

The need for policy reforms to address sexual exploitation and abuse in development programs

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Abstract

The recent Oxfam scandal revealing the use of sex workers by members of the charity staff operating in Haiti prompted a new wave of debate over the circumstances in which gender-based violence (GBV) takes place. While the UN begins to demonstrate genuine efforts to increase transparency, strengthen investigations and prevent cases of sexual exploitation and abuse (SEA), data from the Organization show that the number of received allegations has remained high over the years. The majority of these violations occur during peacekeeping operations, but official numbers indicate that increased action is necessary also in the context of development projects. While direct contacts between international organizations' staff and their beneficiaries are much more frequent in conflict and post-conflict areas, the use of local contractors and national consultants outside of the agency's supervision makes it equally important for development agencies to address the issue. Taking lessons from the World Bank's Working Together to Prevent Sexual Exploitation and Abuse 2017 Report, this article aims to investigate how policy reform can strengthen international organizations' capacity to prevent and investigate cases of sexual exploitation and abuse in development programs. By encouraging international organizations' accountability for actions carried out by implementing partners, it proposes a series of recommendations on how to include SEA provisions in procurement documents, reinforce monitoring and facilitate reporting.

keywords: Sexual exploitation and abuse. Gender-based violence. Sexual harassment. United Nations. Peacekeeping operations. Development agencies.

1. Introduction

In the words of António Guterres, "unequal gender relations lie at the heart of SEA, and the potential for this behaviour poses a threat to women and the vulnerable wherever they live or work"¹. While sexual exploitation and abuse (SEA) and gender-based violence (GBV) can happen anywhere, it is in environments where power distribution is especially uneven that most of the cases take place.

¹UN. Report of the Secretary-General: Special measures for protection from sexual exploitation and abuse: a new approach (A/71/818), 28 February 2017, para. 9. Available at: <https://undocs.org/A/71/818>

There is a direct correlation between the number of cases and the situation of vulnerability of the population: where families, and especially women and children, are displaced, hungry or in danger and where legal and social systems are ineffective or not present enough, cases of abuse will be more common than in fully functioning societies². That is the situation in most peacekeeping operations and development projects contexts, and international organizations acting under such conditions have the responsibility not to worsen the situation in these communities.

Often, when violence takes place in these contexts, it is not by the direct actions of a UN staff member, but through someone less closely related to the Organization. Since contractors, consultants and other types of employees who do not receive direct instructions from the UN normally are the ones in close contact with the beneficiaries, quite frequently they are also the ones engaging in criminal practices. In this context, the question to be asked is about not only who gave the orders, but also who had the responsibility to prevent these practices and failed to do so.³

The same reasoning also applies to the use of sex workers by UN employees. Although viewed by some as a victimless crime, taking part in the sex trade goes against the main goals of the Organization's presence in the field. By engaging in such practices, "peacekeepers and humanitarian aid workers support economies that maintain instability in the region, perpetuate abuses of women's, girls' and boys' human rights, further entrench systems of inequality and exploitation and, thus, thwart a return to real peace and human security."⁴

Seizing the opportunity created after the surfacing of the recent Oxfam scandal, this article reviews some of the main steps taken by the United Nations in its effort to fight sexual exploitation and abuse in the field and presents a few recommendations for improved action.

Chapter II introduces the most important landmarks in the Organization's regulations on the topic, namely the Secretary General's Bulletin (2003), the Zeid Report (2005) and the so called "new approach" adopted by the Organization with regards to victims' rights.

Chapter III contains a summary of the World Bank's response to the violations in Uganda and presents some criticisms to the approach adopted by the Bank.

Chapter IV explains why the "Uganda case" represents a milestone, inasmuch it

²UN (2017) "Report of the Secretary-General: Special measures for protection from sexual exploitation and abuse: a new approach" (A/71/818), para. 9. Available at: <https://undocs.org/A/71/818>.

³Róisín Sarah Burke (2014) *Sexual Exploitation and Abuse by UN Military Contingents: Moving beyond the Current Status Quo and Responsibility under International Law*, Brill Nijhoff, Leiden, p. 266.

⁴Grady K (2010) "Sexual Exploitation and Abuse by UN Peacekeepers: A Threat to Impartiality", 17(2) *International Peacekeeping* 215, p 223.

employs a legal reasoning that allows for the accountability of international organizations for acts committed by external partners.

Chapter V includes some commentaries on the policies on sexual exploitation and abuse recently published by various UN agencies.

Chapter VI closes with a series of recommendations for a more prevention-focused, victim-centered response to gender-based violence in the field.

2. The evolution of the United Nations' response to cases of sexual exploitation and abuse

i. First stage: from the 2003 Secretary-General's Bulletin to the 2005 Zeid Report

In 2002, reported sexual exploitation and abuse by humanitarian workers in West Africa lead to an investigation by the UN Office of Internal Oversight Services (OIOS). The ramifications of the case reached the UN General Assembly (UNGA), that requested the Secretary General to promulgate rules prohibiting this kind of activity⁵. In 2003, the Secretary-General's Bulletin (SGB) "Special measures for protection from sexual exploitation and abuse" was issued⁶.

