

**Sexual Exploitation and Abuse:
Lessons Learned Study**

**Addressing Sexual Exploitation and Abuse in
MONUC**

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This lessons learned study reflects the personal views of the author and does not necessarily represent the policies of the Department of Peacekeeping Operations or of the United Nations.

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Lessons Learned Study: Addressing Sexual Exploitation and Abuse in MONUC, DRC.

Purpose

This paper reviews the manner in which MONUC addressed the burgeoning scandal surrounding allegations of sexual exploitation and abuse (SEA) by UN personnel in DRC and extrapolates lessons for other peacekeeping operations.

1. This paper specifically reviews the manner in which the United Nations Peacekeeping Operation (MONUC) in the Democratic Republic of Congo (DRC) addressed the burgeoning scandal surrounding allegations of sexual exploitation and abuse by United Nations personnel. The aim is to provide a summary and analysis of the activities of the Office for Addressing Sexual Exploitation and Abuse (OASEA) of the United Nations Mission in the Democratic Republic of Congo (MONUC), covering the period from 1 March 2005 to 30 October 2005, and to extrapolate lessons for existing and future peacekeeping operations, illustrated by some concrete examples.

Executive Summary

The “sex scandal” surrounding MONUC staff occurred at a moment when the UN’s image was plummeting.

2. The eruption of the “sex scandal” surrounding MONUC staff coincided with a point in time when, on a global scale, the UN’s image, and in particular that of its peace operations was already plummeting. Press reports surrounding the Oil-for-Food scandal abounded; the film *Hotel Rwanda* had been released showing the UN’s involvement in Rwanda in a less than favourable light; a book authored by UN staff (‘Emergency Sex and Other Desperate Measures’) had been published to great publicity and some political interest, providing a lively and personal account of the failing of bureaucracy in peace operations.

This report outlines the history and rationale for establishing an office dedicated to addressing SEA in MONUC.

3. This report outlines the history and rationale for establishing an office dedicated to addressing sexual exploitation and abuse and examines some salient lessons identified based on the achievements and experiences of the office. Some lessons are illustrated by concrete examples and cases that the office had to confront, preserving however the anonymity of the names and nationality of perpetrators, witnesses or victims.

MONUC’s Office for Addressing Sexual Exploitation and Abuse (OASEA) was the first of its kind in DPKO: no templates, rules, procedures and policies existed in this regard.

4. Following a sequence of *ad hoc* responses both from within the UN mission in DRC and from the UN Department for Peacekeeping Operations (DPKO) in addressing allegations of sexual exploitation and abuse within MONUC, a dedicated Office was established, the Office for Addressing Sexual Exploitation and Abuse (OASEA). No template for the establishment of such an office or its remit existed within DPKO, nor any ascertainable rules or procedures for the conduct of investigations. There was a policy vacuum; the definition of policies on crucial aspects such as the UN’s responsibility to victims or how to address paternity claims, was embryonic. The OASEA defined its responsibilities in three key areas: (1) Conducting Investigations, (2) Policy Development and Advice, (3) Training, Awareness-raising and Advocacy.

As investigations were initially received with suspicion and defensiveness...

5. The climate in which investigations were conducted in MONUC in the first months was one of considerable suspicion and a degree of defensiveness on the part of MONUC staff, at all levels. Whilst the SRSG and DSRSG¹ welcomed and supported the initiative, rumours of witch-hunts abounded, as did assertions that the office was purely cosmetic to save the credibility and image of the mission and of the SRSG.

...great importance was placed on establishing a credible process that would focus on facts and ensure that action is taken against those making false allegations.

6. Great importance was placed therefore on establishing a credible administrative process that would establish facts, allay rumours and ensure that disciplinary action would be taken against established victimisers and importantly also against those making false allegations, and ensure the confidentiality of complainants.

111 investigations were conducted between December 2004 and October 2005, leading to dismissals, charges and repatriations.

7. In the period from 25 December 2004 to early October 2005, the office concluded a total of 111 investigations that led to one civilian being summarily dismissed and nine civilians being charged; 3 UNVs were summarily dismissed and 2 UNVs were reprimanded; 10 police were repatriated on disciplinary grounds, and 36 military were repatriated.

Allegations were substantiated against all categories and levels of personnel representing 0.2% of all military staff and 0.9% of civilian staff.

8. Overall, allegations were substantiated against all *categories* of personnel, as well as against all *levels* of personnel, from support staff to senior managers, and from the rank-and-file to commanding officers. These include personnel who were found to have directly engaged in acts of sexual exploitation and abuse, as well as managers and commanders who failed to fulfill their particular responsibility to report or maintain an environment, which prevents such acts. Contrary to general perception, fewer military than civilians were implicated in percentage terms. Of the total number of investigations, allegations against some 0.2% of military personnel were substantiated and 0.9% of civilians.

1/3 of unsubstantiated allegations against civilian personnel were false, and the OASEA was keen to show that false allegations made deliberately or with malicious intent would be addressed and subject to disciplinary measures.

9. More than one-third of the unsubstantiated allegations against civilian personnel were false allegations. These allegations were made by other MONUC personnel, persons claiming to be victims, the Congolese Police and in one case, a local NGO. The Office was intent on showing that false allegations made deliberately and with malicious intent would be properly addressed and were also subject to disciplinary measures.

Investigation guidelines and SOPs were developed in accordance with human rights and humanitarian standards...

10. In the eight months of its existence, the OASEA made some substantive inroads. Investigations and reporting procedures were harmonised and structured, investigation guidelines and Standard Operating Procedures (SOPs) were developed for this Office to ensure that the investigative process was in line with international human rights and humanitarian law standards, the Office developed SOPs with the military, the security section and the latterly also the MONUC Police. Close attention was paid to the manner in which investigations were conducted to ensure that the dignity of all interviewees, whether alleged perpetrators, victims or witnesses was respected. A clear distinction was drawn between the “Policy” and “Training” Section of the Office and the Investigations Section. Investigators conducted training only in very exceptional circumstances.

¹ Until October 2005 there was only one DSRSG in MONUC who also acted as Humanitarian and Resident Coordinator.

...and the Director conducted a number of 'townhall' meetings to raise awareness on SEA.

The OASEA handed over its responsibilities to the Office for Internal Oversight Services (OIOS) in October 2005. A number of procedural and substantive issues had yet to be addressed at the time of the hand-over.

Lessons learned are primarily related to management and checks and balances. The most effective preventive measure is training and awareness, for which a resourced, systematic approach should be developed.

Allegations are often linked to other forms of misconduct...

...and senior managers tend to downplay or even cover up incidents and rumours.

The hand-over of responsibilities to OIOS, which occurred before procedures were put in place, was ill-timed.

As part of awareness raising and advocacy on sexual exploitation and abuse, the Director conducted a number of "Town Hall" meetings in the respective sectors.

11. The Office handed over its investigative capacity to the UN Office for Internal Oversight Services (OIOS) on 4th October 2005 in accordance with General Assembly Resolution (A/RES/59/287). However a number of procedural and substantive issues were still in need of clarification at the working level between OIOS and MONUC, which at the stage of hand-over had not been addressed at the New York level. The majority of these issues referred to the manner of sharing information to allow the SRSG to perform his management and disciplinary function over the mission, as well as that of the Conduct and Discipline Team (CDT). Some of the issues are related to OIOS confidentiality requirements, disciplinary follow-up once OIOS investigations have been completed, and also the legal framework concerning jurisdiction over the military.

12. **The lessons to be learned** from addressing sexual exploitation and abuse in MONUC, are related primarily to management and highlight the need to introduce better checks and balances for managers and commanders at all levels. They also underline that regular and systematic training and awareness-raising, and the expansion of a network of trainers, is the most effective preventive measure. A more strategic approach needs to be taken to training, advocacy and awareness-raising efforts, for all categories and levels of personnel, but especially senior managers and commanders. Training units in missions need to be strengthened with the appropriate seniority and experienced staff.

13. An important conclusion that can be drawn from the OASEA's investigations is that substantiated allegations of sexual exploitation and abuse do not come alone. They are almost always linked to other forms of misconduct, either financial or staff mismanagement, or abuse of power.

14. Furthermore, senior managers, such as heads of offices or contingent commanders are still very defensive about the issue. Rather than report on incidents or rumours of SEA, there is still a tendency to attempt to down play the issue or even cover up.

