blowers' are not being stigmatized (Defeis, 2008; Grady, 2010; Ndulo, 2009; Nordas & Rustad, 2013). With civilian peacekeepers, the UN often fails to uphold the rules to protect them. Instead of handing over civilian peacekeepers to local authorities for investigation, they conduct their own investigation into the evidence and then decide whether to turn over civilian peacekeepers (Freedman, 2018; Jennings, 2017).

Problems with the Code of Conduct were also recognized. The Code of Conduct is not legally binding, but only the TCCs can enforce this on their soldiers. This leads to the fact that militaries can choose which code to follow, the one of the UN or the one of their home country (Burke, 2012; O'Brien, 2017). These obstacles will be compared to the answers of my respondents in section 4.6.

#### 4.5 UN responses

The UN has taken many actions, big and small, to try to limit the occurrence of SEA. Nowadays, each year a report is drawn with the current statistics on SEA allegations by, among others, UN peacekeepers (O'Brien, 2017). Below only the major responses will be outlined.

After the allegations of SEA came to light in the early 2000s, the UN started to document the allegations that have been made against its peacekeeping personnel and they are being investigated by the OIOS (Bastick et al., 2007; Murphy, 2006). In order to address SEA by UN peacekeepers, the UN focusses on three categories related to the perpetrator, namely prevention, enforcement and remedial action (Freedman, 2018). After the accusations of SEA, the UN's first response was with a Bulletin called 'Special Measures for Protection of Sexual Exploitation and Abuse' that should give more awareness about the problem and limit the occurrence of it. SEA is seen as a huge misconduct which will directly lead to a summary dismissal (Bastick et al., 2007). The Bulletin also stated that sexual relationships between UN staff and beneficiaries of assistance are strongly discouraged since it is established due to unequal power relations and it discredits the UN's image (O'Brien, 2017).

Included in this Bulletin is a zero-tolerance policy that forbids any contact between UN peacekeepers and civilians. This policy “embodies both zero complacency, namely, to fully investigate allegations, and zero impunity if the allegations are found to have merit” (Kanetake, 2010, p. 200). The zero-tolerance states that peacekeepers will lose their job if they engage in sexual abuse, but nowadays this has never happened (Notar, 2006). Troops from different countries do not support the zero-tolerance policy, especially when it comes to the topic of prostitution (Defeis, 2008). This obstacles, for example, prevents the zero-tolerance policy to be effective (Kanetake, 2010).

After the Bulletin by the UN, another report was being drafted by Prince Zeid of Jordan, the Special Adviser of the UN’s Secretary-General. This report was mainly focused on a strategy to eliminate SEA by peacekeepers with regard to MONUC (Bastick et al., 2007; Burke, 2012; UN GA, 2005). Recommendations were made in the four main areas of the current rules on standards of conduct, the investigative process, organizational, managerial and command responsibility and individual disciplinary, financial and criminal accountability (Kent, 2005; UN GA, 2005). These measures did lead to a drop in the number of allegations of SEA in 2007, but it was still a huge problem in peacekeeping missions (Ndulo, 2009). In the same year as the Zeid report, the UN established a Conduct and Discipline Unit (CDU) and several teams who would be the ones where victims could report if they have been sexually exploited or abused. In this way all SEA complaints would be handled by one unit within the UN (Burke, 2012). Neudorfer (2014) researched that despite the increase in the number of troops, the growth of reporting mechanisms, the ongoing sexual violence in the DRC and the norms encouraging aggressive heterosexuality among troops, the CDU possibly worked as a deterrence measure since it led to a decline in SEA reports from 2006 onwards (Neudorfer, 2014). Since 2005 there is also a mandatory training for UN peacekeepers on preventing sexual violence (Nordas & Rustad, 2013).

In 2016, the UN Security Council adopted a resolution focused on the issue of SEA by UN peacekeepers. It was the first ever resolution only on the topic of sexual exploitation and abuse. Security Council Resolution 2272 expresses “deep concern about the serious and continuous allegations and under-reporting of SEA by UN peacekeepers and non-UN forces, including military, civilian and police personnel” (Askin, 2016; O’Brien, 2017). It remarks that TCCs have the exclusive jurisdiction to investigate their own soldiers. In the same year, the Secretary-General created a Trust Fund in support of victims of SEA. This Trust Fund provides funding to community outreach, specialized services that provide support to victims and children that are born as a result of SEA, address service gaps by giving assistance and it can be used for additional support and communications for victims. Money is donated voluntarily by several NGOs, governments and more (UNM, 2019).

In the beginning of 2017, the UN announced to create a high-level task force on the UN response to SEA. That same year, Secretary-General António Guterres also released a new report on SEA, namely, 'Special measures for protection from sexual exploitation and abuse: a new approach', whereby the focus would be more on the victims' rights and dignity (O'Brien, 2017; UN, 2019b). This led to the appointment of Jane Connors as the first Victims' Rights Advocate for SEA (UN, 2019b). She visited the DRC at the end of 2019, to visit several hospitals where victims of SEA are and talked to the victims and hospital personnel about their experiences (Seguy, 2019). Despite all these measures that the UN has taken to limit the occurrence of SEA, nowadays the amount of these crimes is still high. Sexual violence is still a prominent issue in peacekeeping missions.

#### 4.6 The structural problems of the UN

In the sections above, the UN could identify a few factors as the main ones that explain why SEA continues. The UN protects peacekeepers and the TCCs reputation, so that TCCs keep delivering militaries to the missions. TCCs do not prosecute and the Code of Conduct is not legally binding. These factors partly lead to impunity of SEA. To start off my interviews, I asked my respondents 'How do you see the problem of (sexual) violence by the UN? To what extent is it a serious issue?' and 'What do you think are the main obstacles that prevent the prosecution of sexual violence by UN peacekeepers in the DRC and in general?'. As many respondents talked about obstacles within the UN, I started to ask more follow-up questions about this regarding SEA. Most of them pointed out that the structure of the UN causes a lot of problems in various ways. It is systematically embedded in the UN and its policies, the immunities of peacekeepers stand in the way, the reporting system is not what it should be, there are problems within the peacekeeping missions and several political considerations stand in the way of effective prosecution of SEA crimes. It is possible that the respondents also have very positive points to say about the UN, but since I especially asked about the obstacles it will not be possible to compare the answers.

##### 4.6.1 UN system

Above it is described how the UN system is organized nowadays and which mechanisms they have in place for combating SEA. When asking if (sexual) violence by the UN is a serious issue, all of my respondents agreed that it is indeed a serious issue and referred to the fact, that regarding the problem of SEA, there is a systematic problem within the UN. The fact that the UN is representative for the international community and has to protect civilians, but instead there are UN peacekeepers who rape men and women, that is a huge problem. One of my respondents called it a widespread impunity within the UN. This means that my respondents agree with Grady (2010) and O'Brien (2017)

that the UN's international reputation among parties damages the credibility of the UN when its peacekeeping personnel is involved in SEA (Grady, 2010; O'Brien, 2017). This could be seen as an obstacle that leads to impunity:

*Yes it is a serious issue of course. It is an important matter [...], but of course it is a problem of the structure of the UN. How this, basically how it works that leads to impunity which is a major problem. This is particularly and let's say a challenge for peacekeeping missions, because they're a blend in between civilian that have work in the UN as a career [...] and military that come for a short period of time, representing their countries. (Respondent 7, former Gender Expert at MONUSCO)*

*Let's see how I can explain this [...]. You just have a lot of different cultures within the UN. And the organization culture, as we've seen until now, it leads to impunity, so you are not punished if you do something like this. That is why it creates a sort of culture where it is tolerated to do this. (Respondent 6, NGO employee focused on the DRC)*

*I know that it's a systematic problem that has a lot to do with both the context where the UN peacekeepers intervene, but also the internal bureaucracy and policies within the UN. (Respondent 4, researcher in the DRC)*

The current set-up of the system of the UN is not favorable for the prosecution of peacekeepers who committed SEA. The organization culture, as mentioned by Respondent 6, is formed due to the decisions that the UN takes regarding various things. One aspect, mentioned by Respondent 2, is that the UN decided that prosecution in the DRC itself was not possible, because they were lacking human rights, but without actual proof and deciding this without consulting the Congolese government they are violating state sovereignty (Respondent 2). Another problem within the culture of the UN, mentioned by three respondents, is the fact that people with high ranks within the UN are being protected. One example:

*There was the UNAIDS scandal where a Swedish women was assaulted by the deputy director of UNAIDS. [...]. An independent expert panel issued a recommendation on UNAIDS, but those recommendations are voluntarily. The Secretary-General said 'thanks very much, you've said Mr. Sidibé is a horrifying person who's incompetent to lead this organization and is running it into the ground. My response to that is to ask Mr. Sidibé, what do you think we should do?'*



*He was like 'I think I'll peacefully resign later, not now'. (Respondent 2, former UN Human Rights Officer in the DRC and employee at Code Blue Campaign)*

When people with high ranks are protected, it is likely that they will be able to get another job in a high ranked position. This is also a factor that prevents victims from coming forward. They know high ranked officers are not prosecuted, so they keep silent, because they think nothing will happen to peacekeepers anyway. Since UN peacekeepers are protected by the UN in general, all peacekeepers could be seen as highly ranked. According to O'Brien, their rank is high enough to prosecute them in the ICC (O'Brien, April 2, 2020, academic).

#### *Monitoring system*

One of my respondents pointed out that the UN's monitoring system, seems good on the outside, but it is not possible to get a real time evaluation. Information is published in the end of year annual reports, which means there is a lack of transparency throughout the year.

*Member States are sort of shifting the burden onto the UN saying, 'well you have to tell us what's wrong' and the UN is saying 'we told you we're doing everything. Now you need to fund us and just trust that it's going to be okay'. Somewhere in that somebody has to step in and say 'no, pull back the covers, here's what's actually happening, here's what's actually needs to be done and what isn't being done.'* (Respondent 2, former UN Human Rights Officer in the DRC and employee at Code Blue Campaign)

Member States have to trust the UN that the monitoring system is working properly and that numbers of SEA are going down, but they have no actual access to check that for themselves.

#### *4.6.2 Policies*

The literature put forward that the zero-tolerance policy that the UN has in place is not very effective. Peacekeepers are not always repatriated and troops from different countries do not support this policy, especially when it comes to prostitution (Defeis, 2008; Kanetake, 2010; Notar, 2006). The Trust Fund that is in place to support victims from SEA should provide funding and support to victims and children that are born as a result of SEA (UNM, 2019). My respondents continued with criticizing the zero-tolerance policy, the CDU, the policies on the Victims Trust Fund and the policies regarding child support claims. At first, the UN has never once clarified what you are entitled to receive if you have been victimized by the UN (Respondent 2). While the respondents

mentioned the different policies above, some agreed on the fact that the zero-tolerance policy and the policies for child support claims do not work in its current state. I did not specifically ask them about which policies had their flaws. One of my respondents is working with victims who need child support and another respondent pointed out the effectiveness of the zero-tolerance policy since she came across this problem during her research. This could be the reason they mentioned these specific policies and their flaws.

*The fact that the UN has this new policy on zero tolerance of abuse by peacekeepers, [...] we haven't seen any positive results so far, we haven't seen how this has had a positive effect yet. And what came out of our study on the other hand, is that the UN has been so far quite reluctant, who also do what they can in some of these cases (child sex abuse cases).*  
(Respondent 1, employee at REDRESS)

*The CDU has a conflict of interest. They are both tasked with preventing SEA, but also receiving, logging and investigating SEA complaints. This could be a reason why reporting of sexual violence is so low compared to the number that is happening. It has also been shown that many local women do not know of the existence of the CDU for reporting their claims.*  
(O'Brien, April 2, 2020, academic)

The statement of the zero-tolerance policy was agreed on by Respondent 1 as well as the literature. In its current state it is not effective enough. Respondent 5, who works for the Institute for Justice & Democracy in Haiti had an experience with the UN and its response to child support claims made by Haitian women. According to the UN's own policies they are obliged to cooperate in cases of paternity and child support concerning victims of SEA and they need to provide assistance and support those affected (O'Brien, April 2, 2020, academic; Respondent 5, employee at IJDH). As will be shown in the quote below, the UN did not support victims of SEA and their children, because they did not respond when victims asked for support. In order to make a claim and receive money, the victims need information from the UN:

*We've been attempting to receive information from the UN since August 2016. We need four different types of information, so our clients can pursue their child support claims in Haitian courts. Information related to the fathers, about possible investigations, whether the fathers were on official duty or not and results of DNA tests.* (Respondent 5, employee at IJDH)

The UN talks about how they are assisting clients with their Victims Trust Fund, especially in Haiti, but the assistance in reality has been very insufficient. The UN has still failed to provide adequate information, only DNA tests were received after years of advocacy. This prevents the cases from going forward and receiving money for child support. She said the biggest criticism of the UN's approach is that it's been arbitrary and insufficient and that it can lead people into even deeper cycles of poverty. This also means that the Trust Fund that was set up to provide funding, is not working adequately regarding this matter.

Three respondents agreed that the UN has a lack of follow through, which is also shown in the example above. They don't follow up on their commitments to victims which makes it almost impossible to obtain justice for them in reality. The information the UN has, for child support claims and details of allegations, is important to further legal action and without the UN's assistance it is very difficult. This lack of transparency creates problems that can lead to impunity.

#### *Lacks of laws and accountability*

Instead of criticizing the policies that the UN has in place, my respondents also mentioned that there are laws missing to prosecute some categories of offenders. If a TCC doesn't want to prosecute, the UN says there is nothing they can do, to an extent that is true. There is a real question of before the TCC got that case, what did the UN investigators that were in place do to make sure that that case was airtight and solid before it went to that country. Also, if a UN peacekeeper commits a SEA crime, the UN can repatriate that person, but it is possible for them to get a position at the UN somewhere else. According to my respondents there is no broad UN policy that forbids this. Within development countries this can be even more difficult:

*UN peacekeepers can't be held to account within the UN system and also not by the local government, since it almost does not exist in the DRC. (Respondent 4, researcher in the DRC)*

Looking at this evaluation, the current policies have a lot of gaps which can lead to the impunity of SEA by UN peacekeepers. This confirms the statement made before that SEA affects the legitimacy and efficiency of missions and can undermine mandates. Also, additional policies are needed to put more pressure on the UN to make a case airtight.

#### *4.6.3 Problems with the immunities*

In the literature there were already a few problems described with the immunities for civilian and military peacekeepers. UN civilian peacekeepers enjoy functional immunity, but the difficulty of

drawing the line of what is an official duty in practice, leads to them enjoying full immunity (Jennings, 2017). If a host country has problems with its rule of law, human rights or institutions the UN will not hand over a civilian staff member (Freedman, 2018). Military peacekeepers should be prosecuted by TCCs. TCCs do not prosecute their militaries, because they have no laws that allow it, there is insufficient evidence, prosecuting leads national political implications and victims have a lack of access to justice (Burke, 2012; Freedman, 2018).

Five respondents also pointed out that there are problems with the current immunities that civilian and military peacekeepers enjoy. Due to the issues in which jurisdiction to prosecute offenders it is difficult to ensure accountability (O'Brien). One of my respondents said that there exists a category of people that could be carrying a UN badge and that's the problem in the first place.

*In general, victims don't know. They don't know the difference between these different categories. For a lot of people if you work for peacekeeping, you're a soldier, if you work for the UN you work for the UN. They don't differentiate whether you're a UNICEF contractor or a UNICEF employee and what the difference in privileges and immunities might be between them.* (Respondent 2, former UN Human Rights Officer and employee at Code Blue Campaign)

Victims are not able to tell which type of peacekeeper abused them and it is very difficult to determine if they enjoyed immunities and who should prosecute them. If this cannot be determined, prosecution will not happen. In relation to civilian peacekeepers, the UN has a possibility of lifting the immunities of these persons, so they can be prosecuted in the country where the abuses took place, but they don't do it (Respondent 1). If a civilian peacekeeper committed SEA, in a peacekeeping country, the UN would never report it locally, they always report it back to the country of origin of the person. This is not a formal written policy, but it is the practice (Respondent 2). This is the same argument as came forward in the literature. The immunities of civilian peacekeepers prevents the victim from getting justice.