In 2004, when new SEA allegations surfaced, this time related to a peacekeeping operation in the Democratic Republic of Congo, the Secretary General requested Prince Zeid bin Ra'ad Zeid al-Hussein to produce a report on the topic. Prince Zeid was appointed Advisor to the Secretary-General on Sexual Exploitation and Abuse by UN Peacekeeping Personnel and his report⁷ presented several recommendations, grouped in four main areas, to improve the organization's efforts on the matter⁸:

- a) Creating a common set of rules;
- b) Increasing professional investigation capability;

⁵Anthony J. Miller, *Legal Aspects of Stopping Sexual Exploitation and Abuse in U.N. Peacekeeping Operations*, 39 *Cornell Int'l L.J.* 71 (2006).

⁶UN. Secretary-General's Bulletin: Special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13), 9 October 2003

⁷United Nations General Assembly Report A/59/710: A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations (2005).

⁸Anthony J. Miller, *Legal Aspects of Stopping Sexual Exploitation and Abuse in U.N. Peacekeeping Operations*, 39 *Cornell Int'l L.J.* 71 (2006).

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- c) Ensuring managerial and command responsibility;
- d) Guaranteeing individual disciplinary, financial and criminal accountability.

The Zeid Report inaugurated a new era in the United Nations' response to sexual exploitation and abuse and is still one of the main documents of reference in the matter. It was discussed by the General Assembly, that adopted a package of reforms, including the appointment of the Office of Internal Oversight Services as the authority responsible for conducting professional investigations into SEA allegations⁹.

ii. The 2003 Secretary General's Bulletin rules: applicable to all categories of employees?

One of the most controversial recommendations presented by Prince Zeid in his report refers to the application of the rules introduced by the SGB (2003) addressed to all categories of peacekeeping personnel. The recommendation was adopted by the General Assembly and raised legal concerns regarding its degree of applicability. While the rules contained in SGB (2003) on sexual exploitation and abuse are included in the conditions of employment for all UN staff, their application is more complicated when it comes to other categories of employees. Experts on missions¹⁰, volunteers¹¹, contractors and consultants do not enjoy the same status of staff members and are not subject to the same sets of rules.

Individual contractors and consultants are not considered staff of the organization and, in some cases, they are not employed directly by the UN but hired by local governments or their implementing partners. With regard to discipline measures, the United Nations doesn't have authority to impose any kind of sanctions to these categories of employees, with the termination of the contract being the only administrative measure available.

⁹UN. General Assembly Resolution A/RES/59/287. Report of the Office of Internal Oversight Services on strengthening the investigation functions in the United Nations, 2005.

¹⁰The Model Status of Forces Agreement (Model SOFA) is the bases for every individual agreement between the United Nations and countries hosting peacekeeping operations. It categorizes civilian police and military observers as experts on mission and therefore UN agents but not UN officials.

¹¹In 2005, the conditions of service for United Nations Volunteers (UNV) were revised and this category of UN employees is now bound by the 2003 Bulletin rules.

Coming to criminal liability, the United Nations Charter grants immunity¹² to UN staff members for acts performed in the course of their duties. However, since sexual exploitation and abuse is a serious violation of UN rules, such practices are not covered by immunity and violators are fully subject to domestic criminal law. Contractors and consultants, on the other hand, are fully subject to local laws. In cases where the local judicial system proves to be dysfunctional and there are reasons to believe that appropriate measures will not be taken to prosecute the offenders, the Zeid Report suggests that the matter be referred to a UN group of legal experts for analysis¹³.

iii. From the Zeid Report to the 2017 New Approach

After the adoption by the General Assembly of a package of reforms proposed by the Zeid Report, several UN documents addressed the matter in the following years, gradually improving the organization's response on this issue¹⁴. This section presents a selection of these measures, since they constituted the basis for the Organization's action against SEA during the past decade.

In 2007, the Organization revised its Model Memorandum of Understanding¹⁵, explicitly prohibiting practices of sexual exploitation and abuse by its military personnel. The "United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel¹⁶" was published by means of UNGA resolution A/62/595 on the same year and defines UN staff and related personnel as staff members, consultants, individual contractors, UNV, experts on mission and contingent members. It lists a series of assistance and support services to be provided to victims of SEA including, among others, medical care, legal services, support to deal with the social and psychological consequences of the events and immediate

¹²United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, articles 104 and 105.

¹³Anthony J. Miller, *Legal Aspects of Stopping Sexual Exploitation and Abuse in U.N. Peacekeeping Operations*, 39 *Cornell Int'l L.J.* 71 (2006), p.94.