15. The OASEA had to disappear too soon; the timing was unhelpful to the mission, in that the OASEA had managed to link the results of investigations to putting in place preventive measures for both military and civilian personnel and to assisting the SRSG, the Force Commander and the Police Commissioner in taking management decisions. To a certain extent, the cart was put before the horse, in that the hand-over of investigations to OIOS had to happen before proper procedures and the modus operandi between OIOS and DPKO, and in particular MONUC/CDT were in place.

Why establish an Office for Addressing Sexual Exploitation and Abuse and how effective was it?

1. The unprecedented step for a peacekeeping operation to establish an office whose sole mandate was to address allegations of sexual exploitation and abuse was prompted by a cumulative set of factors. It was particularly to counter a patchwork of *ad hoc* responses to sexual exploitation and abuse by DPKO and MONUC and ensure that all matters related to this issue were centralised within one office.

2. The OASEA in MONUC emerged out of the work of a “high level investigation mission”, led by ASG Angela Kane in January/ February 2005, and was formally established on 1 March 2005. On 8 November 2005, the Office was “dis-established” when it had to transition into a Conduct and Discipline Team for MONUC, a formula adopted for seven other peacekeeping operations.

3. The *ad hoc* responses consisted of a number of initiatives throughout 2004, prior to which there appears not to have been any discernable effort to acknowledge or systematically deal with the sporadic allegations of sexual exploitation and abuse.

i. The first institutional response was in April 2004, when a Personnel Conduct / Senior External Relations Officer was appointed in MONUC to channel allegations. This was in response to a number of complaints and press reports in early 2004 that alleged that MONUC personnel had committed acts of sexual exploitation and abuse.

ii. In June 2004, a MONUC multi-disciplinary team conducted preliminary investigations in Bunia, in the north-eastern part of the DRC.

iii. Between June and September 2004, the OIOS conducted in-depth investigations into allegations against MONUC civilian and military personnel in Bunia. In its report issued on 5 January 2005,² OIOS found seven of the 77 cases (developed from 72 allegations) to be fully substantiated. It further concluded that the problem of sexual exploitation and abuse was “serious and ongoing” and that MONUC and peacekeeping missions generally lacked protection and deterrence programmes to address sexual exploitation and abuse.

iv. In November and December 2004, a joint investigative team was established by the UN Office of Human Resources Management (OHRM) and DPKO to investigate allegations against MONUC civilian personnel. This resulted in one staff member being cleared and two summary dismissals. At the same time, another staff member was detained, pending criminal proceedings in the individual’s home country and another staff member resigned to avoid having to undergo the disciplinary process.

The establishment of the OASEA was prompted by a set of factors, in particular the need to centralize a patchwork of ad hoc responses.

In November 2005, the Office transitioned into a Conduct and Discipline Team.

Between April and September 2004, a number of actions were taken to address the issue of SEA in MONUC including...

... the appointment of a Personnel Conduct Officer,...

... investigations by a multi-disciplinary team,...

... investigations by OIOS...

... and the establishment of a joint DPKO-OHRM investigative team.

² Investigation by the Office of Internal Oversight Services into allegations of sexual exploitation and abuse in the United Nations Organization Mission in the Democratic Republic of Congo, A/59/661, 5 January 2005.

Special Investigation team led by ASG Kane

v. In a bid to end “ad-hocery”, the Under-Secretary-General of DPKO requested in December 2004 for a special investigation team to be dispatched to MONUC to systematically review allegations of sexual exploitation and abuse within MONUC, investigate a substantial number of allegations and make suitable recommendations for MONUC, as well as DPKO more broadly. (The advance team was headed by the now Director of the OASEA) and as of January 2005 until late February 2005 by Assistant Secretary-General Angela Kane.³ The first challenge presented itself at the outset when the team established that in MONUC existed effectively six separate strands of investigations that were being conducted into allegations of sexual exploitation and abuse, that were not coordinated, leading at times to duplication of effort: namely, by the Personal Conduct/Senior External Relations Officer, the MONUC Military Police, the Special Investigations Unit of the Security Section, the OIOS, the MONUC Administration, as well as individual military contingents. None of these were conducted by investigators specialised in sexual exploitation and abuse, with the exception possibly of one OIOS investigator.

A Special Investigation Team found that six separate strands of investigations existed in MONUC without coordination or specialised personnel.

Laying the groundwork for the OASEA

4. One of the achievements of the special investigation team consisted of centralising and consolidating the investigative process, which contributed to laying the groundwork for the OASEA. Specialized expertise on sexual exploitation and abuse was developed by initiating the recruitment of expert investigators. This was facilitated by a fast track process, by-passing many of the normal recruitment procedures, which allowed for expedited interviewing and recruitment by the team leader, in consultation with DPKO in New York. This proved that if there is a political and institutional will, recruitment could happen very fast, in one case within 48 hours.

One of the achievements of the Special Investigation Team was to consolidate the investigative process and recruit specialised staff.

5. The majority of the investigators had police training with a specialisation in sex crimes. Special attention was paid to creating a balance of male and female investigators of varying ethnic and national backgrounds, as well as a high proportion of francophone speakers. There were some problems with the quality of the original selection conducted by DPKO in New York in that the necessary background and skills were not all represented in the advance team. However, by the time the OASEA was being established, a balanced mix of skills, language and gender had been or was in the process of being recruited.

Most investigators had police backgrounds, and special attention was paid to the gender and ethnic balance of the team.

6. Other factors that advanced the response to sexual exploitation and abuse in MONUC and established the foundation for the OASEA were that the review process on which disciplinary recommendations are based was improved. Procedures were streamlined for Boards of Inquiry into substantiated allegations of sexual exploitation and abuse for military cases. An inter-agency focal-point network for sexual exploitation and abuse was initiated. The importance of invigorating training efforts was emphasised. Consequently all induction of new MONUC civilian personnel now contains at least one two-hour training session

Other factors which helped lay the foundation for the OASEA were the streamlining of procedures for Boards of Enquiry, the creation of an inter-agency network, the inclusion of SEA in induction training,...

³ A certain institutional continuity was provided by the fact that the Director of the OASEA had also been the co-chair of the Inter Agency Standing Committee (IASC) Working Group on Sexual Exploitation and Abuse that developed and assisted in promulgating the Secretary General’s Bulletin (Secretary-General’s Bulletin, Special measures for protection from sexual exploitation and sexual abuse, ST/SGB/2003/13, 9 October 2003) and a range of supporting tools for the implementation of its provisions.

... the revision of MONUC's Code of Conduct, the establishment of a reporting mechanism and improved access to SEA information through the intranet.

on sexual exploitation and abuse. The MONUC Code of Conduct that had existed since 2002 was revised in line with the Secretary General's Bulletin, to explicitly define and clarify conduct constituting sexual exploitation and abuse. A reporting mechanism (including complaint forms, a confidential telephone hotline and an e-mail complaint system) was set up. Also, an internal MONUC website was established on sexual exploitation and abuse to inform MONUC personnel of the relevant regulations as well as reporting mechanisms.

OASEA

Investigations were initially received with suspicion and defensiveness...

7. The general climate in which investigations were conducted in MONUC in the first months was one of considerable suspicion and a degree of defensiveness on the part of MONUC staff, at all levels. Whilst the SRSG and the DSRSG⁴ welcomed and supported the initiative, rumours of witch-hunts abounded, as did assertions that the office was purely cosmetic to save the credibility and image of the mission and of the SRSG.

...and great importance was therefore placed on establishing a credible process that would focus on facts and ensure that action is taken against those making false allegations.

8. Great importance was placed therefore on establishing a credible administrative process that would establish facts, allay rumours and ensure that disciplinary action would be taken against established victimisers and importantly also against those making false allegations, and ensure confidentiality of complainants. In this context, the prime focus of investigations was initially on alleged perpetrators, and on the development of procedures, collation of evidence and articulating preventive actions and policies. The process and the substance of investigations were used, through the OASEA to take immediate actions against individuals and alleviate certain situations.

Since no template for such an office existed and rules, procedures and policies were only partially developed...

9. However, no template for the establishment of such an office or its remit existed within DPKO, nor any ascertainable rules or procedures for the conduct of investigations. There was also a policy vacuum; the definition of policies on crucial aspects such as the UN's responsibility to victims or how to address paternity claims, was embryonic. Consequently, the OASEA defined its purpose in a mission statement "to contribute to the creation of an environment free of sexual exploitation and abuse where all MONUC personnel uphold the highest standards of professional and personal conduct and treat the local population with respect and dignity." From its inception, the SRSG delegated to the OASEA primary responsibility for addressing all matters related to sexual exploitation and abuse in MONUC. The OASEA then defined its responsibilities in three key areas: (1) Conducting Investigations, (2) Policy Development and Advice, (3) Training, Awareness-raising and Advocacy.