With military peacekeepers, it creates a lot of problems if TCCs retain exclusive jurisdiction over the behavior of their staff in peacekeeper operations. So when there is abuse, that country will retain jurisdiction to investigate and most of the time it just stays at the TCC, without anything happening. A big part of the problem, acknowledged by three of my respondents, is that once those cases go

back to the TCCs, the countries claim they lose touch with the victims and victims don't have access to justice. No one comes forward, so they can't actually prosecute it anymore.

*You also don't have access to the victims and sometimes by the time the crimes are reported, time has passed and during that time it is very easy to lose the evidence or victims may change their situations because they are usually in a very vulnerable position. Many times it is impossible to go back to the source and ask victims directly. (Respondent 1, employee at REDRESS)*

Another problem if the case is back at the TCCs, is that evidence is very difficult to gather when you are investigating in a country that is thousands of miles away and once you have gathered evidence, there is a high risk of contamination of evidence, the victim may have spoken to different people and changed their versions of the abuse (Respondent 1). Respondent 7 added that in some cases, because peacekeepers were so far away, TCCs decided to ignore what was happening when peacekeepers were sent under their military or the police. This is a major problem. Whether removing exclusive jurisdiction would solve the problem is discussed in Chapter 6.

#### 4.6.4 Difficulties of reporting abuse in the UN system

Part of the system of the UN is reporting. Victims can come to the UN to file a complaint against a peacekeeper who abused them. According to four of my respondents, in reality, filing a complaint has a lot of barriers. This can make reporting particularly difficult and particularly pointless (Respondent 2). Reporting numbers are only a few percent of the abuse that actually happened, since a lot of victims do not report their abuse to the UN. One of the first reasons why there is an issue of reporting is the fact that most victims actually don't know their rights, where to appeal or to whom to appeal if they are abused by UN peacekeepers.

*There is a low awareness of women of the existence [...] of any venue to which the women could make complaints about peacekeepers conduct. (O'Brien, April 2, 2020, academic)*

*I know that the UN does not have a system that allows, enables people to know what are their rights and where they can complain if they have a complaint. So sometimes they have information on their website, [...]. They have messages written in their offices, but they are in English or in French and very few people can read them. (Respondent 4, researcher in the DRC)*

This language barrier, as mentioned by Respondent 4, is another major issue when it comes to reporting. Whether it is on websites, brochures, in the UN office itself, during trainings, on the phone or face-to-face, it prevents victims from understanding the other person or what to do in general, since there are two different languages. As a consequence, victims in the DRC do not know that there is a number that they can call to, or when they do, if someone speaks Swahili, and it is not possible to use the UN box outside the peacekeeping base.

*The main ways of basic to posing a claim it's, there's a box outside a UN office and you have to leave a letter outside you know writing your claim. But if you cannot write and read, I mean, it's very difficult.* (Respondent 7, former Gender Expert at MONUSCO)

More information about the reading and writing skills of victims will be explored in Chapter 5.

#### *Quality of investigations*

Once victims do find a way to the UN office to make a complaint, more obstacles will surface. Three respondents pointed out the problem with the quality of investigations within the UN. Once victims go to the UN they are faced with a lot of discrimination, doubt, harassment, they are not necessarily listened to, they're asked terrible questions by interviewers that don't know how to speak to victims, things are not recorded in the proper databases, there's stuff looping through the cracks and there are massive delays.

*People get asked things like 'Did you have a relationship with this men before? Did you want a relationship with him? Did you think it would be good to have access to his money? Did you tell him that you didn't want this?' You know it's a lot of the same sort of bad questioning [...]. They haven't defined clearly for us, what makes a case credible. Is credibility just something as simple as 'a woman said a soldier did this to her', there are soldiers so that is credible or is it 'okay let's call her in and see if she's lying and if she doesn't crack after half an hour interview, then it's credible.'* (Respondent 2, former UN Human Rights Officer in the DRC and employee at Code Blue Campaign)

The information obtained through interviews goes to the countries for prosecution, so even though the UN cannot prosecute peacekeepers themselves, they have a huge influence on the preliminary stages of that case and whether it will lead to a conviction. When local women hear these stories it is

logical to assume that they will not go to the UN with their claim, since they would not be believed. This exemplifies the importance of a reporting system outside of the UN.

#### 4.6.5 Political considerations

In the literature, obstacles were mentioned that are political in nature. The UN is dependent on the TCCs for the delivery of military personnel, which is why they protect them (Defeis, 2008; Grady, 2010; Ndulo, 2009; Nordas & Rustad, 2013). My respondents agreed with this and stated that the UN is protecting peacekeepers, so that TCCs still deliver troops to their missions.

*It is a lack of will [...]. I mean I think the whole issue is that they fear if they investigate, then countries will be less willing to provide troops for peacekeeper operations. They need peacekeeper operations to take place.* (Respondent 1, employee at REDRESS)

*The Secretary-General could just refuse to honor or refuse to renew contracts and he's done that before in the case of the DRC. They've partially pulled back troops from other countries. [...]. If they were serious about this they could insist and say 'if you don't send us communications on the investigation, you will not be selected for the next cycle'. But they don't do it, because they're scared that nobody else will step in to fill those rosters.*  
(Respondent 2, former UN Human Rights Officer in the DRC and employee at Code Blue Campaign)

The UN does not take its responsibility towards civilians if they protect peacekeepers. Due to this problem it is twice as hard to get UN peacekeepers to court. It will be their word against the victims word. The real question is whether it is worth sending militaries to peacekeeping if they are not being held account for these abuses that they are committing while they are over there. Is the overall benefit actually worth it to communities. As long as that is not clear, it doesn't make sense to protect peacekeepers out of fear of losing TCCs input.

#### 4.6.6. Obstacles within peacekeeping missions

In the literature it was already mentioned that peacekeeping personnel is being changed every 3 to 6 or 6 to 12 months to prevent permanent traces to be found in the country of operation, there is a mandatory training on preventing SEA, the Code of Conduct is not legally binding and fellow peacekeepers often protect each other when they are being investigated for the abuse by countering

the investigation (Burke, 2012; Gilliard, 2012; Higate, 2007; Ndulo, 2009; Nordas & Rustad, 2013; O'Brien, 2011, 2017).

#### *Rapid rotation of staff and mandatory trainings*

According to my respondents, the rapid rotation of the staff, due to the short term contracts and that peacekeepers are only away for a short period of time, brings certain problems. First of all, you have the rotation of the UN peacekeepers, whereby they are only there for a short period of time, about six months to a year. This means that they are bound by the rules and regulations of their armies back home, where the values are not always the same. Usually cases take longer than that, which means that it is very hard to pursue this case once the perpetrator has left the country and the victim is still in the country where the abuse happened.

*One of my teams tasks was training new peacekeepers who were there for 6 months or one year and teach them about UN values. And one of the values of course it was gender equality. [...]. And because of the people they are coming for those short assignments not necessarily they are bound by the same values. (Respondent 7, former Gender Expert at MONUSCO)*

The quote above shows that the rapid rotation creates during training military peacekeepers. Problems with trainings is not only because of the rapid rotation, but it could also dependent on the level of education of militaries. Respondent 7 said that military peacekeepers are more often perpetrators than civilian peacekeepers or civilian staff, which could be led back to the trainings. It could be the case that there is a difference between high-level staff or different units when it comes to problems with trainings. Before you start as an employee at MONUSCO, you have to do a required training on SEA, but in that training you learn nothing about the power dynamics, feminist issues, gender and what to do when you are a victim.

*It was basically a training geared towards men, to tell men, 'we're not trying to tell you prostitution is bad, we're trying to tell you don't hire prostitutes.' And so there is a sort of prevailing sort of this is what men do, we're not going to try and be ridiculous and tell you that that's wrong, we're just telling you that it's against the rules and so follow the rules while you're on mission. (Respondent 2, former UN Human Rights Officer in the DRC and employee at Code Blue Campaign)*



Respondent 7 said that gender equality was part of the training, while Respondent 2 said it wasn't. It could be the case that both of them are talking about a different training, one for peacekeepers and another one for civilian personnel. This shows that there is definitely a problem with the current trainings that are given. The content of the training is not optimal, the trainings should explain the rules better or need to be given more often during that period of six months. Rules need to be more strict in prohibiting having sex with locals.

#### *Code of Conduct*

Vague rules is also a problem one of my respondents pointed out with regard to the Code of Conduct. If you are a civilian employee, it states in the Code of Conduct, that it discouraged to have a relationship with a local, but it is not prohibited. This makes it extra difficult for a victim to tell that a UN person has raped them, because they can just reply with that it was a mutual relationship. When I asked my respondent if she thought that it would be better if this was prohibited in the Code of Conduct, she said that it would probably help a little, but that this would not solve the problem (Respondent 6). The fact that a relationship is discouraged and the fact, that according to the literature, the Code of Conduct is not legally binding is a problem. If it is not legally binding it does not matter what rules are in there, militaries will follow the rules that will fit them best.

#### *Male domination*

On top of the obstacles above, O'Brien (2017) said that military have distinct cultural factors that are not present in police forces and civilian employees, one of them is the 'special community' of the military, which are relevant to the commission of SEA (O'Brien, 2017). An issue introduced by one of my respondents is that the area of peacekeeping is mostly male dominated. This can be a problem for victims who would like to report their sexual abuse.

*For a woman it can be difficult to tell their story to a man who also works at the UN, just like their perpetrator. (Respondent 7, former Gender Expert at MONUSCO)*

Males are usually the ones who engage in SEA, so the fact that only a small proportion of peacekeepers is women can be seen as an obstacle within the mission. Victims are hesitant to tell their story to a man and men protect each other once an allegation has been made. This could be seen as the 'special community' of peacekeepers, whereby these men protect each other. More women in peacekeeping could lead to a deterrence effect for men to engage in SEA or the women would be able to talk with each other and their supervisors who engaged in SEA. Respondent 7 thinks that more women in peacekeeping will impact the way we behave as peacekeeping.

#### *Protection of colleagues*

Once you are employed by the UN, work contacts are the only contacts you will have in the country. It is difficult to denounce colleagues in a setting where you need to rely on them for your safety and friendship, even if you do not know them beforehand. In the beginning of this section, this was also stated in the literature. My respondents said that your colleagues will be people with various reputations, that you yourself may not trust either, but since these are your only contacts to protect your safety, it is really difficult to stick out your neck for one local woman who claims one of your colleagues raped her. And if you decide to be a whistle-blower, it can go the wrong way:

*In the Central African Republic, staff in UN missions could denounce what happened. A whistle-blower from inside the UN denounced SEA and he was investigated instead of being thanked for doing it. He was investigated and he almost lost his job for sharing information about the abuse. Finally there was an international outcry and civil society came to support him and he didn't lose his job and the UN said okay fine. But the fact that initially he was investigated is a huge problem. (Respondent 1, employee at REDRESS)*

Not mentioned during an interview, is that peacekeepers also protect each other on purpose. They feel no surveillance of commanders, since they abuse as well. The fact that my respondents did not mention this could be because I did not specifically ask about it, they don't know exactly who are abusing in peacekeeping mission or they have experience with good commanders in a certain mission.

#### *4.6.7 Culture in troop-contributing countries*

Having an influence on peacekeeping missions, this section will be about the obstacles that are related to the culture of TCCs. The obstacles below were given when I asked my respondents what they thought were the main obstacles with peacekeeping in the DRC and in general. They explained that the TCCs or Member States and its peacekeeping personnel itself form obstacles that prevent prosecution. Think about obstacles relating to peacekeepers' norms and values and the TCCs political will.

#### *Norms and values of peacekeepers*

Respondent 7 told me that for uniformed personnel there is still a very high sense that you are accountable to your own country. If, for example, the United States sends military to Iraq, they are

accountable to their military back home and this is how it goes with peacekeepers in the UN as well. It is a sort of structural thinking within the military, not only within the UN, but also in other international military deployments where basically there is possibilities back home and not in the country where these people are deployed.

*In many cases, even if the UN is trying to do lots of reforms to ensure that those who send peacekeepers are bind by the values of the UN, in the end it is still a cultural issue. In some countries, like Morocco, prostitution for instance is not illegal. [...]. So even if there are rules about UN values to prevent SEA, especially with regard to prostitution, when you come to a soldier on the ground it is a little bit more difficult and complicated than what you can put in writing and discuss at high levels. (Respondent 7, former Gender Expert at MONUSCO)*

These differences in the interpretation of norms are the result of very different cultures between the TCCs and the UN. Two of my respondents pointed out that because the peacekeepers are only in a peacekeeping mission for about six months, they stay true to the norms they have learned back home. During the training of new peacekeepers, they often ask questions of why they cannot engage in certain actions. Also the reason why they are employed in the UN differs greatly between peacekeepers and people who chose to work in the UN. People go to work as a peacekeeper to get more money, to escape certain things back home or to move up in their military career and others chose the UN because of its values and to help humanity. This can explain why peacekeepers do not always follow the rules set by the UN while on duty.

*And because of people they are coming for those short assignments, they are not necessarily bound by the same values maybe than the people that have been in the UN for many years. This is not to say that we didn't have cases of course of civilians as well, but the majority are from military. (Respondent 7, former Gender Expert at MONUSCO)*

*A Beninese soldier once said 'where I'm from you have to pursue a women over and over before she says yes. You're saying that that's sexual harassment' and so you have to sit and have this conversation and say 'listen what you do on your time back home in civilian clothes is very different from what you do inside a UN vehicle wearing your uniform, wearing a UN badge, living in a UN house. All of these things are symbols of power that completely change the dynamic'. [...]. European men point this out too and they say 'well when I go home, I can go to a regulated brothel and pay for sex, so what's the difference. Like I can do that on*

*vacation, but I can't do it here'. You have to explain that you cannot make that comparison, the situation in the DRC is completely different. (Respondent 2, former UN Human Rights Officer in the DRC and employee at Code Blue Campaign)*

So the fact that peacekeepers respond to their countries back home and decide to remain bound by the norms of their countries, can lead to the engagement in prostitution and eventually SEA. Peacekeepers do not think they do anything wrong, since within their countries' norms they do not state that it's illegal or wrong.

#### *No policies to prosecute for crimes that happened extraterritorially*

Another obstacle that two of my respondents pointed out is that TCCs often do not have the right policies in order to prosecute militaries for crimes that happened in another country, as also mentioned in section 4.6.3. Many TCCs, like the United States, do not have provisions that prohibit SEA. As a consequence it is not possible to prosecute peacekeepers for this.

*Under the United States Code, it says that without a law that allows for extraterritorial jurisdiction, even with the existence of substantive crimes provisions, it is not possible to prosecute a national for an offence committed extraterritorially. (O'Brien, April 2, 2020, academic)*

Without effective laws that can prosecute peacekeepers who committed SEA in another country, it will be impossible to punish the peacekeepers.

#### *Bad investigations by TCCs*

When a peacekeeper is being accused of committing sexual violence and the case goes back to the country of the peacekeepers nationality, that person is often not being investigated. There are several obstacles why an investigation is not taking place or when an investigation is happening, why nobody knows about it.

First of all, SEA cases pose a problem to the specific Member States that send their troops. The reputation of their militaries is often, in part, influenced by the reputation in peacekeeping. But if it is the case that UN civilian peacekeepers are accused, the Member States don't feel the same about their reputation. If the perpetrators are civilians, from for example the DRC, nobody will know these were SEA cases from that country since the nationality of civilians is not disclosed (Respondent

2). It could be the case that an investigation on militaries is not conducted, because the Member States do not want their reputation to be harmed.

Second of all, once an investigation is taking place in the TCCs, there is a lack of transparency of the results. These cases often take place before military courts as opposed to civilian courts and victims do not have access to the records of those proceedings, so no one knows what is going on, what happened or what type of sanctions were imposed on the peacekeepers (Respondent 1). Due to this obstacle you never know whether a peacekeeper has been prosecuted.

