



**The Protection
of
Child Sex Offenders
by the
United Nations**

www.heartheircries.org

17 April 2018

Introduction

The United Nations 'Conduct & Discipline Unit' website¹ lists some of the 'sexual exploitation and abuse' cases reported to the UN, at least in peacekeeping operations.

Whenever challenged on this issue, the UN insists they have a 'zero tolerance' policy. The reality, however, is that the UN's own internal policies and procedures knowingly protect the sexual predators in the Organization, particularly those exploiting children.

The UN also proceeds on the presumption that any UN staff member is protected by immunity, regardless of the offence they are accused of.

The Convention which established this "immunity" made it clear that it was never intended to be absolute and never intended to protect staff members from prosecution for such criminal offences as rapes or sexual assaults.

When something of this nature is reported, however, the UN will conduct their own internal, administrative investigation carried out to determine whether or not the staff member should be dismissed for that act.

In other legal systems, where a civil claim and a criminal charge arise out of the same act, it is the criminal action that takes priority. The UN does the very opposite. The UN gives priority to that *administrative* investigation, and will complete it before considering whether the matter should be referred to the Member State for criminal investigation.

Even when a child sex abuse complaint is substantiated, the UN deliberately wastes so much time before referring it to the Member State for them to initiate a criminal investigation that the chances of the subject ever being held accountable in any criminal court are reduced to almost nil.

How does the UN protect child sex offenders?

In 2015, the UN Office of Legal Affairs claimed that a UN staff member (who would *at best* only be a witness) could not even speak to French investigators in a child sex abuse investigation in which no UN personnel were even implicated. The UN's justification for this strange decision was because UN staff members have "immunity."²

This immunity is derived from the 1946 Convention on Privileges and Immunities of the United Nations,³ which states in Article 18:

"Officials of the United Nations shall:

*(a) be immune from legal process in respect of words spoken or written and all acts performed by them **in their official capacity.**"* [emphasis added]

'Hear their Cries' does not accept that any kind of sexual offence (especially an offence involving children) can possibly be considered an activity that any UN staff member can engage in when "*in*

1 <https://conduct.unmissions.org/table-of-allegations>

2 CodeBlueCampaign. 'The UN's Dirty Secret.' Online at: <http://www.codebluecampaign.com/carstatement/>

3 Online at: <http://www.un.org/en/ethics/pdf/convention.pdf>

their official capacity" and as such, it is an abuse of the legal process for the UN to assume that immunity should ever apply in these cases.

In February 2018, in response to a challenge from Andrew MacLeod of 'Hear their Cries' on CNN television⁴ the UN Spokesman claimed that the UN "*does not and will not claim immunity in such cases.*"

The UN's statement in 2018 does not appear to be compatible with their actions in 2015.

The UN claims to have a 'zero tolerance' policy and to be committed to eliminating sexual exploitation and abuse by UN personnel. The reality, however, is different and demonstrates the Organization's duplicity.

South Sudan Example

In early March 2018, the UN announced that a complaint had been received on 8 February alleging that the UN police officers in South Sudan had committed sexual offences against women and girls in the 'United Nations Protection of Civilians' site in the town of Wau, and as a result, an entire 46-man UN police unit had been withdrawn from that location.⁵

'Hear their Cries' believes:

- (1) that if there was enough evidence to withdraw an entire unit because of the misconduct of a minority, the UN must have had "*probable cause to believe*" that sexual offences had been committed;
- (2) that the UN cannot claim that it was "*in their official capacity*" for a UN police officer to be having a sexual relationship with any girl or woman dependent on the UN for their safety and protection; and therefore;
- (3) that the 1946 Convention on Privileges and Immunities cannot apply.