... the OASEA defined its responsibilities in three key areas:

- 1. Investigations*
- 2. Policy development*
- 3. Training, awareness raising and advocacy*

Applicable Standards

10. Whilst standards, rules and procedures for disciplinary measures existed both at mission and DPKO level, they were little known about, understood or in fact implemented. The MONUC Code of Conduct⁵ and the Secretary-General's Bulletin on "Special measures for protection from sexual exploitation and sexual

⁵ MONUC Code of Conduct (revised), 15 February 2005.

The MONUC Code of Conduct and the SG's Bulletin on SEA set out the standards of conduct for all MONUC staff.

abuse” (“Secretary-General’s Bulletin”)⁶ provided the backdrop as the key documents, which set out the standards of conduct applicable to MONUC military and civilian personnel with respect to sexual exploitation and abuse. These documents are binding on all MONUC civilian and military personnel including UN Volunteers (UNV) and Contractors and specify types of prohibited behaviour.

11. Other documents, such as the “Ten Rules: Code of Personal Conduct for Blue Helmets,” the Directives for Disciplinary Matters Involving Civilian Police Officers, the Directives for Disciplinary Matters Involving Military Members of National Contingents, and mission-specific guidelines also explicitly prohibit sexual exploitation and abuse.

“Dis-establishment of the OASEA”

As per GA Resolution 59/287, the OASEA handed over all investigations, outstanding allegations and un-opened cases to OIOS in October 2005.

12. All investigations into sexual exploitation and abuse, as well as outstanding allegations and un-opened cases were handed over to the Office of Internal Oversight Services (OIOS) on 4 October 2005. This was in accordance with General Assembly Resolution 59/287, which “re-emphasizes that OIOS is the internal body entrusted with investigations within the UN” into all category I offences, including sexual exploitation and abuse.⁷ In addition, Prince Zeid Raad Zeid Al-Hussein, Advisor to the Secretary-General on sexual exploitation and abuse by UN peacekeeping personnel, recommended the creation of an independent investigative capacity in his comprehensive report on sexual exploitation and abuse (“Prince Zeid’s Report”).⁸

In November 2005, the OASEA became the Conduct and Discipline Team, which covers all forms of misconduct but no longer conducts investigations.

13. On 8 November 2005, the OASEA became a MONUC Conduct and Discipline Team in accordance with DPKO’s policy to establish such teams in eight peacekeeping operations. The responsibility of this Team is not confined to sexual exploitation and abuse, but covers all forms of misconduct relating to all categories of peacekeeping personnel. The sphere of activity will involve (1) Strategic Guidance and Development, (2) Prevention and Training, and (3) Identifying and response to complaints received and developing appropriate procedures, and (4) data management and reporting. This team will no longer conduct investigations. Consequently, issues that have in the past directly emanated from investigations can no longer be directly fed into developing preventive measures for the mission, or advising the SRSG or the Force Commander or Police Commissioner on specific incidents and policy development. (see below: Implications of OIOS hand-over).

Consequently, issues emanating from investigations will no longer feed into preventive measures and policy development.

Lessons Learned

Lessons learned are primarily related to management and checks and balances.

14. The majority of the lessons identified in striving to address sexual exploitation and abuse in MONUC relate primarily to management, in particular

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

⁷ General Assembly Resolution 59/287 on the Report of the Office of Internal Oversight Services on strengthening the investigation functions in the United Nations, A/59/287, 21 April 2005.

⁸ Letter dated 24 March 2005 from the Secretary-General to the President of the General Assembly, A/59/710, 24 March 2005.

There is a need to take a more strategic approach to training, advocacy and awareness-raising efforts.

the need to introduce better checks and balances for managers and commanders at all levels. Another lesson is that training is the best preventive measure. Training must be taken more seriously and there is a need to take a more strategic approach to training, advocacy and awareness-raising efforts, for all categories and levels of personnel, but especially senior managers and commanders.

15. A number of insights can also be gleaned from the conduct of investigations. Although this may be academic with OIOS having assumed responsibility for all investigations, it is important nevertheless to underline how they informed the OASEA's policy and advocacy efforts. These should ideally inform the *modus operandi* and procedures currently being developed in the relationship between OIOS and DPKO.

Allegations of SEA are always linked to other forms of misconduct.

Critical observations

16. Some critical observations need to be noted at the outset. **Firstly**, substantiated allegations of sexual exploitation and abuse do not come alone. They are always linked to other forms of misconduct, either financial or staff mismanagement, or abuse of power.

Senior managers still tend to downplay or cover up SEA issues.

17. **Secondly**, senior managers, such as heads of offices or contingent commanders are still very defensive about the issue. Rather than report on incidents or rumours of sexual exploitation and abuse, there is still a tendency to attempt to down play the issue or even cover up.

Even though managers pay heed to the importance of combating SEA, it is still happening in the absence of preventive measures and understanding of procedures.

18. **Thirdly**, whilst by now the rhetoric is permeating the mission and most managers and section chiefs pay heed to the importance of combating sexual exploitation and abuse, the reality seems to lag behind the rhetoric. Sexual exploitation and abuse still happens, when preventive actions are not taken, and existing procedures, for example for filing or passing on complaints are not understood. There is also a tendency of "passing the buck": there appears to be a sense that now that the OASEA is established and winding down sexual exploitation and abuse in MONUC no longer exists. But it still goes on.

There are still a large number of allegations, which suggests that the complaints mechanisms are functioning.

19. **Fourthly**, there are still a large number of allegations. At the time of writing, the OASEA's / CDT's allegations log shows that we received some 50 allegations in the past three months, ranging from grave abuses of rape to sexual exploitation, prostitution with minors etc. This can be viewed partly in a positive light in that complaints mechanisms set up over the past months are functioning, as is the network of informants established largely by the investigators of this office (almost all of whom have the left the UN, and certainly DPKO by now.)

The handover of responsibilities to OIOS was ill-timed because it occurred before proper procedures were put in place.

20. **Fifthly**, the OASEA had to disappear too soon; the timing was unhelpful for the mission. The cart was put before the horse, (in fact some are wondering where the cart is,) in that the hand-over of investigations to OIOS had to happen before proper procedures and the *modus operandi* between OIOS and DPKO, and in particular MONUC/CDT were in place. The OASEA had made some progress by linking the results of investigations to advising the SRSG and the Force Commander on immediate initiatives to improve a local situation, as well as on management decisions, such as the removal of staff for example, who impede the process.

Below is a summary of lessons learned from the OASEA's experience in various areas.

21. The following aims to provide a summary of pertinent lessons learnt from the OASEA's experience, divided into ten areas (Management / Command and Control, Investigations, Identification of Perpetrators of Grave Abuses, Training and Awareness Raising, Intra-Mission relations and advocacy, Effectiveness of Preventive Measures, External Relations in DRC, Political / Global / New York level actions, Responsibility towards Victims, Implications of hand-over of investigations to OIOS). Some sections are introduced by a brief analysis based on the OASEA's achievements. The lessons identified are illustrated with examples from real cases or situations that the office was confronted with in MONUC.

I. Management / Command and Control

Lessons:

Lessons:
Managers and commanders should be adequately trained and sensitised to undertake their responsibilities in creating an environment that prevents SEA.

22. Managers and commanders must be fully involved and committed in ensuring the implementation of policies and directives relating to sexual exploitation and abuse. This requires that they be adequately trained and sensitised. The number and gravity of allegations of sexual exploitation and abuse are directly related to the failure (or leniency) on the part of managers and commanders to undertake their particular responsibilities to create an environment that prevents sexual exploitation and abuse.

23. Sexual exploitation and abuse has been committed by all levels, ranks and categories of personnel. Increased emphasis will have to be placed on transmitting the message to managers and commanding officers that they need to play a greater role in preventing and addressing sexual exploitation and abuse.

All personnel should also be sensitised since SEA occurs amongst all categories and levels of staff.

24. Sexual exploitation and abuse has been committed not only by uniformed personnel but to a greater extent by non-uniformed personnel. All personnel therefore need to be made aware that sexual exploitation and abuse is everyone's business. It is a problem amongst all categories of MONUC personnel and must be addressed by all categories of personnel.

Example: failure of a police unit's leadership to prevent SEA by unit members.