#### *TCCs political will*

TCCs and Member States often have a lack of political will to investigate their soldiers for SEA crimes. The political will of TCCs has an influence on the execution of an investigation. Who is investigating the case, how the evidence is gathered and whether victims are treated with respect. Eventually this will determine if the accused is prosecuted or that he or she will go free. Most of the time countries want to protect their troops. Especially Respondent 1, but also two of my other respondents, gave examples of how and where the TCCs are lacking political will.

*If Member States were serious about seeing results, they would start with their own personnel first. And all these states they're pushing against TCCs would begin by looking at their own personnel and saying why aren't the civilians being tried. They keep focused on the difficult problem, prosecuting militaries* (Respondent 2, former UN Human Rights Officer and employee at Code Blue Campaign)

*When authorities investigate, like in France, they don't use specialized investigators which is very strange, because France has great experts and investigators. If they can investigate, most of European countries can investigate very complex cases related to organized crime or terrorist activities. However, when it comes to this topic (SEA) they don't seem to take it with the same level of seriousness.* (Respondent 1, employee at REDRESS)

Due to the quote of Respondent 1, I asked her whether there was a difference in political will between, for example France and the Central African Republic. She said yes, but perhaps it is not so clear, but in principle France has been open to investigate, it just didn't have enough evidence.

*One could say 'well they didn't do enough, so maybe they were not seen keen, but if you compare that to Sri Lanka, for instance, in relation to abuse in Haiti there was a complete*

*close down of information and they didn't provide anything. [...] you could say France has shown more willingness to do something than other countries, but again it's very relative because at the end of the day none of these countries have managed to punish the perpetrators with a sentence that is proportional to a gravity of the crimes. In France there has been no final convictions and in Sri Lanka apparently they were convicted, but no one knows if they served one day in prison or if it was just an administrative fine. Really no one knows, so we suspect that nothing happened there. (Respondent 1, employee at REDRESS)*

It is shown above that the political will of the TCCs and Member States has a huge influence on whether a peacekeeper is being prosecuted. The same as in the DRC, if there is no political will to pursue cases, even if all the other circumstances are favorable, peacekeepers will not be punished for SEA crimes.

#### 4.7 Conclusion

This chapter discussed whether the UN and its peacekeeping mission are obstacles that lead to the continuing impunity of SEA by UN peacekeepers. Starting with background information on the DRC, the design of peacekeeping missions, SEA by UN peacekeepers in the DRC and the responses of the UN regarding SEA, all of my respondents agreed that the structure of the UN and its peacekeeping mission are an obstacle in the impunity of SEA crimes by UN peacekeepers. The obstacles that I found in the literature, that SEA cases damage the international reputation of the UN, not each TCC agrees with the zero-tolerance policy, the UN protects peacekeepers out of fear of losing TCCs militaries, the rotation of 3 to 6 or 6 to 12 months prevents prosecution, the Code of Conduct is not binding, missions are male dominated and fellow peacekeepers protect each other from accusations. For the most part the answers my respondents gave are consistent with the obstacles that I found in the literature. My respondents went more in-depth with obstacles and introduced additional obstacles, like the difficulty of reporting and the general problem with the structure of the UN. More obstacles are given in the interview, maybe because my respondents had more inside knowledge of the UN and its peacekeeping mission.

In general, my respondents agreed that there is a systematic problem within the UN. Its system has flaws, since they are making decisions on their own without consulting governments, Member States have to trust that the monitoring system is working, that the UN is trying to limit the occurrence of SEA and they are protecting high ranked employees from being prosecuted. Then the respondents themselves turned towards the policies the UN currently has in place to combat SEA. They said that the zero-tolerance policy, the policy on child support claims, the Victims Trust Fund

and the CDU are not working properly. There is no actual result, conflicting interests and a lack of follow through by the UN. On top of that, laws are missing to prosecute some categories of offenders and to put more pressure on the UN to make cases airtight. Further, there are problems with the immunities that peacekeepers enjoy. Victims do not know which type of peacekeeper abused them, so what immunities they enjoy cannot be determined, TCCs lose contact with victims and there is difficulty with gathering evidence. Next it was pointed out that victims can report their claim to the UN, but that there are many obstacles that prevent victims from going. Victims often do not know their rights or where to appeal, also due to language barriers. Further, the quality of investigations is low, for example due to the bad questioning of the interviewers. The UN has a fear of losing militaries of the TCCs. They fear that if they state that a military has committed SEA, TCCs are not willing to provide troops for peacekeeping. Next, my respondents agreed that peacekeeping missions have problems. Peacekeepers are on a rotation of about six months, so their values remain the ones of their home country. The trainings and Code of Conduct establish rules that are too vague. Missions are often male dominated and since all peacekeepers are living together and only have each other as contacts, it is also very difficult to blame one of your colleagues. The culture of the TCCs and its militaries is a major obstacle. Values of the TCCs and the UN are completely different, which means that while prostitution is legal in a TCC, peacekeepers do not understand that they cannot engage in it while wearing a UN badge. Further, there are almost no women in peacekeeping missions, who could reduce the amount of abuse by their presence or report it to their superiors. TCCs are not investigating SEA cases, because they are afraid of their reputation or they have no policies that allow for prosecution of crimes that happened extraterritorially. Finally, TCCs have a lack of political will to investigate SEA cases. These problems with the structure of the UN and its peacekeeping mission show that they are part of the obstacles that lead to the impunity of SEA by UN peacekeepers. In order to punish perpetrators for the crimes they committed, it is important that the UN makes some changes within their organization and that TCCs are more pressured to prosecute their militaries. The next chapter presents obstacles about the DRC and the international community.

## 5. Obstacles to Prosecution in the DRC

Within this chapter it will be discussed which obstacles have led to impunity of SEA crimes in the DRC and stand in the way of the prosecution of UN peacekeepers who committed SEA. Obstacles that were found in the literature will be compared to information from the eight qualitative interviews that I conducted. Will the obstacles from the literature be confirmed or rejected by my respondents? The obstacles that will be mentioned below will relate to the DRC and the international community. This chapter will start with a summary of the obstacles found in the literature regarding the prosecution of UN peacekeepers who engaged in SEA in the DRC. Afterwards, the findings from the interviews, regarding those same obstacles, will be discussed.

### 5.1 Literature

Reading articles about the impunity of SEA by UN peacekeepers in the DRC, several obstacles were mentioned by multiple authors. It could be the case that more obstacles are written in other articles, but since I only had a certain amount of time I did not read all the articles about this subject. SEA crimes are not punished due to several obstacles that will lead to huge consequences for civilians, peacekeepers and its environment. Obstacles mentioned below are focused on the DRC, but some are explained in a more general way.

UN peacekeepers feel a certain sense of power during their work. This can lead to sexual abuse of locals. Within the area of work, peacekeepers are viewed as wealthier by the local population. This allows them to exercise a huge amount of power over the locals and sometimes this leads to the abuse of this power (Defeis, 2008). The fact that peacekeepers are seen as much wealthier than the local population is also seen as a problem by locals, since peacekeepers' attitudes come across as more powerful than themselves (O'Brien, 2017). As an example, one man was arrested for SEA of women and handed over to the French authorities. He confessed to having sexual relations with 24 women and girls. When explaining why he did it, he said that "over there the colonial spirit persists. The white man gets what he wants" (Ndulo, 2009, p. 144). Furthermore, the peacekeeping mission in the DRC is being seen as a mission with no actual result. This is why peacekeepers do not think SEA would lead to any more damage for the country and its people. As a consequence, less responsibility was felt by peacekeepers when SEA actually happened (Higate, 2007).

Nordas & Rustad (2013) did a study that tried to explain the variation in sexual violence over space and across time by comparing every UN, NATO, ECOWAS and the African Union peace missions. Although the variation can be explained through the underreporting of sexual violence, this is not the sole factor that has influence on its occurrence. When a peace operation is large, many



troops are on the ground, which leads to a higher chance of sexual violence. When sexual violence is common during a previous conflict, it is also expected to see more reports of SEA by UN peacekeepers (Nordas & Rustad, 2013).

Another factor that relates to the statement that Nordas & Rustad (2013) made in their article is that a less developed country is more vulnerable to sexual violence. The money that people receive from peacekeepers for prostitution is often the only source of income for local women. Women and girls have a low status and limited economic opportunities, working in prostitution is their only chance to receive an income (Ndulo, 2009; O'Brien, 2011). In the DRC, women also have limited economic opportunities as a consequence of the slow economic development in the country. The DRC is a country where few income generating activities are present, which leads women and men to prostitution to make money (Ndulo, 2009). More work in other sectors can lead to less people in prostitution which makes the need to have sex with peacekeepers unnecessary. The economic development is a prominent problem in the country, which unfortunately cannot be explored further within this thesis.

Additional to the obstacles mentioned above, there are reporting biases, like location, media and NGO attention. People make false accusations and hope to get some financial gain out of it, which prevents people who are actually abused to come forward. Victims are not reporting because they feel a sense of fear of retribution and the stigmatization by the community can lead to shame and guilt because they were somewhat consenting due to prostitution. Children of rape victims are often rejected by their families and seen as 'bad blood' of the enemies. This social stigma in the DRC leads to a culture of silence in many peacekeeping operations (Bastick et al., 2007; Defeis, 2008; Grady, 2010; Ndulo, 2009; Nordas & Rustad, 2013; Russell, 2007; UN, 2019a; Wood, 2006). For men the stigma can be even higher, since it is seen as emasculation. Often there are no legal provisions on men who have been raped, but there are provisions that prohibit consensual same-sex conduct which heightens the fear of being prosecuted despite being a victim (UN, 2019a). Limited reporting is connected to structural barriers that prevent the counting and addressing of these cases. This can happen due to the breakdown of law and order or a lack of organizational structure and discipline (Bastick et al., 2007; UN, 2019a). Further, the current judicial system in the DRC is underfunded, affected by the political and military hierarchy, has a limited capacity to operate and there is widespread corruption within the legal and judicial system. This can lead to the bribery of judges and other officials to change the outcome of a prosecution in their favor and prosecution is often expensive just like the travelling costs for victims and witnesses to the court (Gilliard, 2012; Kitharidis, 2015). The Blue Helmet Code of Conduct is often ignored in the DRC, also because many

peacekeepers cannot read what is inside it (Higate, 2007). These taboos and obstacles make it harder to report SEA.

In the next paragraph it will be shown whether the obstacles above will relate to the case of the DRC as described by my respondents.

## 5.2 Analysis of obstacles

The literature above identifies a few factors that could be explained as the main obstacles to prosecution for SEA crimes in the DRC. The mission in the DRC has little result so peacekeepers don't feel a sense of responsibility, large peace operations, previous history of sexual violence, the fact that the DRC is a less developed country, poverty, weak and corrupt judicial systems, finances for travelling to court and the prosecution itself, the level of education of Congolese, the increase in prostitution, the stigma that victims face from their family and community, reporting biases and false accusations lower the acknowledgement of the problem are seen as obstacles for prosecution. With these obstacles in mind, I asked my respondents the questions: 'How does the problem of violence by the UN manifest itself in the DRC?' and 'What do you think are the main obstacles that prevent the prosecution of sexual violence by UN peacekeepers in the DRC?' I would then ask follow-up questions according to the different answers they gave. The obstacles that prevent the prosecution of UN peacekeepers are divided in the subsections obstacles to prosecution by the Congolese authorities, fear for stigmatization following the submission of a complaint and obstacles on an international level.

### 5.2.1 Obstacles to prosecution by the Congolese authorities

In this section, the obstacles will be related to the DRC as a country. I asked my respondents what they thought about the situation in the DRC, whereby they gave various answers about the obstacles to prosecution specific to the DRC. It could be possible that they would have agreed with more of the obstacles below, but since I only asked them which they thought were the main ones, I am not sure if they mentioned the minor ones as well. The obstacles to prosecution by Congolese authorities are the conflict in the DRC, the level of development of the DRC, DRC's government and DRC's political will.

#### *DRC's conflict*

The conflict in eastern Congo and its relatively violent aftermath is one of the reasons why there are UN peacekeepers in the country in the first place. As you can read in Chapter 4, the DRC's conflict was known for its massive scale of sexual violence. Nordas & Rustad (2013), in their study about the

variation of sexual violence, found that when sexual violence is common during a previous conflict, it is also expected to see more reports of SEA by UN peacekeepers (Nordas & Rustad, 2013).

The DRC has a high amount of SEA allegations and that's only a few percent of the actual amount of abuses. Respondent 4 said that nowadays the country still suffers from a large amount of human rights violations and crimes. Whenever you go to remote areas it's dangerous and very demanding in terms of protocols and safety.

*The expectations from the movement, the people and the media are huge, but there's almost one serious event happening in DRC every single day. So it becomes really difficult to stay focused on one thing.* (Respondent 4, researcher in the DRC)

This means that the conflict is currently characterized by so much violence, like regular sexual violence, violent attacks by armed groups and rebel groups, that peacekeepers can easily be influenced to participate in the violence. All this violence requires the attention of the government, that a focus on SEA by UN peacekeepers is difficult. The fact that there is still so much violence in the DRC and that the country has a high amount of SEA allegations, confirms the statement made by Nordas & Rustad.

#### *The level of development of the DRC*

Another statement made by Nordas & Rustad (2013) is that a less developed country is more vulnerable to SEA (Nordas & Rustad, 2013). This thesis has already shown that SEA is widespread in the DRC, but is it possible that the level of development of the country has any influence on that? Four of my respondents pointed out the factors of extreme poverty, the infrastructure and the level of education in the DRC.

The violence by UN peacekeepers in the DRC happens in missions where the population is very vulnerable, they are hungry, displaced, desperate and public safety is mostly absent. The extreme poverty, where people have very little money, it contributes to the state of the infrastructure in the country. Respondent 4 told me that the very little infrastructure, like airports and roads, make it very challenging to travel from one town to another. He saw this as one of the biggest challenges with his job.

*It is difficult, if you live in the countryside, to find options [for example for reporting the abuse] and if you find them, to know where you can go due to the state of the roads. So there*

*are options, but I do not know whether these are easy to find and reach.* (Respondent 6, NGO employee focused on the DRC)

So if it is difficult to travel to places and this makes it difficult to report the abuse in the first place and if the perpetrator is brought to court, to travel to that court. If it is not possible to drive to a certain place to get help, it should be possible to do it otherwise. Contact via phones, information on the internet, anonymous boxes close to the village where you can make a claim, that could be an outcome, but two respondents mentioned the obstacles with this:

*Communication is another big challenge, because of the slow and low connectivity of internet, so it is hard to get information from remote places.* (Respondent 4, researcher in the DRC)

*Over 70% of women and girls are not able to write or read in the Congo. [...]. Then any information, any training that we give for instance on SEA is more difficult to reach them and their levels of education are lower than compared to men. Of course that could be solved by sharing this information in a more creative way, but sharing information still poses a challenge. [...]. The main ways of posing a claim is via a box outside a UN office and you have to leave a letter outside, but if you cannot write and read, it's very difficult.* (Respondent 7, former Gender Expert at MONUSCO)

Making contact between Congolese and foreigners is very difficult in the DRC. The problem of language in the UN was already mentioned in the Chapter 4, but the education of the population has also an influence on this. Due to poverty, Congolese have little money, which prevents them from paying school fees and getting educated. As a consequence, most of the time, Congolese are not well educated and it is hard to interact with each other. This prevents victims from telling about the abuse that happened to them. Respondent 7 added, that although most people cannot read or write, it is important to keep an anonymous box where you can leave letters, because of the levels of development of the country. This contradicts her above quote and it is difficult to say whether an anonymous box will help if probably no one is going to leave a letter.