¹⁴For UN Reports, Policies and other publications on the matter, visit:

<https://conduct.unmissions.org/resources>

¹⁵UNGA, 'Report of the Special Committee on Peacekeeping Operations and its Working Group' UN GAOR 26th Session Supp No 19 UN Doc A/61/19/Rev.1 (2007) Annex II ('Revised Draft Model Memorandum of Understanding between the United Nations and [Participating State] Contributing Resources to [the United Nations Peacekeeping Operation]').

¹⁶UN (2007) General Assembly Resolution A/62/595: United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel.

material support. The resolution also specifies that support should be provided in a way that does not further contribute to the trauma, causes stigmatization and or exclude or discriminate against the victim¹⁷.

The 2015 Secretary-General's report on Special Measures of Protection against Sexual Exploitation and Sexual Abuse¹⁸ represented yet another step. It presented a strengthened program of action that included more than 40 measures and initiatives to enhance the organization's response to allegations of sexual exploitation and abuse. The proposals focused on victims' assistance, prevention, monitoring and accountability.

In 2016, the United Nations launched a Trust Fund¹⁹ to support victims of sexual exploitation and abuse. It invited all Member States to make voluntary contributions that would be used for promoting activities within the victims' communities and for providing lacking services such as medical, judicial and psychological assistance to survivors and to children born as a result of the violations. As established in a General Assembly resolution²⁰ adopted later the same year "money withheld from UN employees due to substantiated allegations of SEA shall be transferred to the Victims' Trust Fund".

iv. The 2017 Report: a New Approach

The 2017 report "Special measures for protection from Sexual Exploitation and Abuse: a new approach"²¹ brings a series of new commitments made by the UN and focuses on prioritizing the rights and dignity of the victims and ending impunity.

¹⁷UN (2007) General Assembly Resolution A/62/595: United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel, para 9.

¹⁸UN (2015) Report of the Secretary-General: Special measures for protection from sexual exploitation and sexual abuse (A/69/779). Available at:

https://conduct.unmissions.org/sites/default/files/a-69-779_sg_report_on_special_measures.pdf

¹⁹For more on the UN Trust Fund for Victims of Sexual Exploitation and Abuse visit:

<https://www.un.org/preventing-sexual-exploitation-and-abuse/content/trust-fund>

²⁰UN (2016) General Assembly Resolution A/RES/70/286.

²¹UN. Report of the Secretary-General: Special measures for protection from sexual exploitation and abuse: a new approach (A/71/818), 28 February 2017. Available at: <https://undocs.org/A/71/818>

(a) Putting the victims' rights in the center

As part of an effort to put the victims' rights in the center of the UN response to SEA, the Secretary General created the figure of the Victims' Rights Advocate. The Advocate's main goal is to sustain reliable and trustworthy channels for victims to file complaints, ensuring that assistance is delivered in a rapid and sensitive way. While the Victims' Rights Advocate will be based in the headquarters, the work will be supported by several mid to senior-level officers who will be in charge of performing his or her functions on the ground. This measure is intended to ensure closeness to the victims and their communities, guaranteeing judicial compensation and facilitating communication²².

Another proposed measure relates to improving prevention and strengthening channels for redress. Risk management tools are to be further employed, as risk assessment should always be conducted and results issued before operational deployment²³.

Increasing the number of female members of uniformed contingents was also presented as an option to improve prevention, facilitate reporting and promote an environment of trust with local women. However, and as it will be further explained in the final chapter of this article, the use of women as a tool for fighting SEA, while potentially efficient if adequately employed, risks sidestepping the problem and reinforcing gender roles.

The 2017 Report also suggest amendments to the Trust Fund in Support to Victims of Sexual Exploitation and Abuse established in 2016. It proposes the inclusion of direct financial support designed to allow victims to attend trials and the withholding of payments to Troop Contributing Countries where investigations are not undertaken or timely concluded and reported.

(b) Ending impunity

As part of an institutionalized effort towards better reporting, the 2017 Report suggests the use of a standardized incident reporting form. The use of a common form has the potential of speeding up the provision of adequate assistance, regularizing the initiation of the investigative procedures and standardizing the

²²UN. Report of the Secretary-General: Special measures for protection from sexual exploitation and abuse: a new approach (A/71/818), 28 February 2017. Available at: <https://undocs.org/A/71/818>

²³UN. Report of the Secretary-General: Special measures for protection from sexual exploitation and abuse: a new approach (A/71/818), 28 February 2017. Available at: <https://undocs.org/A/71/818>

data collection for further analysis and a more efficient prevention²⁴. Other measures mentioned are a stronger outreach effort towards the local community and the enforcement of whistleblower policies.

Investigations capacities need to be strengthened and the report highlights the importance of building competencies in forensic analysis, sexual crimes and children's special needs. This could be achieved through tailored training and closer collaboration with external advocates and experts.

With regards to follow up and accountability, suggestions include unannounced visits to relevant field operations and the commitment by the UN to "neither solicit nor accept contributions to our work by any person, company or Government that does not demonstrate active commitment to the values, principles and approaches outlined in the Charter of the United Nations"²⁵.