Nevertheless, the UN refused to allow the South Sudanese authorities to investigate these offences.⁶

Manipulation of legal standards of proof

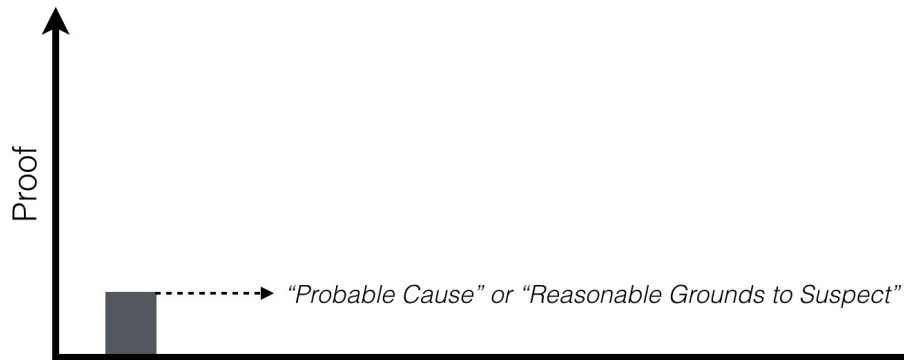
Not all allegations reported to law enforcement agencies will be investigated. In general, the police will only investigate a crime report if they consider there is "probable cause" or "reasonable grounds to suspect" that a criminal offence may have been committed.

In terms of "proof" of the offence, this standard is very low. It is essentially just enough to justify carrying out an investigation to determine whether or not the necessary evidence can be collected.

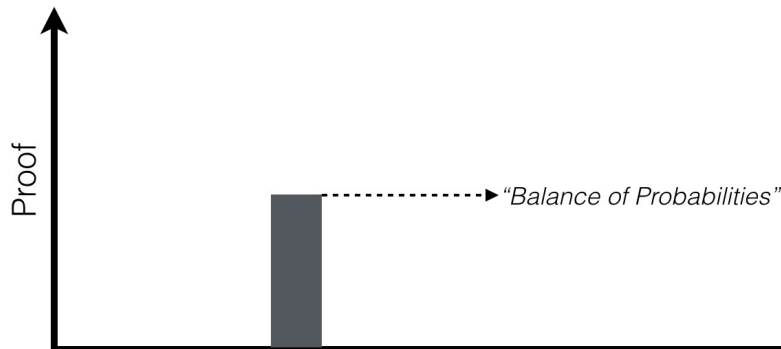
4 Hala Gorani, CNN. Online at: <https://www.youtube.com/watch?v=ZwQ7RM66F0g>

5 <http://www.theeastafrikan.co.ke/news/2558-4327934-4d9crf/index.html>

6 <https://www.devex.com/news/despise-the-un-s-zero-tolerance-policy-sexual-exploitation-continues-in-south-sudan-92270>



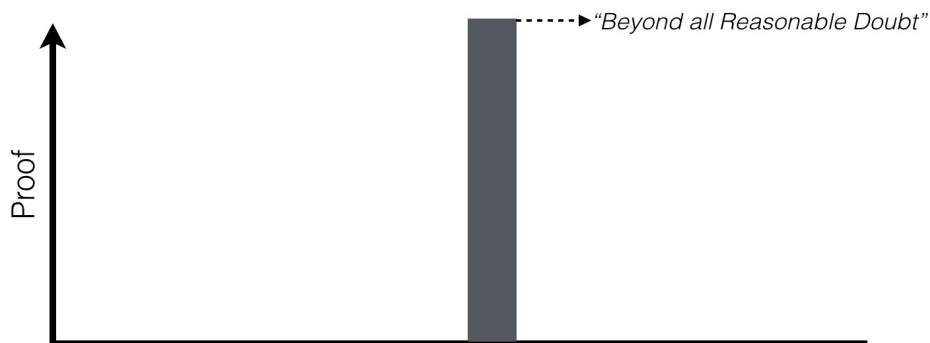
The UN, however, does not investigate sexual offences as criminal offences, but instead only investigates them as possible breaches of the UN staff rules, for which the perpetrator can be disciplined or dismissed.