The fact that the DRC is still a development country has also an influence on women's income generating activities and became part of its culture. Several industries, committees and attitudes that you see in the DRC are now part of the culture and can influence the thinking of Congolese. The

context previously addressed, whereby people are hungry, there is an ineffective local public safety system and women have difficulty of earning money, creates a situation where women resort to 'survival sex' (O'Brien, April 2, 2020, academic). The literature stated that due to an increase in prostitution, the transactional sex economy grows. This leads to negative consequences on public health, societal gender norms, especially equality, and the country's economic development (Ndulo, 2009; O'Brien, 2011, 2017).

Respondent 2 said that in the DRC there are a lot of women sex workers, even women from Uganda and Rwanda cross the border for sex work. Since the presence of foremost, the UN, but also other foreigners the sex industry has increased exponentially. This is rarely analyzed according to her and should get more attention.

*The fact that a country might have sex work doesn't automatically mean that you don't pose a problem by contributing to that countries sex work industry. Especially when that industry is not regulated, it's not protective of the women like Amsterdam. (Respondent 2, former UN Human Rights Officer in the DRC and employee at Code Blue Campaign)*

One of my respondents pointed out that in the DRC sex work is considered part of the culture and generally people, like the UN and other actors prosecuting peacekeepers, don't take sex work seriously. People only focus on cases involving pregnant young women where there is money owed or just straight violent rape cases. These are considered worse and more problematic as others.

*You didn't hear very much about ordinary cases where somebody was picking up a woman on their way from the bases that slept at their house that night or where somebody has sexually harassed a housekeeper. [...]. They kind of just created the sort of like wild west area of lawlessness, where men can just behave however they wanted and they were largely protected by a structure that tried to normalize the actions. (Respondent 2, former UN Human Rights Officer in the DRC and employee at Code Blue Campaign)*

Victims who legally engage in prostitution with a peacekeeper, because this was their only way of making money, and eventually are sexually violated have little chance that people will believe them. People don't focus on 'ordinary' cases and peacekeepers are often protected due to the structure of the system. In this way, the increasing sex industry, is definitely an obstacle to prosecution. If other income generating activities will not be introduced, it will only grow more.

There are also not many local women police in the DRC, since this is still seen as a very male dominated area. This issue is also present in local committees, made of the leaders in the community, in the DRC. Some of these leaders are women, but most of the traditional leaders are men. It is important that these communities have a space of confidence to call, report and to talk about your case, but since it is a very traditional setting women are not going to talk about being raped to a traditional leader (Respondent 7, former Gender Expert at MONUSCO).

According to the obstacles above, it can be concluded that the DRC, because it has a lower level of development, has a lot of SEA cases that cannot be prosecuted by the Congolese authorities.

#### *DRC's government*

In section 5.1 it was explained that the UN peacekeepers work in an environment where there are weak judicial systems and corrupt and inefficient law enforcement (Bastick et al., 2007; Kitharidis, 2015; Ndulo, 2009; O'Brien, 2017). According to my respondents this is definitely the case in the DRC and it is one of the main obstacles to prosecution. The settings where you have peacekeeping missions, they're basically failed states, that's one of the reasons the UN is there. There is no rule of law, no actual justice system or it is one that is not effective, since they are usually completely broken.

*You can go to a court, if there is one, but first of all it is very hard to get someone from the UN to the court, because they are being protected. And the country itself is also very corrupt, so people who work at the court are very easily bribed. So many survivors are not going to court, since they feel it doesn't matter. They don't achieve anything with it. (Respondent 6, NGO employee focused on the DRC)*

These problems with the judicial system in the DRC cannot be solved easily, since the government also has many problems. O'Brien said that states have the responsibility under international law to criminalize violence against women, like SEA. If they fail to do so it is a violation of obligations to prevent, punish and investigate acts of violence and to provide resources for the abused (O'Brien, April 2, 2020). States have a task of protecting their citizens, but if victims try to speak out, the government cannot take care of them or do not want to take care of them. Some government officials are even afraid that their own crimes will come to light if they take action against UN peacekeepers.

*The violence committed by UN peacekeepers is way lower than the ongoing violence, like the daily violence by armed groups, by people in villages, even by state actors. It's way lower, which makes it a bit invisible. If you want to ask questions about sexual violence by UN peacekeepers, the first questions you may get, even from ordinary people, will be why should we care about one case as there are hundred cases that have not been dealt with. So I think the state is partly or indirectly responsible for that. (Respondent 4, researcher in the DRC)*

*Those who are in power within the government, among them there are many who have been involved in international and economic crimes. They have no interest in prosecuting themselves basically. It's as simple as that. The last elections could have been an opportunity to steer some change and to have leaders who can feel accountable to their people, but that occasion was lost because Kabila managed to put someone he wanted. (Respondent 4, researcher in the DRC)*

Respondent 4 is doing research on the civic space and the elections and he said that Kabila wanted impunity for himself and the people that stand behind him, regarding international crimes under international law, economic crimes and the protection of his wealth. It would be better if there was a government that is responsible, demanding and willing to take care of its people. The next elections are at the end of 2023, but Respondent 4 does not think the elections will be more fair and free, so it will be just business as usual. So the government, as well as the justice systems, in the DRC are a huge obstacle in the prosecution of UN peacekeepers who committed SEA, just like the literature told us. The interviews revealed the underlying reasons of why the government and justice systems are weak and corrupt.

#### *DRC's political will*

One obstacle that was not specifically mentioned in the literature, but that was described as a very important one by four of my respondents was the political will of the DRC. If it is the case that all circumstances would be favorable, but there is still no political will to take action than UN peacekeepers will still not be prosecuted for SEA. One of the main challenges with SEA by UN peacekeepers is the lack of political will of countries to investigate. There is so much conflict going on in the DRC, that investigating SEA cases by UN peacekeepers is not their top priority.

*The host country at the end of the day doesn't care that much. They have other things going on, they don't really want to waste their resources on prosecuting people that aren't even in*

*their country, officially they are sort of internationals. (Respondent 2, former UN Human Rights Officer in the DRC and employee at Code Blue Campaign)*

*Inside the DRC, those who hold power until today have no interest at all at seeing an effective justice system in place. Whether nationally or internationally, they have no interest at all and they are powerful enough to prevent it from happening. (Respondent 4, researcher in the DRC)*

I asked Respondent 4 if he thought DRC's political will could change towards the better. He thought it was possible if people want it to happen. It won't come from heaven, so unless there is a miracle and one guy takes the power and he's willing to ensure that there is accountability for past crimes. He told me that when there are elections in the DRC, people should think beyond the immediate consequences and not seeing it as a joke for their businesses and economic interest, but also think about peace and stability. The political will can be there if people work to make it happen, to assure that there are leaders who are chosen by the people and who are accountable to them. The international community can also have a huge influence on that, but it hasn't done that so far. The political will is one of the main obstacles in the DRC and maybe also one of the hardest to solve. Respondent 1 imagined that the challenges with the judicial system and political will must be similar to other countries. She experienced that it's mainly the same challenges in relation to all countries, like Haiti, Central African Republic and so forth. This means that the assessment of the obstacles could resemble those of other countries.

#### 5.2.2 Fear for stigmatization by the victims following the submission of a complaint

When people are sexually violated and their families and communities find out, there is a chance that they will be stigmatized. There is a fear of retribution and the stigmatization by the community and can lead to shame and guilt for the victims. This social stigma on the victims prevents them from speaking out, which contributes to the impunity of SEA cases (Grady, 2010; Kitharidis, 2015). This stigma is a huge cultural problem in the DRC, that was mentioned as a major obstacle by three of my respondents.

*First we have a cultural problem. Regarding to our culture, a victim of sexual violence, sometimes they are also victims of stigma. Congolese know that a girl has been raped and then cut them out of the community. It is also a problem of culture. (Respondent 3, researcher in and from the DRC)*



*Additional to other problems you have the stigma on survivors. It is very bad, but if they have been raped then their husband doesn't want them anymore and the whole community spits them out. And if you want to go to court then everyone knows what happened to you and a lot of survivors rather don't want that, because of the stigma.* (Respondent 6, NGO employee focused on the DRC)

These examples confirm what is stated in the literature, that a cultural stigma prevents victims from reporting the abuse, and as a consequence this leads to the fact that UN peacekeepers are not being punished for SEA crimes.

Additionally, Grady (2010) mentioned that it has been suggested that people report false accusations of SEA in order to get some financial gain out of it (Grady, 2010). Respondent 6 said that it is often the case that women do not report their case, because they are afraid that they will not be believed by their communities and peacekeepers once they report the abuse, since there are so many false accusations of SEA of people who want to get some financial gain out of it. These are obstacles that contribute to the fact that victims stay silent and do not report their abuse.

### 5.2.3 Obstacles on an international level

As we've seen above, the DRC and the TCCs have many obstacles that prevent the prosecution of UN peacekeepers who committed sexual violence. Despite these two, the international community partly contributes to obstacles for prosecution as well. Four of my respondents referred to the flaws of the international community when it comes to fighting impunity in the DRC. The international community does not always believe that certain cases happened, they think that they're not that grave or they simply do not want to put time in solving the problem.

O'Brien started with saying that SEA cases by UN peacekeepers have a negative impact on the international community (O'Brien, April 2, 2020, academic). Within the NGO community, especially the ones that are working on SEA cases, they tend to be headed by officers from UN agencies, like UNDP and UNICEF. This leads to the fact that NGOs do not easily accuse a UN peacekeeper or pull their support from an organization, since their director is from a UN agency and they get their funding from the UN. This leads to the questioning of reports, voice recordings and other evidence that SEA took place (Respondent 2).

Neglecting the seriousness of SEA cases and the fact that the international community is afraid to lose their biggest support is a huge obstacle. Respondent 2 added that *'it becomes even*

*more embarrassing for the international community, because local communities know that we know that somethings happenings, and they know that we aren't actually taking action to fix that'.*

Respondent 4 said that his organization was not involved in this issue, due to the limited capacity of the NGO. According to him sexual violence is been covered by many scholars and NGOs, so they didn't feel like they would have a huge added value in focusing their research and very few resources into this topic. This could also be a reason why not many NGOs are taking action, they think that there are already enough people focusing on the topic of SEA.

#### *The international communities political will*

According to two of my respondents, some members of the international community are not motivated to invest in the issue of SEA by UN peacekeepers. They are lacking the political will to help prosecute UN peacekeepers. There are lots of NGOs who are invested in fighting impunity on this topic, like Code Blue Campaign, but it is also very hard to fight against the UN. The UN, who also belongs to the international community, is less invested in prosecuting peacekeepers, as has been explored in Chapter 4, and whether there is a will also depends on the country.

*The political will can vary between countries. Russia and China are countries that are more focused on national issues instead of international, so it will be less likely that these countries will invest in these issues. (Respondent 6, NGO employee focused on the DRC)*

*Sadly, as always, because this is primarily a women's issues, it's not the top issue for any Member State. Some Member States have been supportive of this topic, like Sweden and the United Kingdom, but they haven't taken any real actions. So at this point, were at a stage where Member States are so consumed by other worries and concerns, that they're not addressing this fundamental issue of SEA. And that's not surprising. (Respondent 2, former UN Human Rights Officer and employee at Code Blue Campaign)*

Another one of my respondents explained why there is a lack of political will when it comes to prosecuting UN peacekeepers in the DRC.

*Internationally, I think there is a kind of hypocrisy, just nobody seems to care when it comes to Congo. As long as they can, the United States and whoever has interest in the DRC can still find his share, it's difficult to get to the point where you say, 'okay now this is the system that is needed and it needs to happen to whoever is going to be prosecuted'. So I don't see it*

*happening anytime soon unfortunately, I'm not optimistic.* (Respondent 4, researcher in the DRC)

Respondent 2 added that it only takes one or two Member States siding at the right moment with these ideas of solving this problem for them to actually become a reality. That's happened in the past, UN Women was established fairly recently. The right political moment hasn't been found, where they are willing to use their political capital on women's issues and specifically on sexual harassment and abuse. More about how they can establish this will be explored in Chapter 6.

### 5.3 Conclusion

This chapter has discussed what obstacles have led to the impunity of SEA crimes by UN peacekeepers in the DRC. I began this chapter with obstacles that were found in the literature. These are a previous history of sexual violence, a less developed country, poverty, weak and corrupt judicial systems, the level of education of Congolese, the increase in prostitution, the stigma that victims face and false accusations that limit reporting. In the second part of the chapter these could be compared to the answers my respondents gave regarding the main obstacles in the DRC. The obstacles that were mentioned in the literature we're confirmed by my respondents and they also gave additional obstacles. They gave more background and insight information about obstacles related to the level of development and culture, they identified new ones that were not specifically mentioned in the literature, like the political will, and they introduced the problems with the international community.

First of all, my respondents focused on the obstacles to prosecution by Congolese authorities. The previous conflict in the DRC was one with a massive scale of sexual violence and this led to the fact that nowadays there are many sexual violence cases by UN peacekeepers as well. Due to the many years of conflict and the slow economic growth, the DRC is a development country whereby poverty, bad infrastructure and a low level of education are common. This leads women more easily into prostitution to make money and once they are sexually abused they do not know where to make a claim or how to go there when the roads are in such a bad condition. Afterwards, a few of my respondents pointed out how the culture in the DRC is an obstacle. There is a large sex industry in the DRC that is often not taken seriously, there is a huge stigma on victims of sexual violence by the community, it is often thought that people are making false accusations in order to receive money and the areas where to report are most of the time male dominated which makes it more difficult to speak to for women. The prominent obstacles were the corrupt government and the weak judicial systems and the lack of political will of the DRC to prosecute peacekeepers. Additional to the obstacles in the DRC, my respondents said that the international community has an influence

on the continued impunity of SEA in the DRC. The international community is afraid of its reputation due to the fact that the UN often has a part in their NGO, so they do not pull their support from organizations who are known for these abuses or they think it is not as bad as it is described. Finally, the international community also has a lack of political will to prosecute UN peacekeepers for SEA crimes. These problems all contribute to the impunity regarding the prosecution of UN peacekeepers who committed SEA. In order to improve the current situation, it is important to think of ways to remove some of these obstacles so that peacekeepers can be prosecuted and victims can get justice. The next chapter will introduce alternative proposals with a high potential of success that could help in order to prosecute UN peacekeepers for committing SEA crimes and limit the impunity rate in the DRC.

## 6. Proposals for Change

Within this chapter the sub-question ‘What alternative proposals have been identified and how likely is their success in fighting impunity of sexual violence by UN peacekeepers?’ will be answered. Now that we know the obstacles that prevent the prosecution of UN peacekeepers who committed SEA in the DRC, we can look at which proposals for change would fit in the Congo with these obstacles in mind. During my literature research, I already identified some proposals that authors explored with regard to sexual violence or a specific country. I thought it would be interesting to see if my respondents thought that, the removal of exclusive jurisdiction, the ICC, a hybrid tribunal, a mixed court, an independent special courts mechanism, national prosecution, the involvement of NGOs and technology, could work to prosecute peacekeepers in the DRC. Additionally they were able to put their own proposals forward. Below there will be an overall assessment of what proposals my respondents thought would work and what proposals would not work in the context of the DRC.

### 6.1 Alternative Proposals from the literature

In the literature I found possible proposals for change, judicial and non-judicial, for the prosecution of UN peacekeepers who engaged in SEA or sexual violence in general. The ICC, a hybrid tribunal, a mixed chamber for the DRC, an independent body and removal of exclusive jurisdiction. Each author described them differently, but the general set-up is the same.

Most research on ending impunity of sexual violence by UN peacekeepers focusses on a role for the ICC. When peacekeepers are not prosecuted under national law by the TCCs, international measures need to be taken by, for example, the ICC. Authors like O’Brien (2011), Mudgway (2018) and Williams (2012) discussed the possibility of the ICC as a solution for ending impunity of SEA by UN peacekeepers. All came to the conclusion that, in its current state, the ICC is not the right judicial mechanism to prosecute peacekeepers (O’Brien, 2011; Mudgway, 2018; Williams, 2012).