Illustration: A day after arriving in MONUC, a 120-member Formed Police Unit (FPU) was briefed by the OASEA and the SRSG on sexual exploitation and abuse. All members including senior officers attended the briefing session. That same day, and continuing for several weeks, a number of FPU members used the services of a young man to procure prostitutes. The OASEA investigation found that the Commanding Officer and his senior officers knew that members of the FPU were visiting prostitutes but had failed to implement measures that would have prevented their subordinates from engaging in such activities. The BOI concluded that nine FPU members had engaged in activities prohibited by the Code of Conduct and that the Commanding Officer had failed to exercise proper command and control. The entire FPU was withdrawn by the Police Contributing Country.

Managers still tend to downplay or cover up SEA issues...

25. Managers and commanders did not always report allegations of sexual exploitation and abuse immediately to the OASEA, in accordance with established procedures. There is still a tendency to attempt to down-play the issue

or even cover up. In some instances national pride plays a role in failure to report, especially in relation to national contingents.

26. Managers and commanders sometimes tried to interfere with investigations, jeopardizing the independence and the integrity of the process. Such interference also undermined the confidential nature of investigations, and the safety and security of alleged victims and witnesses.

Illustration: A minor complained to the Head of a MONUC Regional Office that a staff member was responsible for her pregnancy. The Head of Office discussed the matter directly with the alleged father and another colleague from the office. The Head of Office also contacted the Congolese authorities, who had already received a formal complaint and requested a MONUC Security Officer to investigate certain details of the complaint. The Head of Office then informed the OASEA by email and copied it to the alleged perpetrator. The Head of the Office not only took sides in favour of the alleged perpetrator and tried to protect him, but also gave him the opportunity to influence witnesses and convince them to make false statements. This made the task of the OASEA investigators more difficult as the alleged perpetrator refused to cooperate and witnesses were found to be lying.

... and sometimes tried to interfere with investigations.

Example: interference with an investigation by a senior manager.

II. Investigations

Analysis:

27. Investigations took centre stage in the office's work at times to the detriment of other aspects such as training or responding to victims and complainants, which time and resources simply did not allow for. Investigations informed the policy, perspective, and actions, and also established the credibility of the Office. Staff at all levels could see that as a result of our fact-finding administrative investigation, civilians were suspended, BOIs were convened for military personnel and many were subsequently repatriated. With the full complement of 11 investigators finally on board by early April 2005, the OASEA was confronted with a vast array of allegations, some dating back well over two years, throughout the DRC. (For a full analysis of the investigations, see attached ANNEX A.)

Due to limited resources, investigations at times took centre stage in the office's work to the detriment of other aspects.

28. The OASEA faced a number of obstacles in the conduct of investigations. Travel, for example, could be cumbersome with up to three days to reach some locations to track down witnesses and victims. Investigations were also hampered by the fluid and unpredictable security situation in the DRC. The frequent rotations of military personnel out of the DRC and the rotations of civilians within the DRC also posed a problem, as alleged perpetrators were no longer in the location where the alleged incident took place.

Travel-time, volatile security conditions and the frequent rotation of military personnel were some of the challenges faced by investigators.

29. A total of 111 investigations were finalized, in the period from 25 December 2004 to 30 September 2005, involving 155 MONUC personnel. The majority of investigations concerned allegations of prostitution, abusive or exploitive sexual relationships, sex for jobs and rape. Allegations were substantiated against more than 40% of the alleged perpetrators, representing 0.4% of all MONUC personnel.⁹

Out of 111 investigations, allegations were substantiated against 40% of alleged perpetrators representing 0.4% of MONUC staff.

30. Investigations also highlighted the need for both regional offices and sections to understand that preventing and combating sexual exploitation and abuse was not the responsibility and purview of one office, or even one person, but everyone had to take part in this. The tables had to be turned, and the message shifted from "you too can be investigated for SEA" to "you too have a responsibility and help prevent SEA and create an environment that is not conducive to abusive or exploitive behaviour".

Investigations highlighted the need for all staff to be involved in combating SEA.

31. OASEA investigation teams reported back that managers of offices and in some cases Military Observers, and Military Police simply did not buy into the policy or its procedures, nor was the MONUC Code of Conduct widely displayed or understood.

Investigators reported that many staff members did not buy into SEA policy and that the Code of Conduct was not well understood.

Lessons:

32. While some investigations uncovered clear cases of prostitution, they also highlighted the complex nature of prostitution in the context of the DRC, where economic, social and political imbalances coupled with extreme poverty and uneven demography exacerbate the problem. The current trend in prostitution, at

*Lessons:
Investigations highlighted the complex nature of prostitution in DRC...*

⁹ Perpetrators against whom allegations were substantiated made up 0.1% of all military contingent personnel and 0.2% of all MILOBs. In contrast, perpetrators made up 3.1% of all police personnel, 1.6% of all UNVs and 0.7% of all civilian personnel.

... and its tendency to go 'underground' as emphasis on SEA grew.

Investigations also highlighted the difficulty of determining whether relationships are exploitative in ambiguous situations where staff had 'girlfriends'.

False allegations seemed to have been motivated by desire for compensation, revenge or discredit.

Greater efforts need to be made to combat false allegations.

To minimize ill-founded allegations, the meaning of the 'non-fraternization' policy should be clarified.

Lessons:
Perpetrators were difficult to identify due to...

least as documented in Northern Ituri, Kalemie and Goma, is a symptom of fractured families and communities desperate to sell their children. With greater focus on sexual exploitation and abuse, prostitution appears also to be going "underground," as both civilians and military are increasingly using intermediaries to procure prostitutes rather than frequenting bars and nightclubs. These intermediaries are often the local police, which not only renders prostitutes even more vulnerable, but also raises the likelihood that local officials are being corrupted by MONUC personnel.

33. Investigations have highlighted the difficulty of assessing whether relationships between MONUC personnel and local Congolese are sexually exploitative in contravention of the Secretary-General's Bulletin, which "strongly discourages sexual relationships between United Nations staff and beneficiaries of assistance."¹⁰ The OASEA focused on assessing whether the relationship is *bona fide*, i.e., in good faith, and without deception or fraud. In many cases, perpetrators paid and/or provided material assistance to a "girlfriend" who "belongs" to him for the duration of their mission. In other cases, "live-in girlfriends" cook, shop, wash and clean the perpetrator's house and receive money to do so. These cases are usually reported to the OASEA when the "girlfriend" gets pregnant, is thrown out of the perpetrator's house, or is left behind together with her baby by a perpetrator who has departed the DRC.

34. A significant number of false allegations have been made against MONUC personnel by other MONUC personnel, alleged victims and the local police. The motivation for a false claim is varied but appears to fall within three main categories: compensation, revenge or to discredit. Greater efforts need to be made to stop false allegations, as they not only damage staff morale and reputations, but also undermine efforts to tackle genuine cases of sexual exploitation and abuse. Some of these measures will include, for example, emphasizing the consequences of false allegations in trainings or raising the issue with focal points and local police counterparts. Therefore establishing facts is vital, which can only be done by careful, fair investigations of all complaints.

35. A significant number of allegations have also been made regarding relationships that were found not to be sexual, exploitative or abusive. To minimize such allegations, the meaning of "non-fraternization" for civilians, Police, Military Observers and staff officers needs to be clarified. This would also help to restore staff morale and reduce misunderstandings about the intent of the MONUC Code of Conduct and the work of the OASEA/CDT.

III. Identification of Perpetrators of Grave Abuses

Lessons:

36. The perpetrators of serious abuses often cannot be identified. Whilst evidence was found to support the allegations in the six rape cases investigated by the OASEA, one of the key difficulties was the near impossibility of identifying the

¹⁰ Although MONUC military contingents and Formed Police Units are prohibited from fraternizing with the local population, the "non-fraternization policy" applicable to MONUC civilian personnel, Military Observers, Staff Officers and Police Officers require only the registration of personal staff (i.e. household staff) and "intimate relationships with local nationals" with the MONUC Security Section.

... the lack of detailed information, frequent rotation of contingents and absence of forensic capability.

alleged perpetrators. In some instances, victims were severely traumatised and therefore unable to recall details of her attackers, or whether because of the lapse of time, because the attack took place at night. In other cases, the relevant military contingent had already rotated out of the mission, ruling out the possibility of identifying the alleged perpetrators. Rape victims themselves are also difficult to locate and do not always wish to come forward with a complaint, due to fear, ignorance or cultural barriers. Often, the victim was unable to identify the perpetrators beyond being members of MONUC. In addition there was no forensic capability as this did not constitute a criminal investigation.