3. The World Bank Uganda Transport Sector Development Project (TSDP)

i. The TSDP and the allegations of SEA brought by the local community

The Transport Sector Development Project (TSDP) was a US\$190 million credit approved by the International Development Association (IDA) in 2009. Its main objectives consisted in upgrading the transport sector in northern Uganda, improving connectivity in the region²⁶. Around 80% of the construction workers employed in the project came from outside the community.

In December 2014, when concerns were raised by a group of victims, they were first dismissed by the Bank's country office on the grounds that the "civil society only raised these issues to influence ongoing review of World Bank safeguards"²⁷.

²⁴UN. Report of the Secretary-General: Special measures for protection from sexual exploitation and abuse: a new approach (A/71/818), 28 February 2017. Available at: <https://undocs.org/A/71/818>

²⁵UN. Report of the Secretary-General: Special measures for protection from sexual exploitation and abuse: a new approach (A/71/818), 28 February 2017. Available at: <https://undocs.org/A/71/818>, para 52.

²⁶The World Bank Group (2016) Investigations Report: Transport Sector Development Project – Additional Financing (P121097) - 106710-UG. Available at: <http://ewebapps.worldbank.org/apps/ip/PanelCases/98-Inspection%20Panel%20Investigation%20Report.pdf>

²⁷BERGER, Elena. Breton Woods Projects. How will the WB reform after its disastrous Uganda transport project? 2017. Accessed on 24-04-2018. Available at:

When investigations started in early 2015, early meetings organized with the local community were conducted in a way that proved to be inadequate to the purpose of collecting information and disrespectful towards the victims. Reunions were organized in large community conferences where representatives of the Bank publicly asked “anyone here has been raped”?²⁸. As it should be expected, none of the attendees responded positively to the question in that occasion.

Following the referral of a formal complaint to the World Bank’s Investigation Panel in September 2015, the project was suspended in December of the same year. The cancellation of the project was met with criticism by the community: it had the potential of complicating the handling of grievances as the Ugandan government continued the implementation of the project with the use of its own funds²⁹.

ii. The World Bank’s Response: the Action Plan and the Global Gender-Based Violence Task Force

In November 2016, the World Bank published an Investigation Report³⁰ on the Uganda case, where it admitted that there had been a management’s failure in addressing issues raised by the community, in violation of the Bank’s policy.

The Report proposed an action plan that included the creation of a Gender-Based Violence Task Force³¹ and presented a document on lessons learned³² that

<http://www.brettonwoodsproject.org/2017/04/will-world-bank-reform-disastrous-uganda-transport-project/>

²⁸BERGER, Elena. Breton Woods Projects. How will the WB reform after its disastrous Uganda transport project? 2017. Accessed on 24-04-2018. Available at:

<http://www.brettonwoodsproject.org/2017/04/will-world-bank-reform-disastrous-uganda-transport-project/>

²⁹BERGER, Elena. Breton Woods Projects. How will the WB reform after its disastrous Uganda transport project? 2017. Accessed on 24-04-2018. Available at:

<http://www.brettonwoodsproject.org/2017/04/will-world-bank-reform-disastrous-uganda-transport-project/>

³⁰The World Bank Group (2016) Investigations Report: Transport Sector Development Project – Additional Financing (P121097) - 106710-UG. Available at:

<http://ewebapps.worldbank.org/apps/ip/PanelCases/98-Inspection%20Panel%20Investigation%20Report.pdf>

³¹The World Bank Group (2016) Management report and recommendation in response to the inspection panel investigation report of the Uganda transport sector development project – Additional financing (P121097). Available at: <http://ewebapps.worldbank.org/apps/ip/PanelCases/98-Management%20Report%20and%20Recommendation.pdf>

³²The World Bank Group (2016) Lessons Learned and Agenda for Action - Uganda transport sector

reinforced the need to include social safeguard specialists, anthropologists, social scientists and other experts in the project staff³³.

The Guidance Note on “Managing the Risks of Adverse Impacts on Communities from Temporary Project Induced Labour Influx”³⁴, published in December 2016, brought a series of concrete measures to be implemented by the Bank for a better management of labor influx into vulnerable communities. The guidance recognizes that because women, boys and girls living in small remote communities are exposed to higher risks of SEA, special measures to manage the temporary influx of male workers are necessary. Some of the actions proposed include giving priority to hiring locals, better assessing labour influx risks and implementing adequate mitigation plans.

The note also highlights the importance of addressing workers rights and welfare, especially in regions where local government and law enforcement institutions have limited power. Since the structure of workers camps create environments where violations are more likely to happen, one effective measure includes prioritizing accommodation of workers in urban settings. Where neither hiring locally nor housing workers in cities is possible, workers brought from other communities should be offered options for recreation, including the possibility to visit their families and friends outside the community, supported by an allowance.