The idea of a hybrid tribunal for prosecuting sexual violence and SEA by UN peacekeepers came from the articles of Kitharidis (2015) and Mudgway (2018). The specialized chamber or mixed chamber for the DRC, to prosecute people for the worst human rights crimes, was mentioned by Kitharidis (2015) and Williams (2012). A proposal for a specialized chamber for the DRC was adopted by its government, but it was never finalized (Williams, 2012). The difference between a hybrid tribunal and mixed chambers is as follows, mixed chambers have a national judicial framework, whereby temporary international staff is included and hybrid tribunals have both domestic and international law included in their statutes, use national and international judicial actors and have effective efforts by the international community as well as national institutions (Kitharidis, 2015). An

independent body, staffed by experts on sexual abuse of women and children to whom victims can make complaints, was put forward in a 2005 report by the UN. The Secretary-General should establish a permanent investigative body independent of peacekeeping missions (Notar, 2006). I asked my respondents the question 'To what extent would these possibilities be an option with the current obstacles?' and 'Do you think the DRC is able to prosecute peacekeepers in their national court and can you elaborate on that?'.

As described in Chapter 4, there are many problems with the exclusive jurisdiction that TCCs have over their militaries. I discovered that some authors want to remove exclusive jurisdiction, since it fails to ensure accountability to offenders. One of those authors is Mudgway (2018), who pointed out that it is time for the UN to implement a different solution and remove the exclusive jurisdiction of TCCs (Mudgway, 2018). Others want to keep the exclusive jurisdiction, thereby modifying it in the SOFA and MOU, but it is likely that Member States would oppose this (Burke, 2012). Due to this debate, I was wondering what my respondents thought about the exclusive jurisdiction for TCCs. That is why I asked them 'Do you think that TCCs losing their exclusive jurisdiction over their national soldiers could ever happen, so that prosecution of UN peacekeepers would be in the host state or elsewhere?'.

NGOs and technologies are non-judicial mechanisms that could be of help in the prosecution process of UN peacekeepers who committed SEA. Code Blue Campaign introduced Community Consultations in Sierra Leone, whereby affected communities and individuals could help with the analysis and solutions of SEA by UN peacekeepers. They could give recommendations, insights, opinions and impressions. This NGO provides essential justice services to indigent Sierra Leoneans through a network of community based paralegals (Code Blue Campaign, 2020). This example led me to the questions 'Do you know if similar initiatives exist in the DRC?' and 'Would NGOs in the DRC be able to facilitate these Community Consultations or other approaches that could help with the analysis and solutions for SEA?'.

Technology can help in reaching people in certain areas that could otherwise not be reached. I discovered two organizations that developed apps to register various kinds of information. We are not Weapons of War created an app called Back Up where victims of rape can report and access help. It gathers data on war rape instances for use in later prosecutions (WWoW, 2017). Physicians for Human Rights developed an app called MediCapt. It uses a standard medical intake form for forensic documentation, the app combines this with a digital platform and a secure mobile camera. Health care providers can use the app to compile medical evidence, photograph survivors injuries, and securely transmit the data to police, lawyers, judges involved in prosecuting sexual violence crimes (PHR, 2020). These apps, since they are active in some countries, made me think if technology could

play a role in prosecuting UN peacekeepers for SEA crimes in the DRC. I asked ‘Would these kind of technologies be of use for the prosecution of UN peacekeepers in the DRC?’.

I presented these proposals to my respondents, whereby a few options seemed feasible in the DRC and others not. Below will be explained why.

## 6.2 Possible alternatives for prosecution in the DRC

By asking my respondents about the possible proposals for change, there were a few that seemed feasible regarding prosecuting UN peacekeepers in the DRC. A hybrid tribunal, a mixed court, an independent special court mechanism, litigation against states and the involvement of NGOs and technology could be implemented to prosecute UN peacekeepers in the DRC.

In general, it is important that peacekeepers receive real prosecution. Respondent 1 said that the more time passes, the harder it is to document cases and there is a high risk of re-victimization of the victims who are already traumatized by what happened to them. We need a clear mechanism, even if that is outside the DRC, we need clear procedures that ensure people that peacekeepers can be prosecuted (Respondent 3).

*Our main criticism is that regardless of the forum it has to be done the proper way, with real investigations, real protection mechanisms for the victims, with guarantees of fair trial, a new process and so forth. So I think that's either if it happens in the host country or the troop-contributing country, our main call is for that to be done the proper way. (Respondent 1, employee at REDRESS)*

*Even if what comes out at the end isn't a special court, the things that we want to really emphasize are there needs to be criminal accountability, it can't be about putting people on no hire lists, it can't be about losing contracts, if you commit a crime, you serve a criminal sentence. (Respondent 2, former UN Human Rights Officer and employee at Code Blue Campaign)*

Respondent 2 and O'Brien added that the mechanism needs to be victim-centric. It should not be victim-centric in that we're promoting certain people that have UN contracts that speak on behalf of victims, but that we actually involve communities and rely them to speak directly. We need to have full transparency in that system, including local advocates and local activists. The inclusion of communities, corresponds with the statement that three of my respondents gave, that the solution is a multi-stakeholder responsibility.

*I think everyone, all the actors involved could take action. The UN can take certain actions, civil society could also be more aware of these cases and again maybe if we put more pressure, if we bring more claims and litigations around this type of cases that would help to increase the pressure and push the UN and countries to act. [...]. The UN and TCCs are the main one, but I think there are also other actors. The academia, I think the journalists have been doing a great job in terms of giving visibility to this problem. (Respondent 1, employee at REDRESS)*

Finally, Respondent 3 and 6 added that a good and solid justice system and support for women, regarding stigma and reporting, can solve a large part of the problem. Each perpetrator needs to be prosecuted in order to create a deterrence for these crimes (O'Brien).

#### 6.2.1 Involvement of the UN in the prosecution process

Another general statement that most of my respondents agreed on is that the UN should not be involved in the prosecution mechanism. I assume my respondents talked about UN agencies who have peacekeeping personnel under their command. If the UN is involved they can prevent prosecution by protecting their personnel, as is the case nowadays. During several interviews it became clear that this is an important factor, since it was a returning statement that it would give more confidence and trust if the UN was not involved. It could be the case that more of my respondents think this is important, but I did not specifically ask all of them about this issue.

*It needs to be independent of the UN, then there is no conflict of interest. It would be transparent, there is no diplomatic or political reason to hide these cases. There is nothing to be gained basically, because those people aren't inside the system. [...] So if we want the system to work, we need to remove the Secretary-Generals oversight and give oversight back to Member States. [...]. We need to get the entire investigation reporting system out of the UN and put in place people that are independently empowered to follow-up those cases and who honestly don't have anything to lose, by following up an investigation fairly and listening to a woman and believing a woman when she reports a case. (Respondent 2, former UN Human Rights Officer and employee at Code Blue Campaign)*

The fact that a prosecution mechanism should be independent of the UN, doesn't mean that there shouldn't be changes within the organization to better register and investigate SEA cases.



### 6.2.2 Changes within the UN system

Although the UN should not be involved in the prosecution process, they should make changes in their system. The UN has human rights obligations, in so far as they hold any country the standards of like non-repression, so we should hold the UN to those standards as well. It has to uphold those human rights, both the rights of the victim and the defendant. The UN has to set the tone for change, in order to stimulate others, like the TCCs, to make changes as well.

*The UN is the best place to be making these reforms and changes. It is the only world body, it sanctions the other peacekeepers and their deployment, so yes, like change absolutely has to start there. [...]. France doesn't feel pressure to treat it's peacekeepers differently from how the UN treats it's thousand peacekeepers in the world. It's like the tone has been set by the largest employer of peacekeeping organizations and if you want to change that tone, I don't think we're going to get one sort of altruistic nation that steps up and does it alone. It has to be done by a coalition of Member States.* (Respondent 2, former UN Human Rights Officer and employee at Code Blue Campaign)

*Change should come from the UN, but it is both ways. The policies of the UN, but also those of the TCCs. The UN can set rules, but the TCCs have to carry through. [...]. It has to happen both on the level of the UN and on the country level, otherwise you will not solve the problem.* (Respondent 6, NGO employee focused on the DRC)

Respondent 6 said that the Office of Legal Affairs should be more involved in SEA cases, so that the follow-up of cases will not take so long. Respondents 1 and 3 offered that the UN could develop systems by which civilians in peacekeeping countries find it easier to renounce this type of situation. In terms of documentation, it could be useful to have a focal point in every mission where victims can go to. In short, a future prosecution mechanism should be independent of the UN, but the UN does need to make changes in order to create a favorable environment for the prosecution of UN peacekeepers.

### 6.2.3 Hybrid tribunal and a mixed court

My respondents acknowledged that either a hybrid tribunal or a mixed court could be a successful solution for prosecuting peacekeepers. This does not mean that these can be implemented without obstacles, like political will and finances.

*I think that would be an interesting option, but TCCs can put caveats under agreements. [...]. We, as a gender office, for instance, request that countries send more women into teams, and some countries answer with caveats to this. So you can have a high tribunal, and I think that would be a good idea, but it's also fair to know that countries might put caveats and say 'we don't want to hire a tribunal to judge our military, only our country keep that jurisdiction.* (Respondent 7, former Gender Expert at MONUSCO)

*I do think it's interesting, because we have this proposal for a hybrid court for a very long time and often when you hear people saying this for civilians, we get the complaint that a hybrid court is impractical, people don't want to create more hybrid courts. But for Member States they will. So I think we're stuck in this mentality that somehow these crimes that are being committed by soldiers are so much worse or that hybrid courts are specifically something you do to try military employees and that's just not true. So yes I would be for this proposal, to let's say create a hybridized court that's able to try UN personnel, but there's absolutely no reason why that should be limited to military employees.* (Respondent 2, former UN Human Rights Officer and employee at Code Blue Campaign)

*It could be. I don't know how realistic that is to happen, because again having a special court will probably depend on the UN pushing for that and I don't know how much the UN is willing to do it.* (Respondent 1, employee at REDRESS)

Respondent 3 told me it would be good to set up a mechanism between the UN, hosting countries and TCCs. A mixed court established by the UN and the host country. For Respondent 3 and 4 it was important to include the host country in the process.

*A mixed system would be better, where you have prosecution within the Congolese system. Specific chambers where you can have prosecutors and other justice staff, experts from outside who come and support during a certain time and then they leave, but the Congolese system is then able to continue by itself. [...]. This would be the most effective and sustainable.* (Respondent 4, researcher in the DRC)

*I think a mixed court would be better, because at the same moment people know that we have some local judges who are involved in the prosecution, but it cannot be a permanent*

*court. A permanent court requires more resources, which the DRC does not have. But if we have that principle in the agreement between the UN and the host country, if there is a peacekeeper who is responsible of sexual abuses, a mixed court can be set up, the government can disengage one or two judges who can be involved and the UN or international experts can also provide one or two experts for the case. (Respondent 3, researcher in and from the DRC)*

While Respondent 3 would include the UN in the process, Respondent 4 does not mention them. They also think differently about the permanence of the mixed court. It could be the case that one of the respondents knows less about the available resources in the DRC, but this cannot be said with confidence. For both of them it is important to include the Congolese system and Congolese experts. A mechanism like this has not been implemented anywhere else, so it is difficult to say whether it will work. Despite all the obstacles that could arise, my respondents were positive about a hybrid tribunal and a mixed court to prosecute UN peacekeepers who committed SEA.

#### 6.2.4 Independent Special Court Mechanism and Litigation against states

Two of my respondents introduced proposals that their organizations have been working on. Both the independent special court mechanism and litigation against states could work in prosecuting UN peacekeepers for SEA crimes in the DRC.

For the independent court, Code Blue Campaign, has been workshopping with experts in international law, people working with the ICC, they've taken it to different Member States as well as Member States with allegations. The format would look something like the special court in the Central African Republic now. According to Respondents 2 and 6 this would be a good mechanism to prosecute UN peacekeepers. The mechanism is especially focused on civilian peacekeepers, since with them often nobody has jurisdiction to prosecute the case.

The Special Court mechanism would host international and national experts, that would only meet when there are cases to try, which limits the financial burden, it applies international standards of sexual harassment and sexual violence and it also has the jurisdiction to try these cases when they occur locally involving civilian international staff. The mechanism would sit locally, like a mobile court chamber, but it would not be part of the local court system. The reporting office, investigators and social and victim support officers will remain in the country, here the DRC. The people are nationals or trained in local languages. Everyone can go to that office, so also when it is a military peacekeeper who abused you. Member States can work together with national investigation offices for the preliminary investigations, even when there is exclusive jurisdiction.

Afterwards criminal trials are held in the country of origin for militaries and in the host country for civilians.

*Instead of being a hybrid court only in one country, it could be a hybridized model that's deployed, to begin with, in every peacekeeping country and then possibly expanded to regional courts and other areas where it would be helpful to have this. It would be a court with international character instead of a local hybrid court. (Respondent 2, former UN Human Rights Officer and employee at Code Blue Campaign)*

*Code Blue Campaign is in favor of an independent court mechanism and I think it is really good to have an independent justice system. I think that could be a good solution. The only question is, who is going to pay for that? If it's the UN, you always will be dependent on them. [...]. The idea is very good, but in practice I do not know who will finance this mechanism. (Respondent 6, NGO employee focused on the DRC)*

The overall idea is good, but the finances can be troubling. My respondents added that it is still unsure where these perpetrators will serve prison sentence and a neutral area to investigate these cases could be favorable as well.

Respondent 1 mentioned that there hasn't been enough litigation on this issue against the states that failed to protect civilians in the countries where they operate, to investigate these crimes and to provide reparations to victims. Strategic litigation "can be defined as the bringing of a legal claim with an objective of change beyond the individual case, which can generally be achieved by combining casework with other civil society techniques, including research, advocacy for structural reforms, and capacity-building" (CRIN & REDRESS, 2020, p.53).

*So far on this issue we've been doing investigation and we issue this to reports. We would be willing to take the next step when the time comes for that to actually litigate a case against one of the countries. So our proposal is that we need to pay more attention to litigation, we need to bring cases around this issue to show that states are not doing enough and at the same time we are making it as public as we can, so that the UN also reacts, because they are partly tolerant of what's going on. (Respondent 1, employee at REDRESS)*

Litigation does take about seven to eight years. You need to make sure that you have the right conditions to start with litigation. These two mechanisms, introduced by my respondents, could be a good mechanism to prosecute UN peacekeepers for SEA crimes in the DRC.

#### 6.2.5 Non-governmental organizations

All of my respondents acknowledged that NGOs are an important link in the prosecution process of UN peacekeepers. NGOs working on this subject specifically is important. Many NGOs, like Trial International and the Panzi Foundation, are working on sexual violence in general, but none, as far as known by my respondents, are working on the topic of SEA in the DRC.

*The reason why is because the UN is such a big donor and such a big player that it would essentially be career suicide to be sitting in a peacekeeping country and trying to make a living on prosecuting the UN. So because of that only a handful of activists, mostly legal activists, and individual lawyers will tell you opinions, thoughts and ideas about this, as well as researchers and students. NGOs will not publicly speak out, because they rely on the UN for their funding. (Respondent 2, former UN Human Rights Officer and employee at Code Blue Campaign)*

*One NGO I've been in contact with is the one that runs the victim assistance program for MONUSCO. They are investing in women centers, help survivors without being too cynical. It is doing a good job in providing real tangible benefits to women's lives, but whether this has any effect or is related to SEA, that's what I'm cynical about. It is said to help 400 women, but where do you go from ten cases to helping 400 women. They focus on the economic situation as the main problem, it's not pushing for change. I'm a little bit cynical when that's the sort of NGO involvement. (Respondent 2, former UN Human Rights Officer and employee at Code Blue Campaign)*

Four of my respondents explained that NGOs should be involved in this process. It could be a place where victims can come and explain the abuse and where NGOs help victims to speak out.