Example: the difficulty of identifying perpetrators.

Illustration: In February 2004, a young woman was allegedly raped by two white men wearing “Blue Helmets” and military uniforms with the emblem of their country on their sleeves. More than a year later, the alleged victim reported to the OASEA that she had been raped at nighttime amidst heavy firing and that she had been extremely afraid. Although her recollection of the alleged perpetrators was vague and unfocused, she had been examined by a medical doctor working for an international NGO several days after the alleged incident, who certified that she had been a victim of sexual violence.

IV. Training, Advocacy and Awareness-raising

Analysis

Developing an effective and systematic training strategy was difficult due to the size of the mission and resistance on the part of managers and commanders.

37. The development of an effective and systematic training strategy on sexual exploitation and abuse is fraught with challenges. MONUC is currently the largest UN peacekeeping mission, with nearly 19,000 civilian, police and military personnel, deployed throughout a country, the size of Western Europe. In addition, senior managers and commanders did not always recognize the importance of training as an effective preventative measure against sexual exploitation and abuse.

Induction training on SEA is now being provided to all staff and a training strategy was developed.

38. Since the office’s establishment, regular and extensive induction training on sexual exploitation and abuse has been provided for all new civilians, police and military personnel. The office developed a “MONUC Training Strategy on Sexual Exploitation and Abuse” (see ANNEX B: Training Strategy), which includes the following elements: it envisages that the existing training programme be expanded to also include personnel who joined the mission prior to the OASEA’s establishment; it calls for a “Training of Trainers” programme through which all MONUC personnel will receive training on sexual exploitation and abuse according to personnel category and location. Trainers will be members of established training offices within MONUC (Civilian Training Unit, Police Induction Training Unit and Military Mission Training Cell) as well as Focal Points on Sexual Exploitation and Abuse in all Regional Offices and in military and police components; the CDT needs (and is now in the process of recruiting a dedicated Training Officer for the CDT.

To ensure the widest dissemination of SEA information, contingents are receiving training through their chain of command...

39. With respect to military contingents, the OASEA held two “Train the Trainers” programmes for military contingent members in Kisangani and Kinshasa respectively in October 2005. The concept is that the essential command echelon will be briefed a

nd they will in turn be expected to diffuse information down to the level of soldiers in a graduated manner. The OASEA participate in the programme and deliver lectures on sexual exploitation and abuse. This complements in principle any pre-deployment training received by the contingents by providing “refresher” briefings while they are in theatre. Both trainings were for a full day, and were provided to senior officers to enable them to train their soldiers in a graduated manner. It is expected that this programme will help ensure that all incoming contingent members are systematically trained in the issue shortly after their arrival in the mission. The Office also conducted a one-day training for all designated civilian focal points for sexual exploitation and abuse in regional offices, and aims to develop a similar systematic dissemination for MONUC police staff. In this regard all new incoming Formed Police Units (FPUs) receive extensive briefings on the issue.

... as are civilian focal points.

40. At the global level, the OASEA worked closely with a DPKO working group on training, by providing inputs on the DPKO’s training strategy and the preparation of a comprehensive sexual exploitation and abuse training package.

Lessons:

*Lessons:
Training is the most effective
measure to prevent SEA.*

41. Training is the most effective preventative measure against sexual exploitation and abuse. However, training must be complemented by periodic and systematic follow-up and awareness-raising.

*Increasing training capacity
through the training of
trainers,...*

42. Due to the large number of personnel within MONUC, a “Train the Trainers” programme is necessary to ensure that all personnel receive training on sexual exploitation and abuse.

*... the reinforcement of the
Civilian Training Unit...*

43. The MONUC Civilian Training Unit needs to be strengthened, staff levels upgraded, and appropriate trainers need to be appointed to conduct trainings on sexual exploitation and abuse for both MONUC’s military and police components.

Illustration: MONUC’s Civilian Training Unit is made up of only one P3 Training Officer, one P2 Officer and a UNV, and the military and police training cells are similarly understaffed. At this time, none of these offices are actively involved in conducting trainings on sexual exploitation and abuse.

*... and pre-induction training
in home countries is
essential.*

44. Given the resulting logistical and practical difficulties, it is necessary that countries train their police and military personnel before they are deployed to MONUC.

*The Public Information
Division should also
contribute to developing
training and sensitization
material.*

45. More support needs to be provided by UN Headquarters and the Public Information Office in developing training materials, in particular audio-visual material. Mission-specific training videos that illustrate the impact and context of sexual exploitation and abuse should be used in addition to the global audio-visual material currently being developed by UN Headquarters.

46. The Public Information Division could play a vital role in assisting the CDT in developing community outreach and raising awareness amongst the local population.

Illustration: The OASEA developed terms of reference and a budget for the production of a training video in April 2005, and subsequently identified two filmmakers. Efforts to have the video made were stymied not by lack of funds but by protracted negotiations between the Public Information Office, the Director of Administration and the OASEA. Although sufficient funding existed, the appropriate budget line could not be found. The project has now been delayed indefinitely.

V. Intra-Mission Relations and Advocacy

Analysis:

47. MONUC staff needed unambiguous information to allay rumours. Consequently, the office began to develop various ways to introduce some transparency in publicising the results and achievements of our work, as well as applicable rules and procedures. This included the issuance of a bi-monthly OASEA Fact sheet for all MONUC staff. A generic website on sexual exploitation and abuse has also just been developed, to be posted on the MONUC website both for internal and external access. Given the transition of this office, the office decided not to focus on the functions of the office but for it to be issue specific, i.e. how MONUC has dealt and will deal with sexual exploitation and abuse. It contains updated information relating to the applicable standards of conduct; the complaints mechanism; focal points on sexual exploitation and abuse; support and assistance to victims; and training.

48. In an attempt to “responsibilize” the mission, as part of the internal advocacy strategy, at the OASEA’s instigation, the SRSG instructed all Heads of Offices in August 2005 to develop and implement regional action plans for the prevention of sexual exploitation and abuse in their respective regions, accompanied by a checklist to assist senior managers and their teams to develop these plans. Heads of Offices were required to appoint a Focal Point on sexual exploitation and abuse whose responsibilities include receiving complaints, raising awareness, facilitating training and otherwise assisting Heads of Offices in implementing action plans. Similarly, the Police Commissioner and the Force Commander were tasked to designate Focal Points and develop action plans at the sector/sub-sector levels and the division/ brigade/contingent levels respectively. These efforts are ongoing.

49. Responses to these requests from regional offices was muted, slow or non-existent. Some offices responded by saying that there was “no SEA problem” in their area of responsibility, which did not correlate to the investigations findings or allegations received. This illustrated the ongoing defensiveness and the sense permeating in some offices and sections that “this is not my problem, it is someone else’s”.

50. An initial analysis of the regional action plans and lists received to-date highlight considerable gaps and challenges for MONUC senior management, and the future Conduct and Discipline Team. Clearly regional offices require hands-on support, monitoring and advice on how to tackle sexual exploitation and abuse. Key messages have not permeated or not been properly understood. In addition, few advocacy efforts have been made with local communities and also

To introduce transparency, the OASEA launched a bi-monthly Fact Sheet and a website containing updated information on SEA issues.

To ‘responsibilize’ the mission at the regional level, Heads of Offices were asked to appoint SEA focal points and develop and implement regional action plans for the prevention of SEA...

... but this request was met with defensiveness on the part of regional managers.

Initial analyses of regional action plans suggest that regional offices continue to require hands-on support, monitoring and advice on how to tackle SEA.

with other agencies on how MONUC has attempted to tackle the issue. Finally, there is a need to ensure that people are fully aware of the missions' training strategy and the challenge exists to create a web of trainers through a targeted training of trainers workshop (see below).

Lessons:

51. Advocacy and the dissemination of information on sexual exploitation and abuse within the mission are important to promote understanding and transparency as well as to prevent misperceptions.

Illustration: The OASEA issued bi-monthly "Fact Sheets" to all MONUC personnel, including the mandate and work of the office, statistical information on investigations and frequently asked questions and answers. The existing intranet website on sexual exploitation and abuse is also in the process of being revised. The revised website will contain updated information relating to the applicable standards of conduct; the complaints mechanism; focal points on sexual exploitation and abuse; support and assistance to victims; and training.

*Lessons:
Advocacy and information dissemination are important...*

... and regional offices, military and police sectors need support to combat SEA.