In 2017 the World Bank published a report from the Global Gender-Based Violence Task Force with recommendations for future investment projects³⁵. The 80-page long report brings a very well structured and comprehensive response strategy, with recommendations divided into five fronts: Women and Children at Risk, the Community as a risk manager partner, Contractors and Consultants, the Government and the World Bank itself. Some of the recommendations concerning the Bank’s relationship with contractors and consultants will be further detailed in Chapter IV.

development project – Additional financing. Available at:

<http://documents.worldbank.org/curated/en/948341479845064519/pdf/110455-BR-PUBLIC-LESSONS-LEARNT-IDA-SecM2016-0204.pdf>

³³Berger, Elena. Breton Woods Projects. How will the WB reform after its disastrous Uganda transport project? 2017. Accessed on 24-04-2018. Available at:

<http://www.brettonwoodsproject.org/2017/04/will-world-bank-reform-disastrous-uganda-transport-project/>

³⁴WB OPCS ESSAT. Managing the risks of adverse impacts on communities from temporary project induced labor influx (2016) Available at:

<http://pubdocs.worldbank.org/en/497851495202591233/Managing-Risk-of-Adverse-impact-from-project-labor-influx.pdf>

³⁵World Bank Group. Working together to prevent sexual exploitation and abuse: recommendations for world bank investment projects. Report of the Global Gender-Based Violence Task Force (2017). Available at:

<http://documents.worldbank.org/curated/en/482251502095751999/pdf/117972-WP-PUBLIC-recommendations.pdf>

iii. Analysis of the World Bank Approach

Almost one year after the publication of the Task Force report, the main question to be asked is whether the Bank will be able to implement institutional reforms in a systemic way, not only preventing another Uganda case from happening but also targeting all sources of gender related violence in its projects³⁶. Concerns regarding the representativity of the Task Force, the extent of the responsibility taken by the Bank and the limited enforceability and scope of the recommendations proposed have been raised by different authorities in the subject and will be addressed in this section.

The 2017 report failed to recognize to which extent project-related displacement may relate to violence based on gender. It inserts the World Bank in the context of the violation as a quasi-incidental element, a mere convener of stakeholders, rather than recognizing the Bank as a central actor with legal and moral obligations towards its beneficiaries as a consequence of the harm caused by its own projects. Moreover, the Report lacks legal power: despite it brings a series of valuable recommendations, it doesn't make reference to any binding policies.

A final criticism to the Report relates to the scope of the actions proposed. In a -press release issued in August 2017, the Bank "committed to implement the Task Force recommendations as applicable within operations in countries eligible for funding from International Development Association (IDA)³⁷", but did not guarantee its implementation to non-IDA projects.

The Global Gender-based Violence Task Force, in its turn, lacked representativity. It counted with external experts but did not include any women's rights groups or civil society organizations specialized in gender-based violence in the context of development projects. Moreover, the presence of two current and one former Bank staff members in the group was regarded as a limitation to its independence and impartiality³⁸. The chosen timeframe was also questioned, as its nine-month mandate implied limited opportunities for civil society engagement and for more substantive stakeholders' consultations.

³⁶Bretton Woods Project. Will World Bank Global Gender-based Violence Task Force recommendations have a discernible impact? 2017. Visited: 24-04-2018. Available at:

<http://www.brettonwoodsproject.org/2017/09/will-world-bank-global-gender-based-violence-task-force-recommendations-discernible-impact/>

³⁷The World Bank Group (2016) Press Release: Task Force Recommends Steps to Tackle Gender-Based Violence in World Bank-Supported Projects. Available at: <http://www.worldbank.org/en/news/press-release/2017/08/08/task-force-recommends-steps-to-tackle-gender-based-violence-in-world-bank-supported-projects>

³⁸Bretton Woods Project. Will World Bank Global Gender-based Violence Task Force recommendations have a discernible impact? 2017. Visited: 24-04-2018. Available at:

<http://www.brettonwoodsproject.org/2017/09/will-world-bank-global-gender-based-violence-task-force-recommendations-discernible-impact/>

4. Taking liability one step forward: holding international organizations accountable for violations committed by implementing partners

The World Bank's Global Gender-Based Violence Task Force 2017 Report explicitly recognizes the link between a project financed by the Bank and its responsibility for violations committed by external partners in the context of that project. By doing so, it demonstrates the importance of holding international organizations accountable for these acts based on their failure to properly assess and manage risks in the field.

The World Bank failed to prevent harm to be caused to those young girls in northern Uganda because of inappropriate risk classification³⁹. Despite of the local context that clearly indicated the existence of high risks of sexual violence, the project was classified as category B instead of category A, which resulted in less rigorous risk assessment and monitoring requirements.

The fact that the Bank does not have a direct relationship with contractors and consultants, not directly selecting or monitoring them in the field, cannot be used as grounds for limited accountability. Despite it not being directly involved in project selection and implementation, the Bank plays a central role in outlining the contractual obligations that will be binding for both local governments and implementing agencies. It is therefore its responsibility "to ensure that contractors have the capacity to perform in ways that are consistent with the social and environmental safeguards that have been built into project designs and to hold contractors to account"⁴⁰.