*I think it is very important if there are NGOs on this topic. I believe that if people talk with each other about what happened, victims can become stronger. (Respondent 6, NGO employee focused on the DRC)*

*Basically civil society needs a stronger advocate that's able to push their interests with the UN, because I think the UN working with individual civil society, the power differential is laughable. We refuse to participate in meetings with the special coordinator on SEA and the Victim Rights Advocate, because they talked to us for an hour, they took no questions, they made no resolutions and then they tried to put out a press release that said 'civil society convened to workshop with the UN' and we put out our own statement saying 'no, we did not convene to workshop, we were invited to listen to you lecture and you took no feedback and you didn't work with us'. (Respondent 2, former UN Human Rights Officer)*

So according to my respondents, NGOs can be of great influence in the process of prosecuting UN peacekeepers for SEA crimes. O'Brien said that "a comprehensive solution requires many facets, from grassroots to the top" (O'Brien, April 2, 2020, academic).

#### 6.2.6 Technology

My respondents also agreed that technology could play a role in the prosecution process, but that it is a complementary measure. Whether technology is helpful does depend on its form and place of implementation.

*I don't know, because usually the evidence, the app that you refer to are usually to locate places where violations took place. I mean in this case the information is usually available, in the sense that we know who the victims are and we know who their perpetrators are usually. (Respondent 1, employee at REDRESS)*

*I don't know if it's necessary. In the legal codes of a lot of countries, they're adapted to the realities in those countries, you don't necessarily need the sort of high tech evidence and information that we are used to in the West. Even DNA tests are not established paternally in most jurisdictions. If a man living with a woman says it's his child, just like the neighbor and family, it's his child, whether you have a DNA test or not. So I think we forget sometimes that these high-tech things, if they're not already being locally used there is no reason to bring them in. (Respondent 2, former UN Human Right Officer and employee at Code Blue Campaign)*

In the DRC there is an increasing number of people who have phones, more than 80% of people have phones, but only about 7% have internet connection. This internet connection is often very slow, so

it is hard to get information from remote areas. In most cases the phones can be used for calls, texts, listening to the radio or as a torch and not for connecting to internet. In the main cities, like Kinshasa, Goma and Lubumbashi, a driver, sometimes would have two or three mobile phones while people in small villages have none.

*That is difficult, it depends so much. Often in bigger cities you have more people with phones, than in villages. So in some case it could work, but I think it creates an environment where some have access to it and others not. So I don't think that it will solve the problem on a large scale, but I think that it could be helpful for some communities.* (Respondent 6, NGO employee focused on the DRC)

*In some spots it might be difficult. For regions like Beni, Rutshuru or even Bunia this is very difficult and this wouldn't apply for sure and this is probably the area where the majority of cases are. It really depends. I think it's a complementary measure and it's good to have several measures in place to complement each other, but by far not the single measure, but it's good to have why not. They do have some level of technology there.* (Respondent 7, former Gender Expert at MONUSCO)

Often places are more technologically advanced than appears on the outside. Two of my respondents gave examples of how technology could be implemented. Respondent 3 said that when you have a green number, victims can call and get assistance, they can denounce the case. Respondent 2, who works at Code Blue Campaign, are trying to develop a telephone which can record voice activated interviews called CAVIA. Local NGOs will hand out these phones, which will remove barriers to report, and the testimony will transmit from the field to offices. Technology can function as an additional weapon in the prosecution process.

#### 6.2.7 Additional mechanisms

Additionally to the NGOs and technology that could help in the prosecution process, three of my respondents introduced other proposals for change. A new unbiased monitoring system, whereby Member States take over the monitoring capacity to see what is happening with SEA crimes in UN files in real time (Respondent 2). There need to be more women as peacekeepers, which makes it easier for victims, who are women, to come forward and talk to. This could be a way to more cases (Respondent 7). Finally, O'Brien introduced a transnational suppression convention. With more

pressure from treaty obligations, states are more likely to prosecute their militaries and it will encourage international cooperation.

One or multiple of the mechanisms above would be the best fit for prosecuting UN peacekeepers who engaged in SEA in the DRC.

### 6.3 Impossible alternatives for prosecution in the DRC

Unfortunately there were also options that were not feasible with regard to the prosecution of UN peacekeepers who engaged in SEA crimes in the DRC. The removal of exclusive jurisdiction, the ICC and national prosecution are not the right mechanisms to prosecute peacekeepers in the DRC.

#### 6.3.1 Removing exclusive jurisdiction

Although six of my respondents thought that removing exclusive jurisdiction should be an option, all of my respondents explained that in the case of the DRC, this is not the best option for prosecution. They think it is a major problem, but removing it comes with too many obstacles. It is a good idea in theory, but it would not work in practice.

Obstacles that they mentioned were the fact that the countries where peacekeepers operate are very fragile and they have rule of law problems, so where do you prosecute these peacekeepers then? Another factor is that Member States would never agree to the fact that their militaries are prosecuted in the host country and are dependent on their criminal justice system.

*Yes in a sense having something that modifies exclusive jurisdiction would be great, but I don't know who else would be prosecuting those soldiers. If we're saying that these countries right now can't prosecute civilians, I don't see why they could prosecute soldiers. Especially when soldiers might be more powerful or might carry more risks for that country to defend the relationship between those two countries. So there's not a clear forum where you would take those soldiers, if there wasn't exclusive jurisdiction. (Respondent 2, former UN Human Rights Officer and employee at Code Blue Campaign)*

*The UN is an organization of 193 countries and I think there are a lot of countries that would not agree to that. If you rape someone in the Netherlands or Congo, you do not know what the punishment is and for example, Congolese prisons are very different from Dutch ones. You do not want to be dependent on each other's justice system. This decision should be approved*



*in the General Assembly, but I think that will never happen, because countries do not want to leave their citizens in another country, especially not a developing country with no working justice system. (Respondent 6, NGO employee focused on the DRC)*

Two of my respondents came with ideas of looking case by case or country by country to remove jurisdiction, but I do not think this is feasible when looking at the DRC. Respondent 2 said we could look for a way to guide the prosecution away from the UN's contract with the TCCs about exclusive jurisdiction by labelling SEA crimes as war crimes, but this is also difficult since this should be clarified in the Rome Statute of the ICC. In the next section you can see why this is still far away from happening. In the end, Respondent 2 came with the statement *"I don't think that it would be a bad thing to remove exclusive jurisdiction, I just think that that's a misplaced focus, because exclusive jurisdiction only deals with half the problem."* Maybe we should not focus too much on the issue of whether to remove exclusive jurisdiction, but on which mechanism can best prosecute peacekeepers for SEA crimes.

### 6.3.2 International Criminal Court

In her 2011 article, O'Brien, as well as Mudgway (2018) and Williams (2012) concluded that nowadays the ICC is not the right mechanism to prosecute UN peacekeepers for SEA crimes. When I asked O'Brien what she thought of the matter now, she told me that while she hasn't been publishing on this topic since 2017, little has changed regarding peacekeeper accountability (O'Brien, April 2, 2020, academic). In her following articles she still discussed the ICC as a possible mechanism for prosecuting UN peacekeepers, but came to the same conclusion that the ICC is not the right forum to prosecute peacekeepers for SEA crimes. Usually these SEA cases are not of sufficient gravity for further action and the Rome Statute is lacking express provisions which would enable peacekeepers to be prosecuted for sexual exploitation. She gave a few recommendations for the ICC:

*If peacekeepers are afforded special status as victims, then a special status as perpetrators should also be bestowed upon them, [...]. SEA should be recognized as a crime in its own right, [...]. Peacekeepers could be prosecuted for war crimes and crimes against humanity and [...], the responsibility of superiors and commanders should also be explored if the ICC gets jurisdiction to ensure accountability at all levels. (O'Brien, April 2, 2020, academic)*

Until these recommendations are implemented by the ICC, another mechanism should be used to prosecute peacekeepers who committed SEA.

### 6.3.3 National Prosecution

In Chapter 5 it was brought forward that the DRC's government has many obstacles. Despite this problem, I was wondering if my respondents thought that peacekeepers could be prosecuted in national courts, since some peacekeeping countries have done it before. Some of my respondents claimed that it would be a good option to prosecute them nationally, because there are decent courts in the cities, others thought it was a bad idea. All of them acknowledged the obstacles that are present, the DRC is a failed state and problems with the rule of law, that prevent national courts from being the right mechanism to prosecute UN peacekeepers for SEA crimes in the DRC.

*They have challenges, but this is not to say that it's impossible if they had the political will to do it. It's true that there are some capacity issues, but it's also true that there could be more training of prosecutors around this issue and investigators and judges. Everything is part of rebuilding the rule of law in this country and often is quite difficult, but it's not impossible and they do have an obligation to do it according to human rights treaties and conventions. They are obliged to give that response to victims and I think that's why we insist and push for that to happen. (Respondent 1, employee at REDRESS)*

*In terms of effectiveness of DRC justice now it is difficult to answer clearly, because we have problems of how our justice is functioning. That is why my organization is supporting the DRC government to have more justice. [...]. But on the other hand, I think we have some good courts here. Like in Kinshasa, Lubumbashi, Goma and Bukavu for instance, some big cities, you have some courts that are working well. But if you go around, you go far from the capital, there we have problems. (Respondent 3, researcher in and from the DRC)*

*It is difficult to say. I think that it would make a difference for victims to go to court if there is a good system, but it depends on the situation. I do think it will make a difference, but I don't know if it will make the difference. (Respondent 6, NGO employee focused on the DRC)*

Respondent 2 doesn't think the Congolese judiciary is independent enough to prosecute the UN. It should be something that Member States discuss openly, since it can be really problematic for certain countries.

## 6.4 Conclusion

This chapter explored how different proposals for change can be a solution in fighting impunity of sexual violence by UN peacekeepers. The ICC, removing exclusive jurisdiction, hybrid tribunal, mixed court, independent body, national prosecution, NGOs and technology as proposals for change were found in the literature. Although not all these proposals were focused on SEA by UN peacekeepers in the DRC, I was wondering whether my respondents thought these would work with this specific topic in the DRC. They were allowed to introduce their own proposals for change during the interview.

After the interviews it became clear that some mechanisms would work to prosecute peacekeepers in the DRC and others not. In general, my respondents said we need a clear mechanism with clear procedures, real criminal accountability, a solid justice system, full transparency, it should be victim-centric, communities should be included and there should be fair trials. After all, it is a multi-stakeholder responsibility. The UN should not be involved in the prosecution process, but it should make changes in its system. A hybrid tribunal, a mixed court, an independent special court mechanism and litigation against states could all be possible mechanisms to prosecute peacekeepers for SEA crimes in the DRC. There are still obstacles, like political will and finances, but these mechanisms could work. As complementary measures, NGOs and technologies should be involved. My respondents added the value of a new monitoring system, more women as peacekeepers and a transnational suppression convention for prosecuting peacekeepers. The removal of exclusive jurisdiction, the ICC and national prosecution are not the right mechanisms to prosecute peacekeepers in the DRC. Member States would not allow peacekeepers to be prosecuted in the DRC, the DRC's judicial system is too weak to prosecute peacekeepers, the UN finances a large portion of the DRC's budget and the ICC has not the right laws to prosecute peacekeepers for SEA crimes.

These proposals for change could all work in the DRC, once a few obstacles have been overcome. Non-judicial mechanisms cannot work on their own, but they should support one of the judicial mechanisms above. It should be kept in mind that prosecuting UN peacekeepers who committed SEA crimes is a multi-stakeholder responsibility.

## 7. Conclusion

Within this final chapter, the main research question of this thesis will be answered. The answer will be based on a discussion of the findings given by my respondents of the main obstacles in the UN and the DRC and alternative proposals with a high potential for success in prosecuting UN peacekeepers for SEA crimes in the DRC. Afterwards, there will be recommendations for follow-up research, recommendations for praxis and a reflection on the working process.

### 7.1 Conclusion

This research focused on the question ‘What possible strategies exist for solving the impunity of sexual exploitation and abuse (sexual violence) by United Nations peacekeepers in the Democratic Republic of Congo?’. In this thesis I tried to find out what the biggest obstacles are in prosecuting SEA crimes committed by UN peacekeepers in the DRC and what alternative proposals with a high potential of success would work best in the DRC based on the opinion of several experts.

*“A much more aggressive approach to justice for crimes is needed. Accountability must be made real and public, not just theoretical. There has to be follow-up and transparency. Because accountability starts from within, the UN should take a critical look at its own failures in dealing with sexual abuse” (Mariner, 2015).*

The two most important points that emanated from my analysis is that the UN’s system itself has failed and this has contributed to the continuing impunity of SEA crimes committed by UN peacekeepers in the DRC and there is a lack of political will of the DRC, TCCs and the international community, which includes the UN, to prosecute UN peacekeepers. Contributing to the impunity is DRC’s corrupt government and weak judicial systems which prevents peacekeepers from being prosecuted inside the DRC. We need strategies in which responsibility for prosecution is granted to other stakeholders, outside of the UN.

#### 7.1.1 Summary of findings

The obstacles that came to surface while doing my interviews were related to the UN, as an organization, the DRC, TCCs and the international community. Obstacles were confirmed with the ones found in the literature and new ones were mentioned as well. During my interviews it became clear that my respondents thought that the structure of the UN and its peacekeeping mission are the main factor in the impunity of SEA crimes by UN peacekeepers. The UN’s system has its flaws, they

are making decisions on their own and high-ranked employees are being protected. Further, UN's policies and preventative measures do not work to prevent and prosecute peacekeepers for SEA and some policies are missing. The immunities that peacekeepers enjoy prevents them from being prosecuted, there are several problems with the reporting system of the UN, like language barriers, bad investigations and victims don't know where to report in general. The UN is afraid of losing militaries from TCCs, so they don't punish them or report the abuse to the TCCs. Next, my respondents mentioned problems with peacekeeping missions, like the rapid rotation of peacekeepers, the difficulties with trainings, the vague rules within the Code of Conduct, the male dominated area and protection of your colleagues. At last, there is the obstacle of the culture of TCCs, whereby TCC have different norms and values than the UN, TCCs lack policies that allow prosecuting crimes that happened extraterritorially, bad investigations by the TCCs, they want to protect their reputation and they have a lack of political will to prosecute.

Obstacles specific to the DRC were also discussed during my interviews. First there were obstacles to prosecution by Congolese authorities. A previous history of conflict with sexual violence can lead to a higher chance of SEA cases and the level of development of the DRC, like bad infrastructure, low level of education and poverty, which leads women more easily into prostitution to make money. DRC's government also prevents prosecution since government officials are corrupt and there are weak judicial systems. Also, the DRC has no political will to prosecute SEA cases against UN peacekeepers. An additional obstacle is that victims fear for stigmatization following the submission of a complaint. Finally, there are obstacles on an international level, like thinking the crimes are not that grave and their political will to take action.

In Chapter 6, alternative proposals with a high potential for success in the DRC were evaluated. Some proposals could work and others were not the right fit. In general, we need a clear mechanism with clear procedures, real criminal accountability, a solid justice system, full transparency, it should be victim-centric, communities should be involved and it has to be done the proper way with fair trials. The UN should not be involved in the prosecution process, but it should make changes within its system. A hybrid tribunal, a mixed court, an independent special court mechanism and litigation against states could all be possible mechanisms to prosecute peacekeepers for SEA crimes in the DRC. There are still obstacles, like political will and finances, but these mechanisms could work. As complementary measures, NGOs and technologies should be involved. My respondents also added the value of a new monitoring system, more women as peacekeepers and a transnational suppression convention for prosecuting peacekeepers. In the end it should be a multi-stakeholder responsibility. The removal of exclusive jurisdiction, the ICC and national prosecution are not the right mechanisms to prosecute peacekeepers in the DRC. Member States

would not allow peacekeepers to be prosecuted in the DRC, the DRC's judicial system is too weak to prosecute peacekeepers, the UN finances a large portion of the DRC's budget and the ICC has not the right laws to prosecute peacekeepers for SEA crimes.

## 7.2 Recommendations for future research

The results that I found give insight into the current context in the DRC and what could or could not be possible in such an environment. Follow-up research is definitely needed to make SEA by UN peacekeepers a more known problem and for what can be done to prosecute these people.