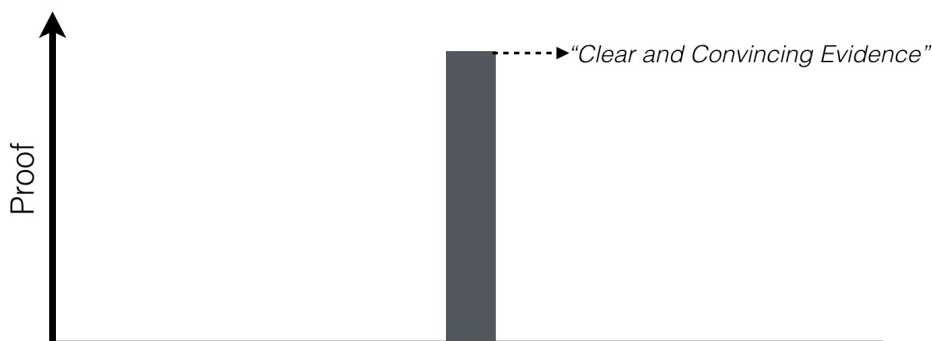
In general, in any other civil case such as 'breach of contract', the standard of proof required by the courts is a "balance of probabilities" (sometimes called "*a preponderance of the evidence*") which can be compared to a **51% likelihood** test.

Criminal cases, however, apply a very different standard.

To convict someone in a criminal court, the standard of proof is generally "*beyond all reasonable doubt*" - which imposes a very high standard that can be compared to a **99% likelihood** test.



The UN, however, is different, and does. For disciplinary purposes in the UN, the burden of proof is deemed to be "*clear and convincing evidence*"



This is a curious standard which is defined to mean more than the 51% "*balance of probabilities*" but not quite as high as the 99% "*beyond a reasonable doubt*" test.⁷

Leaving aside the question of precisely where along that 51% to 99% spectrum the standard actually lies, the problem is that in the UN system, the decision as to whether or not the standard is met is not made by a judge, who is independent and legally qualified and whose decisions are subject to appeal to other judges who are equally independent and even more qualified.

In the UN, the judgement of whether or not a staff member is guilty of misconduct is not made by a judge, it is made by a senior UN official - *who will be predisposed to reach a finding that does not embarrass the Organization.*

The UN does not want to have to report a high number of sexual exploitation and abuse (or sexual harassment) cases, particularly where the subject of the investigation is in a senior position.

UN Procedures

The investigative procedures followed by the Organization are both slow and ineffectual.

Investigators are also required to follow very bureaucratic procedures and OIOS recently announced that the average length of time for an investigation had been brought down to less than 12 months, hailing this as a considerable achievement!

On completion of the investigation, the file is passed to the Program Manager or, for HQ staff, to the Under-Secretary-General for Management.⁸

The subject will then be given a copy of the report, and the supporting evidence, such as the witness statements, and asked to comment. The subject is therefore aware if the case against them, and who any civilian witnesses whose testimony will be required in any criminal prosecution.

Only after receipt of the subject's comments will a decision be made on the appropriate disciplinary

⁷ See *Molari -v- Secretary-General*. (2011-UNAT-164) Online at <http://www.un.org/en/oaj/files/unat/judgments/2011-unat-164.pdf>

⁸ Prior to ST/AI/2017/1 that decision was made by the Assistant-Secretary-General, Office of Human Resource Management (ASG/OHRM).

measure to be imposed.

That decision, however, is considered an "*administrative decision*" so it is the first step in the process when the subject has any legal right to challenge any part of the entire process before the UN Dispute Tribunal.

Only after the matter is finally settled to the UN's satisfaction will the matter be referred to the national authorities of the country in which the offence took place, for them to *commence* a criminal investigation.

By the time that happens, the UN will have wasted so much time that the chances of a successful prosecution are likely to be negligible:

- The subject will no longer be in the jurisdiction. If the national authorities of the country concerned wish to prosecute, they have to apply for extradition to have the subject returned. Given that he will have separated from the UN by that time, the Organization may not know where to find him;
- The victim and any other witnesses are likely to have moved (especially if the sexual assault took place in an IDP camp environment) so it may be very difficult for local law enforcement to even locate them;
- The witnesses – especially children – are likely to have forgotten some of the details they provided to the UN investigators years earlier, thus introducing inconsistencies that can be portrayed as "reasonable doubt" and thus ensure a 'not guilty' verdict.