The disastrous events of the Uganda case were a direct consequence of the World Bank's failure to properly assess and manage the right risks of SEA in that project, combined with the insufficient guarantees put in place by the framework it imposed to partners. The 2017 Task Force Report recognizes that responsibility and presents a series of recommendations regarding the Bank's responsibility towards contractors and consultants. Some of the recommendations worth mentioning include:

³⁹Berger, Elena. Bretton Woods Projects. How will the WB reform after its disastrous Uganda transport project? 2017. Accessed on 24-04-2018. Available at: <http://www.brettonwoodsproject.org/2017/04/will-world-bank-reform-disastrous-uganda-transport-project/>

⁴⁰World Bank. Working. Together to. Prevent Sexual. Exploitation and Abuse: Recommendations. For the World Bank. Investment projects. Report of the global. Gender-based violence. Task force. July 31, 2017. p. 32. Available at: <http://documents.worldbank.org/curated/en/482251502095751999/Working-together-to-prevent-sexual-exploitation-and-abuse-recommendations-for-World-Bank-investment-projects>

Implementing Partners should demonstrate SEA risk management capacities: Contractors participating in bidding process for constructions projects should demonstrate capacity to address SEA risks identified during project planning;

Policies and Codes of Conduct: Contractors should demonstrate that they have policies against sexual harassment in place and specific provisions on SEA should be included in their Codes of Conduct;

Reporting Mechanisms: Internal policies should contain specific provisions on reporting and responding to complaints; contractors should demonstrate that internal reporting mechanisms and redress protocols are in place and fully functional, and should count with sufficient whistleblower protection guarantees;

Training and Awareness-Raising: SEA and sexual harassment training should be mandatory for managers, workers and day laborers;

Reference Check and Disclosure of Previous information on Investigations: During pre- or post-qualifications, contractors should disclose information regarding previous contracts that have been suspended or cancelled due to SEA and GBV related incidents;

Special Measures for High-Risk Projects: In the context of High-Risk Projects, the use of a Third-party Monitor is recommended. The selection of the monitor should take into considerations specificities of the local context. The possibility of contracting a local organization or an international NGO with local presence should be assessed. This additional measure could contribute for the community to see the third-party monitoring process as independent and trustworthy it⁴¹.

5. A System-wide effort to fight SEA

Several UN agencies recently reformed or issued policies on sexual harassment and sexual exploitation and abuse, while other organizations plan on publishing provisions on the matter in the next few months. They have in common the fact that they react to the pressure that Member States have been imposing on the institution following the repercussions of the World Bank' s Uganda case. This section will present some of the new provisions put in place by these agencies, while next chapter will conclude with some recommendations.

⁴¹World Bank. Working. Together to. Prevent Sexual. Exploitation and Abuse: Recommendations. For the World Bank. Investment projects. Report of the global. Gender-based violence. Task force July 31, 2017. p. 36.

i. **1. IFAD's 2018 Policy on Preventing and Responding to Sexual Harassment, Sexual Exploitation and Abuse**

IFAD's new Policy on Preventing and Responding to Sexual Harassment, Sexual Exploitation and Abuse⁴² from April 2018 divides IFAD's responsibilities in combating gender-based violence on four fronts: (i) responsibility to establish and maintain an appropriate reporting mechanism, (ii) responsibility to establish and maintain an appropriate response mechanism, (iii) prevention and monitoring, and (iv) support to affected persons.

The new Policy recognizes that the gender-based violence happening in the field is intrinsically related to the unequal power dynamics that exist between genders, which are intensified by the presence of male workers coming from outside the community, and prohibits any kind of sexual relations with beneficiaries:

10. (...) IFAD staff and individuals holding a work contract with IFAD have the following responsibilities:

*iii: "Abstain from any sexual activities with beneficiaries, **as such relationships are marked by inherently unequal power dynamics**, and may undermine the credibility and integrity of the work of the Fund".*

The Policy presents the different channels that external individuals can use for reporting practices of SEA: the Ethics Office and the Office of Audit and Oversight hotlines and confidential email addresses, as well as the Social Environmental and Climate Assessment Procedure (SECAP) complaint mechanism, which can be used by beneficiaries and allow for anonymous reporting.

The Policy further recognizes that reporting cases of harassment and sexual exploitation and abuse can be particularly challenging for the victim and reinforces the Institution's commitment with a strong and reliable whistleblower protection mechanism. It also accounts for the possibility of hiring external experts to assist with investigations and liaise with local communities.