52. Regional Offices as well as military and police sectors need proactive and ongoing support to ensure their understanding of issues, policies and procedures relating to sexual exploitation and abuse.

Illustration: In early August 2005, the SRSG issued instructions to all Heads of Regional Offices to designate focal points and develop action plans on sexual exploitation and abuse for their respective areas of responsibility. A similar instruction was issued to the Force Commander and the Police Commissioner for all military and police sectors and units. While focal points have now been appointed for nearly all offices, sectors and units, only a few action plans have been submitted.

VI. Effectiveness of Preventative Measures

Analysis:

53. On 28 February 2005, the SRSG issued a memorandum to all MONUC staff, Military Observers and staff officers (excluding members of national military contingents) on preventative measures on sexual exploitation and abuse. These measures were purely aimed at preventing and/or limiting incidents of sexual exploitation and abuse. They included the establishment of a curfew from 0000 to 0545 hours; passenger waivers for all non-UN personnel travelling in UN vehicles; a "non-fraternization" policy requiring the registration of all personal staff (e.g. household staff) and others living with MONUC personnel, as well as "intimate relationships with local nationals;" and the designation of off-limits areas and premises which MONUC personnel are prohibited from frequenting.

In February 2005, the SRSG issued a memo on preventive measures. These included a curfew, required waivers for non-UN personnel travelling in UN vehicles, a non-fraternization policy and the designation of off-limits premises.

The Military and Police leadership made these measures, along with others, applicable to their staff several months later.

54. Directives making these measures applicable to Police and Military Contingents were issued several months after the publication of this policy. The Force Commander issued a Directive on 22 July 2005 and the Police Commissioner issued a Directive on 3 August 2005. With respect to military contingents and Formed Police Units, the following preventive measures apply in

accordance with directives issued by the Force Commander and the Police Commissioner on 22 July 2005 and 3 August 2005 respectively:

- a. a curfew from 1800 to 0600 hours;
- b. a strict prohibition against fraternizing with members of the local population other than for official purposes;
- c. a requirement that uniforms be worn at all times when outside military compounds, even when off-duty; and
- d. off-limits areas and premises to which MONUC personnel are prohibited from frequenting.

55. A number of military contingents have taken the initiative of introducing even more restrictive preventive measures, for example, by prohibiting their personnel from carrying food items or money during patrols. In order to limit environments that might be conducive to sexual exploitation and abuse, efforts are also being made to reinforce perimeter fencing and improve lighting around military compounds, as well as to strengthen access control to military compounds.

Some contingents also introduced further restrictive measures to prevent SEA.

Lessons:

SEA has become less visible with the preventive measures, but it is difficult to assess whether this is due to decreased incidents or increased secrecy.

Lessons:

56. In terms of impact, the policy on preventive measures has had a considerable effect in terms of perception, in that, for example, fewer cars are visible outside bars. Blatant cases of prostitution in off-limits areas and premises have also decreased notably. However, it is difficult to assess whether this is due to a decrease in acts of sexual exploitation and abuse, as it is more difficult to detect incidents, which do not occur in public places.

Monitoring and enforcing preventive measures require considerable resources.

57. Monitoring and enforcing preventive measures such as the curfew and off-limits places requires significant resources. Neither MONUC's Security Section, nor Military Police have sufficient personnel to monitor all off-limit places and conduct patrols during curfew hours.

The OASEA was not consulted on the preventive measures, which have had a considerable impact on staff morale.

58. The SRSR did not consult with the OASEA or other offices before imposing the curfew, off-limits places and the "non-fraternization" policy for civilian personnel. They have had a negative impact on staff morale, and serious concerns have also been raised as to their legality, necessity and effectiveness. The Congolese media and Congolese businesses have also made complaints.

Illustration: staff perceptions of preventive measures.

Illustration: Many MONUC personnel believe that the curfew and the designation of off-limits places are an unnecessary and unhelpful restriction of their movement and a reflection of the lack of faith that senior management have in them. There are also concerns that the registration of domestic staff and "intimate relationships" are discriminatory against Congolese citizens and an invasion of their privacy. Further, because the preventative measures were imposed on the same day that the establishment of the OASEA and the arrival of the new director were announced, there was considerable prejudice within the mission against the office. With respect to off-limits places, the criteria for designating an establishment as such were unclear. The Congolese press ran articles complaining that only Congolese places had been targeted whereas well known "places of disrepute" owned by members of the Lebanese or Greek community had been left off the list. MONUC has also received claims for compensation from Congolese businesses that had reportedly suffered losses.

'Positive' preventive measures offering alternatives to forbidden activities are as important as 'negative' preventive measures.

Illustration: the importance of staff welfare and recreation facilities.

It is essential to coordinate with other UN components...

... such as through an inter-agency focal points network.

Although contacts with HQ were frequent in the early stages, these diminished over time.

The hand-over to OIOS, with related challenges, was imposed by HQ without consultations with field.

59. "Positive" preventive measures are as important as "negative" preventive measures. Staff are entitled to the provision of alternatives if their movements are restricted. More pro-active measures need to be taken to improve welfare and recreational staff facilities and activities to benefit both civilian and military personnel. However, these initiatives need clear support from senior management and energetic support by senior management in the Administration.

Illustration: The improvement of welfare and recreational facilities and activities is intended to tackle the sense of isolation and loneliness common in a mission environment, and thereby discourage any inclination to commit sexual exploitation and abuse. Some military contingents have recently re-allocated resources to set up recreational and sporting facilities. Resources (including the recruitment of a Staff Welfare Officer) should also be allocated for civilian personnel, for example, to build gyms, hold movie screenings and arrange welfare trips. The mission should also support visits by family members and friends, for example, by granting greater flexibility of movements.

VII. External Relations in DRC

Lessons:

60. It is vital to coordinate and share information with other UN agencies to ensure uniformity and efficiency of policies and practices relating to sexual exploitation and abuse. However it is also time consuming and demands a full time secretariat function.

Illustration: In March 2005, an Inter-Agency Sexual Exploitation and Abuse Focal Points Network chaired by the Director of the OASEA was established in Kinshasa. The Network is working to combat sexual exploitation and abuse by developing common standards and procedures in six key areas: 1) code of conduct; 2) training materials and strategies; 3) complaints referral procedures; 4) community outreach; 5) implementation of the Secretary-General's Bulletin on Special measures for protection from sexual exploitation and abuse; and 6) transmission of complaints involving personnel of another UN agency.

VIII. Political / Global / New York-level Actions

Analysis:

61. In the early stages of the establishment of this office, communication with New York head quarters was frequent. A Task Force on Sexual Exploitation and Abuse was established by ASG Jane Holl Lute and MONUC took part by Video conference. Gradually these encounters diminished. From MONUC's perspective this happened at time when considerable advances were made in formulating mission wide policy, especially with regard to prevention, training and advocacy efforts. Furthermore, the problems inherent in the hand-over of investigations from a dedicated office to OIOS were in part a result of a dictated imposition on the mission and OASEA by DPKO, and not as a result of consultation or discussion.

Of particular concern was the lack of feedback on completed cases from the Military Advisor.

62. Of particular concern to the OASEA was the lack of systematic feed-back from the military advisors office on progress of completed cases by OASEA and transmitted to New York. This raised questions in the minds of complainants, as well as for respective contingents and the credibility of this office.

Lesson:

Communication must be improved between HQ, TCCs and the Mission on the follow up to SEA cases.

Lessons:

63. Communications must be improved between UN Headquarters and Troop Contributing Countries regarding actions taken with respect to sexual exploitation and abuse cases involving their nationals. The mission needs to be informed of those actions, so that it can in turn inform the victims.

Illustration: In July 2005, the OASEA was informed by DPKO that it had been advised by a Permanent Mission of a Troop Contributing Country regarding action taken against six of its contingent members involved in sexual exploitation and abuse while serving in MONUC. All six members had been sentenced to two and a half months' imprisonment, and five of these members had also been demoted to the next lower rank. No further information was provided regarding the specific acts of misconduct reportedly committed by the contingent members. Whilst this was viewed as an important step by the OASEA and MONUC, on closer examination, it transpired that none of the six members who were convicted were the subject of OASEA investigations.

IX. Responsibility towards Victims

Analysis

Initially, MONUC's response focussed on protecting alleged perpetrators through due process.

64. Initially MONUC's responses to sexual exploitation and abuse were focused on locating and / or protecting the rights of perpetrators through due process. There was no emphasis on developing responses to victims of sexual exploitation and abuse, perpetrated by UN staff. (See ANNEX B- MONUC's Draft Strategy on Responsibility to Victims).