In addition, by giving precedence to the UN's own internal investigation, the will be fully aware of the evidence against him, and will have been given plenty of time to intimidate or pay off any witnesses.

Is there a real 'Zero Tolerance' Policy?

The Secretary-General has made repeated statements about an alleged 'zero-tolerance policy' towards 'sexual exploitation and abuse.'

What he is careful to avoid, however, is any discussion to how the UN's own internal policies and procedures are designed to minimise the chances of any UN (civilian) staff member being held accountable for any sexual misconduct, whether that is classified as 'sexual exploitation and abuse' or 'sexual harassment' of female staff members.

Other related aspects of this unwillingness to uphold the highest standards of conduct expected of an international civil servant can be found in the ineffectiveness of the 'whistleblower protection' policy⁹ and the Organization's unwillingness to hold OIOS investigators accountable for misconduct.

For the foregoing reasons; waiving immunity and referring complaints to the national authorities of a member state for criminal prosecution will only be effective if this is done at the stage where

9 <http://peteragallo.com/wp-content/uploads/2017/02/Designed-to-Fail-PAG-on-ST-SGB-2017-2.pdf>

"reasonable grounds to believe that a criminal offence has been committed" are established.

Failure to answer specific questions

On 1 March 2018, Hear their Cries wrote to the United Nations seeking information on the disposal of a number of cases that were identified from the Conduct and Discipline Unit's website. There letters are attached as Annexes A through G and relate to:

- A) the rape of a child in the Central African Republic by a UN civilian staff member in August 2014. This case was investigated by OIOS and the staff member dismissed.

Hear their Cries asked:

(1) why this case was referred to OIOS, when (a) OIOS does not have jurisdiction to investigate a criminal offence and (b) no immunity would apply?

and

(2) the date (if at all) when this matter was referred for criminal investigation?

- B) The sexual assault of two children by UN Volunteers in the Central African Republic in September and October 2015. These cases were investigated by OIOS and the allegation substantiated, but no action taken against the first offender because he had simply "left the UN". The second was dismissed.

Hear their Cries asked:

(1) the dates on which these two matters were referred for criminal investigation?

and

(2) whether any lessons were learned and any pre-employment screening procedures introduced as a result?

- C) The rape of a child by a UN civilian staff member in Guinea-Bissau in August 2016. The complaint was investigated by OIOS, substantiated and the staff member dismissed, but the matter was NOT referred to the Member State for criminal investigation.

Hear their Cries asked why this case was NOT referred for criminal investigation.

- D) The rape of a child in Cote d'Ivoire by a UN civilian staff member in January 2015. The case was investigated by OIOS and the staff member subsequently dismissed.

Hear their Cries asked the date on which this matter was referred for criminal investigation?

- E) The rape of a child in South Sudan by a UN civilian staff member in January 2017. This

case was investigated and the subject suspended, but what was of more concern was why a decision was made that this case **not** be referred for criminal accountability.

Hear their Cries asked why this case should not be referred.

- F) The rape of a child by a UN civilian staff member in South Sudan over a period of time commencing in September 2016.

Hear their Cries asked the date on which this matter was referred for criminal investigation?

Hear their Cries also asked about a seventh case (Annex G) involving the rape of a child by a UN civilian staff member in Darfur in November 2017, which was investigated locally by the mission.

The investigation in that case appeared to be ongoing but Hear their Cries asked why that case was not investigated by OIOS, and whether (in view of the staff member having been placed on 'Administrative leave without pay') the investigation had established 'reasonable grounds to believe that a criminal offence has been committed.'¹⁰

The UN's Response

'Hear their Cries' received a single unsatisfactory and evasive response from the UN General Counsel on 12 March 2018 (attached as Annex H), in which he claimed that: ***"In order to protect the integrity of ongoing action by the Organization in these cases, as well as other investigations or potential criminal proceedings initiated by Member States [the UN is] not in a position to provide any further information in relation to the individual allegations [Hear their Cries] have highlighted."***

This is indicative of the UN's seeking to withhold information that would demonstrate how any criminal accountability has been sabotaged by unnecessary delays.