With regards to third parties and project staff, the Policy requires that recipients of IFAD funding include in all contracts signed with suppliers, project staff and third parties: (i) provisions prohibiting all acts of SEA and sexual harassment; (ii) the obligation to report allegations to IFAD or to the recipient and (iii) provisions allowing for the immediate termination of contract based on proved acts of

⁴²IFAD (2018) Policy on Preventing and Responding to Sexual Harassment, Sexual Exploitation and Abuse. Available at: <https://webapps.ifad.org/members/eb/123/docs/EB-2018-123-R-39-IFAD-Policy-on-Preventing-and-Responding-to-Sexual-Harassment-Sexual-Exploitation-and-Abuse.pdf>

sexual harassment or SEA. Additionally, background checks are to be conducted before all offers and appointments.

ii. WFP measures for strengthening its policies on harassment, sexual harassment and abuse of authority

In March 2018, the WFP's Executive Director made a statement⁴³ covering the Organization's new actions for addressing harassment, sexual harassment and abuse of authority. Although the policy does not specifically address sexual exploitation and abuse, several of its provisions include measures that promote accountability and create a safer environment for employees and beneficiaries.

The statement mentions, for instance, that WFP is putting an end to any time limit for reporting practices of sexual harassment or sexual exploitation and abuse. The Organization will also give the Office of the Inspector General the authority to investigate abusive conduct even in absence of formal report and will increase its budget in a way to strengthen its ability to investigate cases of abusive conduct, fraud and other issues.

Provisions further include measures to assist the victims in their reintegration in the workplace; it was decided to establish an inter-divisional committee responsible for monitoring the effectiveness of new policy and that employees eligible for promotion will be evaluated on the grounds of whether they contributed to promoting a safe and harmonious work environment.

iii. UNHCR's new measures for tackling sexual exploitation and abuse, and sexual harassment

In March 2018, the United Nations High Commissioner for Refugees (UNHCR) published an information note⁴⁴ on the Organization's efforts for tackling sexual exploitation and abuse, and sexual harassment. The note covers UNHCR's mechanisms in place for prevention, investigation, awareness-raising, survivor and whistleblower protection, and the disciplinary measures available.

In the note, the Organization acknowledges how extremely difficult it can be for

⁴³WFP (2018) WFP Statement on Strengthening of policies prohibiting sexual harassment. Available at: <https://www.wfp.org/news/news-release/wfp-statement-strengthening-policies-prohibiting-sexual-harassment>

⁴⁴UNHCR (2018) Tackling sexual exploitation and abuse, and sexual harassment at UNHCR - An information note. Available at: <http://www.unhcr.org/5aa29a2e7.pdf>

victims to come forward and explains how it has a system in place that attempts to facilitate reporting. UNHCR counts with a network of more than 300 staff in field offices who are tasked with the responsibility to prevent sexual exploitation and abuse: they work as a channel for reporting and follow up on allegations in an effort to inspire confidence in the system. With the same goal in mind, the organization has been training investigators in specific skills necessary for dealing with SEA cases.

UNHCR is also taking part in the UN common efforts to implement a system-wide database for sharing information on SEA cases and, in an attempt to increase transparency, the Organization discloses data on the number and nature of cases of SEA received and studied every year.

iv. UNDP's commitment to combat SEA in its operations

The United Nations Development Programme (UNDP) has likewise taken part in the recent efforts to address sexual exploitation and abuse in United Nations' operations. UNDP is engaged in the implementation of a UN-wide database on SEA and is already committed not to rehire any individuals previously found guilty of SEA allegations.

UNDP requires all individual contractors and service contract holders to confirm that they are aware and will respect the rules outlined in SG's 2013 Bulletin, whose provisions are also incorporated into the Staff Regulations and Rules⁴⁵. Additionally, the Organization periodically organizes consolidated data on SEA in a publication to the Secretary General.

6. Lessons Learned and Recommendations

A number of lessons can be drawn from the different approaches adopted by international organizations in response to the recent allegations of -sexual exploitation and abuse. Although no single organization has so far presented a

⁴⁵For more information on UNDP's measures for combating SEA, visit:
<http://www.undp.org/content/undp/en/home/accountability/combating-sexual-exploitation-and-abuse.html>

strategy that is comprehensive enough and capable of addressing the many aspects of the problem, this chapter presents a collection of best practices that could be incorporated by institutions that have a presence in the field.

Risk Assessment and Risk Management:

- All bidders should demonstrate their technical and administrative capacity to manage the SEA risks identified during project planning; for High-Risk Projects, engaging a Third Party monitor should be considered.

Reference and background checks:

- All civil works contractors should be required to declare whether they had any contract suspended or canceled due to SEA-related incidents.

In order to improve initial screening of candidates, options could be:

- to make use of reliable commercial services, capable of quickly providing accurate feedback on potential employees background and;
- to cooperate with national governments in order to assure the efficiency of the reference check they carry out internally⁴⁶.

Preventive measures for mitigating the impacts of labour influx into the community:

- Due to their structure, workers camps create environments where violations are more likely to happen; therefore, accommodation of workers in urban settings should be prioritized. Where neither hiring local nor housing workers in the city is possible, workers brought from other communities should be offered options for recreation, including the possibility to visit their families and friends outside the community supported by an allowance.