In the theoretical framework of this thesis, the debates about the reasons for impunity of SEA by UN peacekeepers emphasized the immunities that peacekeepers enjoy, the lack of prosecution by TCCs, problems with the UN system. From my thesis especially the failed UN system and the lack of political will of the DRC, TCCs and the international community, including the UN, comes forward. My research partly strengthens what was emphasized in the debates, namely the lack of prosecution by TCCs and the UN system, but in this thesis the UN system was seen as the main reason for the impunity and more aspects of the system were being criticized. Less focus should be on the immunities and more on how to remove the UN from the prosecution process and how to change the political will of the DRC, TCCs and the international community, so that they are able to punish UN peacekeepers for SEA crimes committed in the DRC.

Some of the findings in this research can only apply to the DRC and the obstacles of the UN and TCCs can be further researched in other cases of SEA around the world or as a topic on itself. Some obstacles within the UN can even be used for research about different topics, since flaws in the system of the UN have an effect on multiple areas. The evaluation of the alternative proposals are mostly applicable to the DRC only, but if a certain country has similar obstacles as mentioned in this thesis, you could come to the conclusion that a certain mechanism that did not work in this thesis would also not work in the country you are researching or the other way around.

Since this research was developed by the opinion of experts, I think it would be interesting to see how other groups think or if they even know about this problem. I would recommend interviewing Congolese citizens or members of local NGOs on their opinion on the problem of SEA by UN peacekeepers, if something should be done about it and what the best way is to prosecute them. Opinions of different groups could also be combined, like the ones of experts (national and international), Congolese citizens and local NGOs.

I also think that there should be more research on mechanisms that could be implemented to prosecute SEA crimes. The mechanisms in this thesis, for example the independent special court mechanism, should be further explored in the context of the DRC, or other countries, and how

various obstacles can be overcome. It is important to find a mechanism to prosecute UN peacekeepers for SEA crimes, so that there is no longer impunity and peacekeepers can go back to protecting locals and creating peace, whereby the locals trust the peacekeepers as well.

Next, I think it is important to do more research about men and boys who are sexually abused by UN peacekeepers. In my theoretical framework I described the importance of including men and boys when talking about sexual violence, but during my research I only saw a few articles that mentioned men and boys who were victims of SEA crimes and my respondents mostly talked about women and girls who were victims.

Finally, it is important to do research on other organizations who committed abuse against local people. Not only peacekeepers from the UN commit such conduct, but also employees of Oxfam Novib and the African Union. Their organizations also have problems with their structure and I think there should be more research on this.

### 7.3 Recommendations for praxis

The findings in this thesis gave me an overview of the biggest obstacles in the DRC, with regard to SEA crimes by UN peacekeepers, and what mechanisms could be implemented with these obstacles in mind. My respondents showed me that there is definitely a mechanism that can be implemented to fight this impunity, but that we have to wait for the right moment to implement one of them. It is not possible to directly implement one of the mechanisms, since more research needs to be done on them, but I can give recommendations on small steps that policy makers can do to come closer to punishing UN peacekeepers for the SEA crimes that they committed.

One of my recommendations is to let international NGOs or organizations work together with local NGOs to help victims of SEA by UN peacekeepers or sexual violence in general and to try to tackle some of the obstacles that victims face in the DRC. These organizations should be thoroughly researched first, since sexual violence by its personnel could also be an issue there. One of my respondents, who works in Haiti on this topic, revealed that the social stigma that victims face is also present in Haiti. Her organization is collaborating with grassroots organizations to challenge the issues of stigma, discrimination and perceptions regarding sexual violence against women. This could also be an idea to develop in the DRC, which would make it easier for victims to report abuse.

Another policy that I think would be helpful, regarding the problem of SEA by UN peacekeepers, is to establish an independent mechanism that is controlling the UN and the TCCs on whether they punish the peacekeepers who committed SEA and that it will not be hidden. This is probably difficult to establish, but a mechanism that cannot be influenced by the UN, who want to protect their reputation, is very important.

#### 7.4 Reflection on the process

Writing this thesis has been a learning process. I enjoyed conducting interviews and analyzing the results. At first, I was very nervous about contacting people and talking to them, but I became much more confident in conducting interviews, learned a lot from the stories of my respondents and they were always willing to help me find more respondents.

Although I am content with the interviews that I took and the learning process that I had, I would do some things different next time. First of all, I chose a subject that is not much known about, SEA by UN peacekeepers. This means that there are not many experts on the topic and the ones that have knowledge about this subject, live all over the world. This made finding respondents, specifically knowing about SEA in the DRC, quite difficult. Covid-19 made it even harder, since everyone was even busier than before and had no time to answer emails or do interviews. This led to the fact that the interviews were always via Skype, since everyone lived far away. Next time I would frame the topic in such a way, so that there are more possible people to interview or at least more people in one place, so that it will be able to do face-to-face interviews. I do think that gives another dynamic to the interviews, that I now missed out on. I would be able to better follow the conversation and ask follow-up questions, since I would not be dependent on the Wi-Fi connection.

For a next time, I also think it would be interesting to go to, for example the DRC, and see for yourself the circumstances that people live in. Actually interviewing people who are affected by a certain topic, here SEA by peacekeepers, gives you a better perspective of the problem than only hearing it from experts.



## References

- Allais, C. (2011). Sexual exploitation and abuse by UN peacekeepers: the psychosocial context of behaviour change. *Scientia Militaria: South African Journal of Military Studies*, 39(1), 1-15.
- Aoi, C., De Coning, C., & Thakur, R. (2007). Unintended consequences, complex peace operations and peacebuilding systems. In *Unintended Consequences of Peacekeeping Operations*, 3-20. Tokyo: United Nations University Press.
- Askin, K. (2016, June 17). Global: Ending impunity for crimes committed by UN peacekeepers. *International Bar Association*. Retrieved January 23, 2020 from <https://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=CEBC5F69-A238-49BB-B85A-5E8D878FE485>
- Baaz, M. E., & Stern, M. (2009). Why do soldiers rape? Masculinity, violence, and sexuality in the armed forces in the Congo (DRC). *International studies quarterly*, 53(2), 495-518.
- Baaz, M.E., & Stern, M. (2010). *Understanding and addressing conflict-related sexual violence: Lessons learned from the Democratic Republic of Congo*. Nordiska Afrikainstitutet. Retrieved on February 4, 2020 from <http://www.diva-portal.org/smash/get/diva2:319658/FULLTEXT02>
- Baaz, M. E., & Stern, M. (2013). *Sexual violence as a weapon of war?: Perceptions, prescriptions, problems in the Congo and beyond* (pp. 1-64). Zed Books Ltd..
- Bastick, A., Grimm, K., and R. Kunz. (2007). Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector. *Geneva Center for the Democratic Control of Armed Forces*.
- Binningsbo, H. M., Gates, S., & Lie, T. G. (2007). *Post-conflict justice and sustainable peace*. The World Bank. Retrieved on July 7, 2020 from <https://openknowledge.worldbank.org/bitstream/handle/10986/7007/wps4191.pdf>
- Boesten, J. (2017). Of exceptions and continuities: theory and methodology in research on conflict-related sexual violence. *International Feminist Journal of Politics*, 19(4), 506-519.

- Burke, R. S. (2012). Troop-Discipline and Sexual Offences by UN Military Peacekeepers: The UN's Response – Moving Beyond the Current Status Quo? *Working Paper No. 1.5, Strengthening the rule of law through the United Nations Security Council Workshop paper series, Centre for International Governance and Justice*. Retrieved on April 14, 2020 from [http://regnet.anu.edu.au/sites/default/files/publications/attachments/2015-05/Roisine\\_Burke\\_1.5\\_0\\_0.pdf](http://regnet.anu.edu.au/sites/default/files/publications/attachments/2015-05/Roisine_Burke_1.5_0_0.pdf)
- Cahn, N. (2005). Beyond retribution and impunity: responding to war crimes of sexual violence. *Stan. JCR & CL*, 1, 217-270.
- Code Blue Campaign. (2019). Primer: Privileges and Immunities. Retrieved on June 12, 2020 from <http://www.codebluecampaign.com/primer-privileges-and-immunities-of-the-united-nations>
- Code Blue Campaign. (2020). Community Consultation: Sierra Leone. Retrieved on January, 20, 2020 from <http://www.codebluecampaign.com/sierra-leone-consultation>
- Cohen, D. K., & Nordås, R. (2014). Sexual violence in armed conflict: Introducing the SVAC dataset, 1989–2009. *Journal of Peace Research*, 51(3), 418-428.
- Costi, A. (2006). Hybrid Tribunals as a Viable Transitional Justice Mechanism to Combat Impunity in Post-Conflict Situations.
- CRIN & REDRESS. (2019). Litigating Peacekeeper Child Asexual Abuse. Retrieved on February 26, 2020 from <https://redress.org/wp-content/uploads/2020/01/LitigatingPeacekeeperChildSexualAbuseReport.pdf>
- Defeis, E. F. (2008). UN peacekeepers and sexual abuse and exploitation: An end to impunity. *Wash. U. Global Stud. L. Rev.*, 7(2), 185-214.
- Deschamps, M., Jallow, H. B., & Sooka, Y. (2015). Taking action on sexual exploitation and abuse by peacekeepers. *Report of an Independent Review on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic*.

- Dodds, P., & Larson, K. (2017, September 21). UN peacekeepers: Congo leads world in sex abuse allegations. Retrieved September 12, 2019 from <https://www.apnews.com/da1f97c260584dbca7a35cedd42efb9e>
- Firestone, W.A. (1993). Alternative arguments for generalizing from data as applied to qualitative research. *Educational Researcher*, 22(4), 16-23.
- Freedman, R. (2018). UNaccountable: A New Approach to Peacekeepers and Sexual Abuse. *European Journal of International Law*, 29(3), 961–985.
- Gerring, J. (2006). The Conundrum of the Case Study. In *Case study research: Principles and practices* (pp. 1-14). Cambridge university press.
- Gilliard, N. (2012). Peacekeepers or Perpetrators? An analysis of Sexual Exploitation and Abuse (SEA) by UN personnel in the Democratic Republic of Congo. *Mapping Politics*, 3, 27-35.
- Gloppen, S. (2005). Roads to Reconciliation: A Conceptual Framework. In Elin Skar, Siri Gloppen & Astrid Suhrke eds. *Roads to Reconciliation* (pp. 17-50). Lexington Books: Lanham.
- Golafshani, N. (2003). Understanding reliability and validity in qualitative research. *The qualitative report*, 8(4), 597-607.
- Grady, K. (2010). Sexual exploitation and abuse by UN peacekeepers: A threat to impartiality. *International Peacekeeping*, 17(2), 215-228.
- Grey, R., & Shepherd, L. J. (2013). "Stop rape now?" Masculinity, responsibility, and conflict-related sexual violence. *Men and Masculinities*, 16(1), 115-135.
- Higate, P. (2007). Peacekeepers, masculinities, and sexual exploitation. *Men and Masculinities*, 10(1), 99-119.

- Hsieh, C. E. (2004). Strengths and weaknesses of qualitative case study research. *University of Leicester Publishing*, 86-116.
- Hwang, S. (2008). Utilizing qualitative data analysis software: A review of Atlas. ti. *Social Science Computer Review*, 26(4), 519-527.
- International Rescue Committee (IRC). (2019). Democratic Republic of Congo. Retrieved on March 31, 2020 from <https://www.rescue.org/country/democratic-republic-congo>
- Jennings, K. (2017, September 18). The Immunity Dilemma: Peacekeepers' Crimes and the UN's Response. *E-International Relations*. Retrieved January 22, 2020 from <https://www.e-ir.info/2017/09/18/the-immunity-dilemma-peacekeepers-crimes-and-the-uns-response/>
- Jensen, J.L. & Rodgers, R. (2001). Cumulating the intellectual gold of case study research. *Public Administration Review*, 61(2), 235-246.
- Kajornboon, A. B. (2005). Using interviews as research instruments. *E-journal for Research Teachers*, 2(1), 1-9.
- Kanetake, M. (2010). Whose zero tolerance counts? Reassessing a zero tolerance policy against sexual exploitation and abuse by UN peacekeepers. *International Peacekeeping*, 17(2), 200-214.
- Karim, S., & Beardsley, K. (2016). Explaining sexual exploitation and abuse in peacekeeping missions: The role of female peacekeepers and gender equality in contributing countries. *Journal of Peace Research*, 53(1), 100-115.
- Kassim, J. (2019, July 18). United Nations Peacekeepers Must Be Held Accountable for Sexual Abuse. *The New Context*. Retrieved on September 4, 2019 from <https://thenewcontext.org/united-nations-peacekeepers-must-be-held-accountable-for-sexual-abuse/>
- Kirby, P. (2015). Ending sexual violence in conflict: the Preventing Sexual Violence Initiative and its critics. *International Affairs*, 91(3), 457-472.

- Kirk, J., & Miller, M. L. (1986). Reliability and Validity. In *Qualitative Research Methods: Reliability and validity in qualitative research (pp. 14-21)*. Newbury Park, CA: SAGE Publications.
- Kitharidis, S. (2015). Rape as a weapon of war: Combating sexual violence and impunity in the Democratic Republic of the Congo, and the way forward. *African Human Rights Law Journal*, 15(2), 449-472.
- Kolbe, A. R. (2015). 'It's Not a Gift When It Comes with Price': A Qualitative Study of Transactional Sex between UN Peacekeepers and Haitian Citizens. *Stability: International Journal of Security & Development*.
- Kuwert, P., Glaesmer, H., Eichhorn, S., Grundke, E., Pietrzak, R. H., Freyberger, H. J., & Klauer, T. (2014). Long-term effects of conflict-related sexual violence compared with non-sexual war trauma in female world war II survivors: a matched pairs study. *Archives of sexual behavior*, 43(6), 1059-1064.
- Ladley, A. (2005). Peacekeeper abuse, immunity and impunity: the need for effective criminal and civil accountability on international peace operations. *Politics and Ethics Review*, 1(1), 81-90.
- Longhurst, R. (2003). Semi-structured interviews and focus groups. *Key methods in geography*, 3, 143-156.
- Mani, R. (2002). *Beyond Retribution: Seeking Justice in the Shadow of War*. Cambridge, UK: Blackwell Publishers.
- Manjoo, R., & McRaith, C. (2011). Gender-based violence and justice in conflict and post-conflict areas. *Cornell Int'l LJ*, 44, 11-31.
- Mariner, J. (2015, August 20). UN peacekeepers who rape and abuse are criminals – so treat them as such. *The Guardian*. Retrieved on July 27, 2020 from <https://www.theguardian.com/global-development/2015/aug/20/un-peacekeepers-rape-sexual-abuse-criminals-car-ban-ki-moon>

- Martin, S. (2005). Must Boys be Boys? Ending Sexual Exploitation & Abuse in UN Peacekeeping Missions. *Refugees International*.
- Medie, P. A. (2017). Rape reporting in post-conflict Côte d'Ivoire: Accessing justice and ending impunity. *African Affairs*, 116(464), 414-434.
- Meger, S. (2010). Rape of the Congo: Understanding sexual violence in the conflict in the Democratic Republic of Congo. *Journal of Contemporary African Studies*, 28(2), 119-135.
- Mudgway, C. (2018). *Sexual exploitation and abuse by UN peacekeepers: towards a hybrid solution*. Routledge. Retrieved from <https://ir.canterbury.ac.nz/bitstream/handle/10092/12914/Mudgway%20Cassandra%20PhD%20Thesis.pdf?sequence=1>
- Murphy, R. (2006). An assessment of UN efforts to address sexual misconduct by peacekeeping personnel. *International Peacekeeping*, 13(4), 531-546.
- Ndulo, M. (2009). The United Nations responses to the sexual abuse and exploitation of women and girls by peacekeepers during peacekeeping missions. *Berkeley J. Int'l Law*, 27(1), 127-161.
- Neudorfer, K. (2014). Reducing Sexual Exploitation and Abuse: Does Deterrence Work to Prevent SEAs in UN Peacekeeping Missions?. *International Peacekeeping*, 21(5), 623-641.
- Noor, K. B. M. (2008). Case study: A strategic research methodology. *American journal of applied sciences*, 5(11), 1602-1604.
- Nordås, R., & Rustad, S. C. (2013). Sexual exploitation and abuse by peacekeepers: Understanding variation. *International Interactions*, 39(4), 511-534.
- Notar, S. A. (2006). Peacekeepers as perpetrators: Sexual exploitation and abuse of women and children in the Democratic Republic of the Congo. *Am. UJ Gender Soc. Pol'y & L.*, 14, 413-429.