The OASEA advocated for increased responsibility towards victims...

65. The OASEA's advocated for the stance that MONUC / the United Nations has a responsibility towards victims of sexual exploitation and abuse perpetrated by UN staff, and that our responsibility is part of the broader mandate for the protection of civilians. We are here to protect, not abuse civilians and have to honour our special responsibility towards vulnerable populations.

... by framing the SEA issue in the wider context of sexual exploitation and abuse in DRC.

66. In our training sessions, in particular, an effort was made to place MONUC's response to sexual exploitation and abuse and in particular its obligation to victims in the broader DRC context, in particular the exponentially high levels of incidents of sexual violence. Well over a decade of war and extreme poverty led *inter alia* to fractured families and communities. Wide-spread prostitution, especially child prostitution represents in large part DRC's shadow economy, with women and increasingly children being sold by families into prostitution, as this forms the only accessible income for marginalised, displaced or poverty-stricken families.

67. Another aspect is that a presumption against prostitution prevails. The office tried to counter this, by underlining to senior management and the military in particular during training and advocacy sessions the complexity of the causes of

The OASEA also tried to counter the presumption that prostitution (by adults) did not constitute abuse based on the inherently unequal socio-economic dynamics between peacekeepers and the local population.

prostitution in DRC. For example, one assumption prevailing is that a sexual encounter with an (over age) prostitute does not constitute sexual exploitation, as it is based on a contractual relationship between two consenting adults. Two essential factors were often ignored; firstly, an acknowledgement of the inherently unequal economic and social power dynamics – one of the elements clearly spelt out in the SGB as contributing toward sexual exploitation; secondly, the economic impact of peace-keeping in that every peace keeping operation inevitably operates as a magnet for prostitution.

HIV/AIDS is also a concern given that most cases involved unprotected sex.

68. Another aspect of the DRC concerns HIV/AIDS. The high incidents are complicated by the fact that some UN troop-contributing countries allow HIV/AIDS positive peacekeepers to be sent on mission to DRC. This is exacerbated by the disturbing finding that the majority of cases investigated by the OASEA involve unprotected sex. The impact of this is potentially profound, both on a regional and global scale, in that both HIV AIDS positive and negative peace keepers are able to spread the disease both within DRC, as well as when they return to their respective home countries.

Of particular concern is the lack of justice and health infrastructure available to victims.

69. A further element is that Congolese citizens have very limited access to justice or health services, infrastructure and institutions do not function properly. Women and children who have been sexually abused or exploited have no, or little official support structure unless externally provided for. In addition, often women and girls are ostracised if they have been abused or exploited, especially if pregnant or with child.

The OASEA's database of victims revealed that...

70. OASEA established a database of victims of SEA to allow us to develop a better idea of what any programmatic intervention would need to focus on. An analysis of the data highlighted some of the following:

... 40% of alleged victims had indeed been victimized,...

- Almost 40% of all alleged victims were found to have been victims of sexual exploitation and abuse. Of the total of 152 individuals alleged to have been victims of sexual exploitation and abuse, 60 were found to have been victimized.

...25% were minors,...

- Disturbingly, 25% of those found to be victims were minors under the age of 18 years.

- Of the individuals found to be victims of sexual exploitation and abuse, the majority were involved in prostitution.

- Minors who were found to be victims of sexual exploitation and abuse were involved in prostitution or sexual relationships. Ten minors were victims of prostitution (including 1 resulting in paternity) and 4 minors were victims of sexual relationships (including 3 resulting in paternity).

... and most victims were involved in prostitution.

- The majority of substantiated allegations involve prostitution. Therefore, the particular needs of victims of prostitution need to be considered, as they are likely to differ from the needs of victims of other types of sexual exploitation and abuse. However, allegations involving victims who may require the most assistance (such as victims of rape and children fathered by MONUC personnel) are rarely substantiated.

- Three initial areas have been identified where the level of abuse has been high, over a period of time and attention to victims has been lacking: Bunia, Goma and Kalemie.

The CDT is in the process of identifying partners to address victims' needs.

71. In developing a response to victims of sexual exploitation and abuse, the OASEA / CDT is in the process of *identifying suitable international NGO or national NGO partners in the sectors*. The aim is to discreetly refer victims of sexual exploitation and abuse by UN staff. The aim is, however, both in referral and treatment, not to distinguish between victims of UN staff and other victims of sexual violence so as not to create a separate class of MONUC victims. This could have prejudicial consequences for the victims and can lead to ostracising and difficulties in reintegrating into communities and families. In identifying a suitable partner and developing appropriate responses, experience of working with victims of sexual violence has shown that it is essential for individual victims to address their medical and psycho-social needs prior to considering or providing assistance with any legal redress.

QUIPs funding has been earmarked for sexual violence projects.

72. In this regard the OASEA has secured \$100,000 of the MONUC QUIPS fund for sexual violence projects, with one of the eligibility criteria being the willingness to accept victims of sexual exploitation and abuse by UN staff.

Lessons:
Assisting victims of SEA requires sustained interventions for which peacekeeping missions are not ideally suited.

Lessons:

73. It is important to note that assisting victims cannot be done over night. Victims of sexual exploitation and abuse, and victims of sexual violence more generally, need sustained and carefully planned psychosocial, medical, reintegration and possibly legal assistance. Peacekeeping operations by their very nature are finite, whereas agencies are usually present before, during and after a peacekeeping operation has run its course. Victim's assistance has to be detailed and gradual work and is labour and "human-resource" intensive. QUIPs are not the ideal option, but a good start. Their follow-up needs to be carefully managed, as QUIPs by their very nature are time-bound, and a victim's needs are not. It is important for MONUC / the UN to ensure that this type of assistance is not merely a cosmetic, face-saving effort but one that genuinely improves the life of a victim of sexual exploitation and abuse by UN staff.

Dedicated programme officers are needed to liaise with UN agencies for victim support.

74. A dedicated programme officer is needed to establish a referral system for victim support. Peacekeeping missions do not have any programmatic responsibility *per se*. DPKO needs to recognise that there are established UN agencies that can assist in this matter.

Feedback on investigations should also be provided to victims.

75. Feed-back needs to be provided to victims/complainants on the outcome of investigations. The lack of feed-back has an adverse effect on conduct of investigations.

Pending the finalization of a UN policy on assistance and support to victims, urgent attention should be paid to the issues of paternity and financial compensation to victims.

76. UN Headquarters must finalize its draft policy on assistance and support to victims as soon as possible, and in the meantime, provide guidance on assistance to be given pending a final policy. Two key areas that require urgent attention are the difficulties of establishing paternity, and the need for guidelines on financial compensation to victims.

a. difficulties of establishing paternity and paternity claims

77. After prostitution, the highest number of allegations concerned paternity. Yet, most paternity claims could not be substantiated. This highlights the urgent need for a global organizational policy on paternity claims (with respect to establishing paternity and support for mothers and children when paternity is established).

DNA testing for paternity claims remains an unresolved issue in DPKO policy.

78. Within the framework of current UN policy, circumstantial evidence is the only available means of establishing paternity. Doubtless the use of DNA test would greatly facilitate this process. However, DNA testing for paternity claims is an unresolved issue in terms of DPKO global policy. The UN does not perform DNA tests. MONUC, or any other PKO, does not have the facility or the mandate at this stage. A policy on the use of DNA testing is still being developed for the mission and within DPKO. Therefore the responsibility for arranging the test rests at present with respective agencies, individuals or troop contributing countries (TCC).

A DNA testing policy would need to take into account certain principles.

79. Should an individual, agency or TCC wish to avail itself of applying DNA tests, certain basic principles need to be adhered to:

- The costs and arrangements are purely the individual's, agency's and/or TCC's responsibility.
- DNA tests can only be taken with the victims/witnesses full consent
- The victim / witness needs to be made fully aware of all the consequences and implications.
- It should be made clear who would perform the test, i.e. will there be a medical officer present.
- It should be made clear what happens with the result and where the records be kept.
- Related to this is the need to clarify what will happen once paternity is proven.
- An examination of DRC national legislation is important in what it contains in relation to authorizing DNA testing.

Example of a young woman who's child's paternity could not be established.