'Hear their Cries' asked primarily about the **dates** on which certain matters were referred to the Member State for criminal investigation.

Disclosing the date on which that was done cannot compromise *"the integrity of ongoing action by the Organization"* for the simple reason that nothing the UN might after completion of the misconduct investigation will be dependent on the actions of the Member State.

Secondly, the General Counsel's response, that disclosing the **dates** on which certain matters were referred for criminal investigation might somehow jeopardise *"investigations or potential criminal proceedings initiated by Member States"* is quite ridiculous.

'Hear their Cries' did not ask about the progress of any such investigations; that would not be a matter for the Member States and that would be confidential.

Where an individual has already been disciplined by their employer for something that is criminal in nature, the fact that an investigation has (or has not) been initiated into that same allegation cannot, in any way, compromise that investigation.

¹⁰ See ST/AI/2017/1, para 11.4. Online at <https://undocs.org/ST/AI/2017/1>

There is no legitimate reason for the **date** on which a matter is reported to the Member State to be any kind of "secret". The UN suggests that it may be permissible to reveal that a report of a possible criminal offence has been passed to a Member State, but that somehow the date on which that was done must remain secret. This is quite ridiculous.

The more plausible explanation for the UN General Counsel's unwillingness to answer the questions put to them is that the UN has an interest in concealing the amount of time the UN has **wasted**, investigating allegations that cannot possibly be covered by the 1946 Convention on Privileges and Immunities of the UN.

The only logical conclusion to be drawn, therefore, is that the UN General Counsel is responsible for misusing the 1946 Convention in order to protect UN staff members accused of sexual offences against children.

There is precedent for this; in the way in which the UN handled the child sex abuse scandal in the Central African Republic in 2015.¹¹ Miguel de Serpa Soares has been UN General Counsel since 2013.¹²

Peter A Gallo
17 April 2018

11 CodeBlueCampaign. 'The UN's Dirty Secret.' Online at: <http://www.codebluecampaign.com/carstatement/>

12 <https://www.un.org/press/en/2013/sga1429.doc.htm>

1 March 2018

Mr. Antonio Guterres
Secretary-General
United Nations
New York, NY 10017

Dear Mr. Guterres,

The Conduct and Discipline Unit website records how in July 2015, a report was received about a civilian staff member in the MONUSCO mission was accused of having had sexual activity with a minor in August 2014. This was investigated by OIOS, the case substantiated and the staff member dismissed.

The Conduct and Discipline Unit website still shows the word “pending” under the ‘referral for criminal accountability’ column on that website.

Given recent public statements about how the 1946 Convention on Privileges and Immunities does not apply, would the Secretary-General be so kind as to explain:

1. Why, if there was sufficient reason to believe that a sexual offence involving a child was likely to have been committed, was the matter was referred to OIOS, when (a) OIOS does not have jurisdiction to investigate a criminal offence and (b) no immunity would apply?

and

2. On what date (if at all) was this matter referred to the national authorities of the Democratic Republic of the Congo for criminal investigation?

Hear their Cries welcomes the recent announcement that the 1946 Convention on Privileges and Immunities does not apply in such cases, but feel it is appropriate that the UN demonstrate their commitment to this principle.

Yours sincerely



Peter A Gallo
Director



HEAR THEIR CRIES

Annex B

1 March 2018

Mr. Antonio Guterres
Secretary-General
United Nations
New York, NY 10017

Dear Mr. Guterres,

The Conduct and Discipline Unit website shows that in September 2015, a report was received that a UN Volunteer in the MONUSCO mission had sexually assaulted a child.