- O'Brien, M. (2011). Sexual exploitation and beyond: Using the Rome Statute of the International Criminal Court to prosecute UN peacekeepers for gender-based crimes. *International Criminal Law Review*, 11(4), 803-827.
- O'Brien, M. (2012a). Prosecutorial discretion as an obstacle to prosecution of United Nations peacekeepers by the International Criminal Court: The big fish/small fish debate and the gravity threshold. *Journal of International Criminal Justice*, 10(3), 525-545.
- O'Brien, M. (2012b). Protectors on trial? Prosecuting peacekeepers for war crimes and crimes against humanity in the International Criminal Court. *International Journal of Law, Crime and Justice*, 40(3), 223-241.
- O'Brien, M. (2017). UN Peacekeepers, the Military and Sexual Exploitation. In *Criminalising Peacekeepers: Modernising National Approaches to Sexual Exploitation and Abuse* (pp. 1-53). Springer.
- Odello, M., & Burke, R. (2016). Between immunity and impunity: peacekeeping and sexual abuses and violence. *The International Journal of Human Rights*, 20(6), 839-853.
- OHCHR. (2016, August 31). Welcoming remarks at side event "Fighting impunity for conflict-related sexual violence" hosted by Belgium. *United Nations Human Rights Office of the High Commissioner*. Retrieved on November 14, 2019 from <https://ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20629&LangID=E>
- Palermo, T., & Peterman, A. (2011). Undercounting, overcounting and the longevity of flawed estimates: statistics on sexual violence in conflict. *Bulletin of the World Health Organization*, 89, 924-925. Retrieved from <https://www.scielosp.org/pdf/bwho/2011.v89n12/924-925>
- Penrose, M. M. (1999). Impunity-inertia, inaction, and invalidity: A literature review. *BU Int'l LJ*, 17, 269.

- Physicians for Human Rights (PHR). (2020). PHR's mobile app MediCapt puts cutting edge technology in the service of preventing sexual violence. Retrieved January 20, 2020 from <https://phr.org/issues/sexual-violence/medicapt-innovation-2/>
- Prügl, E. (2019, June 3). Sexual Violence: A New Weapon of War. *Graduate Institute Geneva*. Retrieved on September 2, 2019 from <https://graduateinstitute.ch/communications/news/sexual-violence-new-weapon-war>
- Pruitt, L. (2012). Looking back, moving forward: International approaches to addressing conflict-related sexual violence. *Journal of Women, Politics & Policy*, 33(4), 299-321.
- Richards, J. (2013). Demobilization in the DRC, Armed Groups and the Role of Organizational Control. *Small Arms Survey*. Retrieved from <http://www.smallarmssurvey.org/fileadmin/docs/G-Issue-briefs/SAS-AA-IB1-DDR-in-the-DRC.pdf>
- Russell, W. (2007). Sexual violence against men and boys. *Forced Migration Review*, 27, 22-23.
- Sagala, J.K. (2006). HIV/AIDS and the military in sub-Saharan Africa: impact on military organizational effectiveness. *Africa Today*, 53, 53-77.
- Seguy, M. (2019, November 28). Jane Connors: "Victims are at the heart of our concerns". Retrieved on April 16, 2020 from <https://monusco.unmissions.org/node/100047352>
- Shraga, D. (2004). The Second Generation UN-Based Tribunals: A Diversity of Mixed Jurisdiction. In Elin Skar, Siri Gloppen & Astrid Suhrke eds. *Roads to Reconciliation* (pp. 55-82). Lexington Books: Lanham.
- Simić, O. (2010). Does the presence of women really matter? Towards combating male sexual violence in peacekeeping operations. *International Peacekeeping*, 17(2), 188-199.
- Smit, B. (2002). Atlas. ti for qualitative data analysis. *Perspectives in education*, 20(3), 65-75.



- Spencer, S. W. (2005). Making peace: Preventing and responding to sexual exploitation by United Nations peacekeepers. *Journal of Public and International Affairs*, 16(1), 167-81.
- Stern, J. (2015). Reducing sexual exploitation and abuse in UN peacekeeping: Ten Years After the Zeid Report. *Civilians in Conflict, Policy Brief 1*. Retrieved July 8, 2020 from [https://www.stimson.org/wp-content/files/file-attachments/Policy-Brief-Sexual-Abuse-Feb-2015-WEB\\_0.pdf](https://www.stimson.org/wp-content/files/file-attachments/Policy-Brief-Sexual-Abuse-Feb-2015-WEB_0.pdf)
- Stuckey, H. L. (2014). The first step in data analysis: Transcribing and managing qualitative research data. *Journal of Social Health and Diabetes*, 2(01), 006-008.
- Tate, F. (2015). Impunity, Peacekeepers, Gender and Sexual Violence in Post-conflict Landscapes: A Challenge for the International Human Rights Agenda.
- Tschirgi, N. (2004). *Post-conflict peacebuilding revisited: achievements, limitations, challenges* (p. ii). New York: International Peace Academy.
- United Nations (UN). (2019a, March 29). Conflict-Related Sexual Violence: Report of the United Nations Secretary-General. Retrieved from <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2019/04/report/s-2019-280/Annual-report-2018.pdf>
- United Nations (UN). (2019b). Victims' Rights Advocate. Retrieved on April 16, 2020 from <https://www.un.org/preventing-sexual-exploitation-and-abuse/content/victims-rights-advocate>
- United Nations, General Assembly (UN GA). (2005, March 24). A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations, A/59/710. Retrieved on April 15, 2020 from [https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/59/710](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/59/710)
- United Nations (UN) Human Rights. (2019, May 10). Apps can help fight impunity for conflict-related sexual violence. *Medium*. Retrieved November 8, 2019 from

<https://medium.com/@UNHumanRights/apps-can-help-fight-impunity-for-sexual-violence-3bc85ef25ff>

United Nations (UN) Peacekeeping. (2017, August). Military Aide Memoire: United Nations Measures against Sexual Exploitation and Abuse. Retrieved on July 8, 2020 from [https://www.un.org/preventing-sexual-exploitation-and-abuse/sites/www.un.org/preventing-sexual-exploitation-and-abuse/files/the\\_military\\_aide\\_memoire\\_united\\_nations\\_measures\\_against\\_sexual\\_exploitation\\_and\\_abuse.pdf](https://www.un.org/preventing-sexual-exploitation-and-abuse/sites/www.un.org/preventing-sexual-exploitation-and-abuse/files/the_military_aide_memoire_united_nations_measures_against_sexual_exploitation_and_abuse.pdf)

United Nations (UN) Peacekeeping. (2019a). Standards of Conduct. Retrieved on September 3, 2019 from <https://peacekeeping.un.org/en/standards-of-conduct>

United Nations (UN) Peacekeeping. (2019b). What Is Peacekeeping. Retrieved on March 17, 2020 from <https://peacekeeping.un.org/en/what-is-peacekeeping>

United Nations (UN) Peacekeeping. (2019c). What We Do. Retrieved on September 3, 2019 from <https://peacekeeping.un.org/en/what-we-do>

United Nations Missions (UNM). (2019). Trust Fund in Support of Victims of Sexual Exploitation and Abuse. Retrieved on April 16, 2020 from <https://conduct.unmissions.org/remedial-trust-fund>

United Nations Missions (UNM). (2020). Table of Allegations. Retrieved on July 16, 2020 from <https://conduct.unmissions.org/table-of-allegations>

United Nations (UN) Team of Experts on the Rule of Law / Sexual Violence in Conflict (TOE). (2013). Annual Report 2013. Retrieved February 5, 2020 from [https://www.undp.org/content/dam/undp/library/crisis%20prevention/UNDP\\_CPR\\_Gender\\_TOE%20SVC%202013%20AR.pdf](https://www.undp.org/content/dam/undp/library/crisis%20prevention/UNDP_CPR_Gender_TOE%20SVC%202013%20AR.pdf)

Viñuales, J. E. (2007). Impunity: elements for an empirical concept. *Law & Ineq.*, 25(1), 115-145.

- Ward, J., & Marsh, M. (2006, June). Sexual violence against women and girls in war and its aftermath: Realities, responses and required resources. In *Symposium on Sexual Violence in Conflict and Beyond* (Vol. 21, p. 23).
- We are not Weapons of War (WWoW). (2017). Actions, Back Up. Retrieved on January 20, 2020 from <https://www.notaweaponofwar.org/en/actions-en/back-up-en/general-presentation/>
- Westendorf, J. K., & Searle, L. (2017). Sexual exploitation and abuse in peace operations: trends, policy responses and future directions. *International Affairs*, 93(2), 365-387.
- Williams, S. (2012). Exclusions and Proposals for Future Hybrid and Internationalized Tribunals. In *Hybrid and Internationalised Criminal Tribunals: selected jurisdictional issues* (pp. 134-186). Bloomsbury Publishing.
- Wood, E. J. (2006). Variation in sexual violence during war. *Politics & Society*, 34(3), 307-342.
- Wood, E. J. (2009). Armed groups and sexual violence: When is wartime rape rare?. *Politics & Society*, 37(1), 131-161.
- Wood, E. J. (2014). Conflict-related sexual violence and the policy implications of recent research. *International Review of the Red Cross*, 96(894), 457-478.
- World Health Organization (WHO). (2002). Chapter 6 Sexual Violence. Retrieved on January 18, 2020 from [https://www.who.int/violence\\_injury\\_prevention/violence/global\\_campaign/en/chap6.pdf?ua=1](https://www.who.int/violence_injury_prevention/violence/global_campaign/en/chap6.pdf?ua=1)
- Worldwide News Canada. (2018). S. Africa investigates UN peacekeeper sexual violence. Retrieved July, 13, 2020 from <https://www.worldwideneews.ca/s-africa-investigates-un-peacekeeper-sexual-violence/>
- Yin, R.K. (1984). *Case study research*. Beverly Hills, CA: Sage.

Zainal, Z. (2007). Case study as a research method. *Jurnal Kemanusiaan*, 5(1), 1-6.

## Appendix A – Interview Guide

### Warm-up questions

What is your job / expertise?

### The problem in general

1. How do you see the problem of violence by the UN? To what extent is it a serious issue?
2. How does it manifest itself in the Democratic Republic of Congo?

### Obstacles

3. What do you think are the main obstacles that prevent the prosecution of sexual violence by UN peacekeepers in the Democratic Republic of Congo?

There are different types of obstacles, like institutional, legal, cultural, practical/violence related etc., that could be present in a country.

4. Which type of obstacles would you ascribe to the Democratic Republic of Congo?
5. Do you think it will be possible to prosecute UN peacekeepers if they enjoy certain immunities (like the exclusive jurisdiction for TCCs and immunity for civilian peacekeepers)?
  - Yes: Can you explain it shortly? In the following questions possible solutions will be outlined.
  - No: Can you explain why not?

### Experiences of the organization (a person) with the topic

6. To what extent is the topic of sexual violence by UN peacekeepers a concern to you / your organization?
7. How have you / or your organization encountered the impunity problem of sexual violence by UN peacekeepers?

8. How have you addressed this in your / your organizations interventions?

9. What challenges did you / your organization encounter in this?

### **Solutions / Proposals for change**

A few articles that I have read state that the TCC's should lose their exclusive jurisdiction in order for effective prosecution to take place. The prosecution would then take place in the host state.

10. Do you think that TCC's losing their exclusive jurisdiction over their national soldiers could ever happen, so that prosecution of UN peacekeepers would be in the host state?

- Yes: Can you explain?
- No: Can you explain why not?

Many authors / organizations have proposed ideas for the prosecution of UN peacekeepers, like a hybrid tribunal, an independent special courts mechanism, court-martialled in-situ, victim-centric approach or prosecution in the host state.

11. To what extent would these possibilities be an option with the current obstacles?

### *Non-Governmental Organizations*

The Code Blue Campaign introduced Community Consultations within Sierra Leone. These community consultations make room for the lived experiences, impressions, concerns and advice of those directly affected by UN peacekeepers and their sexual abuse. The affected communities have firsthand expertise on how this impacts their livelihoods and could help with the analysis and solutions of sexual exploitation and abuse by UN peacekeepers. In collaboration with a national NGO, Timap for Justice, they put this idea to work. This NGO provides essential justice services to indigent Sierra Leoneans through a network of community based paralegals. "With the help of Timap for Justice paralegals, Code Blue is holding structured large-group discussions in a number of diverse former peacekeeping communities. The recommendations, insights, opinions, and impressions will, for the first time, recognize the unique role of affected individuals and communities not just as victims, but as people who became involuntary experts on the experience of living among and, to an extent, dependent upon foreign peacekeeping forces".

12. Do you know if similar initiatives exist in the DRC?

- Yes:
- No: Go to the next question

13. Would NGOs in the Democratic Republic of Congo be able to facilitate these Community Consultations or other victim-centered approaches that could help with the analysis and solutions for sexual exploitation and abuse?

Within the field of sexual violence, technology can help in reaching people in certain areas that otherwise could not be reached and in recording accurate information to challenge impunity. It could help in combating conflict-related sexual violence. We are not Weapons of War created an app called Back Up that allows victims of rape to report it and access help. The app also gathers the data on rape instances for use in later prosecutions. Physicians for Human Rights developed an app called Medicapt. Using a standard medical intake form for forensic documentation, Medicapt combines this with a digital platform and a secure mobile camera. Health care providers can use the app to compile medical evidence, photograph survivor's injuries, and securely transmit the data to police, lawyers, judges involved in prosecuting sexual violence crimes. The app is already in use in a few countries.

14. Would these kind of technologies be of use for the prosecution of UN peacekeepers in the Democratic Republic of Congo?

#### *National Court – Congo's Judicial System*

A few other countries have prosecuted UN peacekeepers within their national courts. These are the troop-contributing countries (TCCs) who have prosecuted their own nationals. The act of sexual violence happened somewhere else, but the prosecution took place in the country of origin of these UN peacekeepers as is stated by the rule that UN peacekeepers can only be prosecuted by their home country.

15. Do you think this will be an option within the Democratic Republic of Congo and can you elaborate on that?

These are the top 10 contributors as of January 2020 to the MONUSCO peacekeeping mission: Pakistan, India, Bangladesh, Morocco, South Africa, United Republic of Tanzania, Uruguay, Nepal, Indonesia, Malawi.

Other countries that contributed to military personnel: Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Burkina Faso, Cameroon, Canada, China, Côte d'Ivoire, Czech Republic, Egypt, France, Ghana, Guatemala, Ireland, Jordan, Kenya, Malaysia, Mali, Mongolia, Niger, Nigeria, Paraguay, Peru, Poland, Romania, Russian Federation, Senegal, Serbia, Sri Lanka, Sweden, Switzerland, Tunisia, Ukraine, United Kingdom, United States, Yemen and Zambia.

*Optional*

16. Would you recommend one solution or would you combine different options?

17. Do you know other (judicial) mechanisms that could play a role in the prosecution of UN peacekeepers in the Democratic Republic of Congo?



## Appendix B – Interview respondents

Respondents	Occupation
<b>Respondent 1</b>	NGO employee at REDRESS
<b>Respondent 2</b>	NGO employee and former UN employee
<b>Respondent 3</b>	Researcher in and from the DRC
<b>Respondent 4</b>	Researcher in the DRC
<b>Respondent 5</b>	NGO employee at IJDH
<b>Respondent 6</b>	NGO employee focused on the DRC
<b>Respondent 7</b>	Former UN employee at MONUSCO
<b>O'Brien</b>	Academic