Codes of Conduct:

- All Codes of Conduct for employees working in the field should be reformed in order to include more targeted prohibitions against practices of sexual exploitation and abuse. They should explicitly prohibit sexual relations with individuals under the age of 18, regardless of what the age of consent under national law is.

⁴⁶World Bank. Task Force Recommends Steps to Tackle Gender-Based Violence in World Bank-Supported Project. Press release: August 8, 2017. Visited: 24-04-2018. Available at: <http://www.worldbank.org/en/news/press-release/2017/08/08/task-force-recommends-steps-to-tackle-gender-based-violence-in-world-bank-supported-projects>

The need for policy reforms to address sexual exploitation and abuse

Specific Policy on SEA:

- Organizations with a presence in the field should issue separate policies specifically addressing Sexual Exploitation and Abuse.
- Various UN agencies have chosen to address these practices together with other types of serious misconduct such as sexual harassment, harassment and abuse of power. Although all these practices have in common their seriousness and require immediate attention, combining them in the same policy risks disregarding important differences in their nature and context. Sexual exploitation and abuse, because of the situation of particular vulnerability of its victims, requires special measures for prevention, compensation and victims support that should not be overlooked.

Victims Support:

- Policies on Sexual Exploitation and Abuse should further detail relief measures available for victims, specifying the kind of services provided, channels for reporting, redress mechanisms, types of assistance available, etc.

Training and awareness-raising

- All managers, employees and workers should receive pre-deployment training on prevention of sexual exploitation and abuse.

Transparency and Information Sharing

- A system-wide confidential database of cases of gender-based violence and sexual exploitation and abuse should be implemented across UN agencies.

Safe Channels for Reporting

- Most cases of SEA are not reported due to reasons such as fear of retaliation, shame, fear of stigmatization or even because the victim who had chosen to engage in prostitution, or other financial exchange involving sexual favors, did not believe to have the right to complaint⁴⁷. It is important that field offices count with qualified employees capable of offering a safe channel for reporting, where victims feel that their

⁴⁷Accountability of the United Nations and Peacekeepers: A focus study on Sexual Exploitation and Abuse (2015).

complaints will be listened and treated with confidentiality. Contractors should demonstrate that internal reporting mechanisms and redress protocols are in place and fully functional and should count with sufficient whistleblower protection guarantees.

The Gender Mainstreaming Approach

- Employing more female workers has been pointed out as an alternative for reducing gender-based violence in the field. However, employing women in peacekeeping missions and development projects cannot be used as a one-size-fits-all solution for the problem of sexual violence in the field. Undeniably, hiring female workers can bring numerous benefits to a project, such as decreasing conflict and confrontation, promoting a better environment, empowering the local female community and facilitating reporting⁴⁸; however, by doing so, the organization is charging female officers with the double burden of having to protect the victims, while being put in danger of sexual exploitation and abuse themselves⁴⁹. On the top of that, women in the field risk their careers if they decide to challenge colleagues and superiors concerning SEA matters.
- The use of female workers further reinforces gender stereotypes and ignores intersectionality⁵⁰. Their involvement does not result in long-lasting changes, neither does it address the root of the problem. Instead of representing a solution for increasing accountability, it only avoids the problem by diverting responsibility to female officers⁵¹.

Other measures

- Annex II of the World Bank's Task Force 2017 Report⁵² presents a list of best practices by member states, among which certain measures are worth mentioning:

⁴⁸Accountability of the United Nations and Peacekeepers: A focus study on Sexual Exploitation and Abuse (2015).

⁴⁹Pruitt LJ, 'All-Female Police Contingents: Feminism and the Discourse of Armed Protection' (2013) 20(1) International Peacekeeping 67

⁵⁰Pruitt LJ, 'All-Female Police Contingents: Feminism and the Discourse of Armed Protection' (2013) 20(1) International Peacekeeping 69.

⁵¹Willett S, 'Introduction: Security Council Resolution 1325: Assessing the Impact on Women, Peace and Security' (2010) 17(2) International Peacekeeping 142

⁵²World Bank. Task Force Recommends Steps to Tackle Gender-Based Violence in World Bank-Supported Project. Press release: August 8, 2017, p. 67. Visited: 24-04-2018. Available at: <http://www.worldbank.org/en/news/press-release/2017/08/08/task-force-recommends-steps-to-tackle-gender-based-violence-in-world-bank-supported-projects>

The need for policy reforms to address sexual exploitation and abuse

- (i) preference to judicial processes close to the location of the victims;
- (ii) joint investigations where national authorities work together with the OIOS office;
- (iii) pre-designation of a national investigations officer at time of deployment;
- (iv) assistance in the recognition of paternity, insurance and birth certificates to children born as a consequence of abuse;
- (v) payment of financial support to these children, etc.

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