Illustration: A young woman alleged that she had been in a relationship with a staff member, who had fathered her child. The OASEA investigation found that the staff member had a relationship with a prostitute, but could not establish paternity. When the victim became pregnant, her family expelled her from home and she had to stop her studies. Since she had no means of support, she initially stayed with an aunt who took care of her. In the meantime, the staff member has been summarily dismissed, the victim can no longer live with her aunt, she and the baby are often sick, the baby is malnourished, and she has no job nor any means of support. The OASEA is in the process of identifying a suitable NGO or religious organization to which she could be referred for long-term psycho-social support and vocational training.

Financial compensation is done on an ad hoc basis. OASEA recommends that financial assistance be directed through an agency.

b. Guidelines needed for financial compensation to victims

80. Some perpetrators whose case has been substantiated decide of their own accord to provide compensation to women when they have fathered a child. The OASEA has advocated for this to be taken in mitigation in favour of the perpetrator. However, this is done ad hoc and with no real control. Our recommendation is that victims and families should not receive financial compensation directly, but it should be channelled through an agency ideally with whom a referral arrangement has already been established. This group would then assess the medical, psychosocial educational needs and provide the funds allocated accordingly.

Illustration: In a case involving a UNV who was found to have fathered a child as a result of an exploitive relationship, UNV Bonn agreed to withhold the entire repatriation allowance of the perpetrator. However, UNV Bonn is now seeking guidance as to how much money should be paid to the victim and through whom. In the absence of any guidance from UN Headquarters, the OASEA believes that victims and families should not receive financial compensation directly, but that it should be channelled through an agency with whom a referral arrangement has already been established. This agency would then be responsible for assessing the particular needs of the victim and her child, and allocate the funds appropriately.

X. Implications of hand-over of investigations to OIOS

OASEA and MONUC feel that the handover of responsibilities to OIOS was untimely given that a number of procedural and substantive issues still needed to be clarified, especially with regards to the sharing of information with the SRSG and the role of the CDT.

81. On 4 October 2005, the OASEA formally transmitted 64 outstanding allegations and case files to OIOS for further action. The perception of the OASEA and of MONUC is that this happened too soon for the benefit of the mission. A number of procedural and substantive issues still need to be clarified at the field level pending formal guidance and guidelines from OIOS and DPKO headquarters. The majority of these issues refer to the manner of sharing information to allow the SRSG to perform his management and disciplinary function over the mission, as well as the role of the Conduct and Discipline Team. The following is a brief sample of issues that require resolution to ensure that some of the achievements of the OASEA can be built upon.

Other issues include...

- *Receipt of complaints and allegations:* the CDT will have an obligation to log all cases related to misconduct, including sexual exploitation and abuse. It shall therefore continue to receive allegations on sexual exploitation and abuse, which it will transmit to OIOS in Kinshasa. The OASEA developed a complaints procedure (hot line, email address etc) that has been disseminated to all MONUC personnel as well as through the inter-agency focal point network on sexual exploitation and abuse. There is now a need to decide and agree on the most useful format for OIOS to receive complaints and allegations.

... the most useful format for receiving complaints and allegations,...

- *Allegations and complaints received directly by OIOS:* in turn and to enable the CDT to keep track of all allegations within the mission, there is a need for OIOS to share this information with the CDT and/or the SRSG in a systematic and practical manner.

... the sharing of information between OIOS, DCT and OSRSG,...

- *Disciplinary follow up once OIOS investigations are completed:* it is unclear how OIOS intends to keep MONUC's senior management and the CDT informed of completion and the outcome of their investigations.

...the follow up to investigations,...

- *Confidentiality requirements:* The OIOS mandate prohibits the identity of complainants, witnesses and victims to be disclosed unless such disclosure is necessary for the conduct of administrative, disciplinary or judicial proceedings, and only with their consent. Interim measures that have recently been produced provide that a copy of the investigations report will be provided to the SRSG and/or the Force Commander on completion of the investigation. However, the confidentiality requirement will make it difficult, if not impossible, to provide assistance and support to victims, as such support is not strictly speaking

... the tension between confidentiality requirements and assistance and support to victim,...

administrative, disciplinary or judicial in nature. In addition, support needs to be provided as soon as possible and is independent of the investigative process.

• *It is unclear what the ultimate objective of an OIOS investigation is.* With regard to the military, TCCs will be expected to take action, yet OIOS procedures dictate that their investigation reports do not include signed witness statements, other physical evidence, nor names of complaints or victims. This will mean inevitably that a TCC will have to conduct its own investigation in order to prosecute the matter in a military court, which will mean that witnesses and victims will have to be re-interviewed. In addition, this conflicts with existing OHRM rules and Administrative Tribunal decisions on determining the required level of due process for staff members accused of misconduct. OHRM and the Office for Legal Affairs (OLA) require that OIOS reports be substantiated and include signed witness statements and other relevant evidence.

• *Legal Framework concerning jurisdiction over the Military.* Military members of national contingents are under the exclusive national jurisdiction in respect of discipline. This includes the right of investigation of misconduct. The language of the OIOS Manual of Investigation Practices and Policies (“OIOS Investigation Manual”) clearly does not contemplate OIOS investigative jurisdiction over the military and police components. In addition, the DPKO Disciplinary Directives for Disciplinary Matters applicable to Civilian Police Officers, Military Observers and Military Members of National Contingents (“Disciplinary Directives”) have not been repealed or formally amended. These two documents are therefore both still applicable but are inconsistent with each other. As there has been no clear statement (legal opinion with cited authority) justifying the limitation of national jurisdiction, coupled with the fact that the Disciplinary Directives appear to be still in force, investigative jurisdiction and applicable procedures are unclear.¹¹

• *Political/Media Issues.* The perceived “secretive” nature of OIOS investigations may undermine their credibility. In addition, the SRSG and other senior managers, especially at mission level, will have difficulties responding to queries from the media, NGOs and other interested parties. As part of the overall preventative strategy, mission personnel also need to be informed of actions taken in an open and candid manner, and feedback needs to be given to victims and the local community. A further consequence is that the impression might be created that misconduct such as sexual exploitation and abuse no longer exists and/or that the UN/Mission is “covering-up”. A lack of transparency will undermine all efforts.

CONCLUSION

80. The establishment of an office dedicated to sexual exploitation and abuse has had a considerable impact on the mission’s image. It also allowed for in-roads in

... the link between OIOS investigations and TCC, OHRM and OLA follow up actions which will require stronger evidence than what is provided by OIOS’ procedures,...

... the resolving of inconsistencies between UN documents on the legal framework for investigations of misconduct by the military, ...

... and the tension between the perceived ‘secretive’ nature of OIOS investigations and the need for transparency with regards to SEA.

The OASEA has had an impact on the mission’s image...

¹¹ It should be noted though that this is partly addressed in the latest interim procedures on cooperation between OIOS and DPKO of November 2005.

... and helped develop more effective preventive measures.

developing more effective preventive measures, proving that investigations do yield consequences, that certain types of behaviour are unacceptable for all categories of UN staff and that training is vital preventive measure.

Yet, SEA continues as shown by the ongoing number of allegations being submitted.

81. However, sexual exploitation and abuse still continues as illustrated by the ongoing number of allegations received. Also, more work needs to be done in terms of advocacy, awareness raising and sensitisation on expected conduct and the need for senior managers and commanders to take responsibility in creating an environment that is not conducive to sexual exploitation and abuse.

More needs to be done to raise awareness among senior managers and commanders.

82. The move of the office's investigative capacity to OIOS and subsequent transitioning of the OASEA to a Conduct and Discipline Team occurred too soon prior to clear modalities being developed at New York level. The OASEA had made considerable advances in MONUC that had not been made in other peacekeeping operations, which should have been taken into account in the development of the modalities between OIOS and DPKO. There are still a number of dilemmas and policy gaps that need to be solved, such as a detailed policy on the organisations' responsibility towards victims.

The handover of responsibilities to OIOS happened too soon, and a number of policy gaps need to be addressed, especially with regards to the organisation's responsibility towards victims.

*Nicola Dahrendorf
Kinshasa, 22 March 2006*

Acronyms

DPKO	-	Department of Peacekeeping Operations
MONUC	-	United Nations Peacekeeping Operations in the Democratic Republic of Congo
OASEA	-	Office for Addressing Sexual Exploitation and Abuse
OIOS	-	Office for Internal Oversight Services
FPU	-	Formed Police Unit
CDT	-	Conduct & Discipline Team
SRSG	-	Special Representative of the Secretary-General
DSRSG	-	Deputy Special Representative of the Secretary-General
QUIPS	-	Quick Impact Projects
TCC	-	Troop Contributing Country