The complaint was then investigated by OIOS, and the claim substantiated, but no action taken because the perpetrator had “*left the UN.*”

That website also shows that in October 2015, a report of a *second* UN Volunteer, also in the MONUSCO mission, also being investigated by OIOS for sexual activity with a child.

The October complaint was substantiated and in that case the staff member dismissed, though I note the word “pending” still appears under the ‘referral’ column on that website.

Particularly serious criminal offences appear to have been committed here, and it would reflect very badly on the UN Volunteers program if, as *could* be the case, these were examples of individuals who had joined the program specifically in order to gain access to children in the developing world.

Given recent public statements about how the 1946 Convention on Privileges and Immunities does not apply, **would the Secretary-General be so kind as to provide the dates on which these two matters were referred to the national authorities of the Democratic Republic of the Congo for criminal investigation?**

Hear their Cries welcomes the recent announcement that the 1946 Convention on Privileges and Immunities does not apply to sexual offences against children. Where there are two complaints against UNVs in successive months, however, **does the Secretary-General not agree that it would be appropriate for the UN to demonstrate their commitment to the alleged ‘zero tolerance’ policy, by explain what what lessons were learned from these cases and whether any pre-employment screening procedures were introduced as a result?**

Yours sincerely



Peter A Gallo
Director

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HEAR THEIR CRIES

Annex C

1 March 2018

Mr. Antonio Guterres
Secretary-General
United Nations
New York, NY 10017

Dear Mr. Guterres,

The Conduct and Discipline Unit website shows that October 2016, the UN Database records how a UN civilian staff member in the UNIOGBIS mission in Guinea-Bissau was investigated by OIOS for the rape of a child in August 2016. The complaint was investigated by OIOS, substantiated and the staff member dismissed.

We note with some concern that the perpetrator in that case was *not* referred to the national authorities of Guinea-Bissau.

This, on first inspection, would appear to fly in the face of everything the UN has said in public about the Organization's "zero tolerance" policy for sexual misconduct, as well as the recent announcement that the 1946 Convention on Privileges and Immunities does not apply to sexual offences against children.

In the spirit of transparency, would the Secretary-General be so kind as to explain the decision not to refer this case for criminal investigation?

Yours sincerely

Peter A Gallo
Director

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HEAR THEIR CRIES

Annex D

1 March 2018

Mr. Antonio Guterres
Secretary-General
United Nations
New York, NY 10017

Dear Mr. Guterres,

The Conduct and Discipline Unit website shows that in May 2016, a complaint was received against an international staff member in the UNOCI mission who was accused of the rape of a child some 18 months earlier in January 2015.

The case was investigated by OIOS for fully 12 months, the claim was substantiated and the staff member subsequently dismissed.

Child rape is clearly a serious criminal offence. The fact that the staff member was dismissed indicates “clear and convincing evidence” of his culpability, but I note, however, that the information on the website shows that the question of a referral for criminal accountability remains “pending.”

The OIOS investigation in this case is reported to have taken 365 days, which means it would have been completed in May 2017. You were already Secretary-General at that time you had expressed your commitment to addressing the sexual abuse problem that your predecessor had manifestly been unable or unwilling to deal with.

In view of the foregoing, would you be so kind as to provide the date on which this matter was referred to the national authorities of Cote d’Ivoire for criminal accountability?

There is a suspicion in some quarters that in this situation, the term “pending” means that the Office of Legal Affairs have allowed some eight months to pass and still failed to do anything with it. You will understand, therefore, the importance of this question about when the referral was made.

Yours sincerely

Peter A Gallo
Director

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1 March 2018

Annex E

Mr. Antonio Guterres
Secretary-General
United Nations
New York, NY 10017

Dear Mr. Guterres,

The Conduct and Discipline Unit website shows that following a complaint in January 2017, a civilian staff member in the UNMISS mission was investigated for the rape of a child.

The case was investigated by OIOS in just 97 days and the subject placed on ‘Administrative Leave *without Pay*’, both of which are indications that this was a simple case where there was clear and convincing evidence of the facts alleged.

What is of concern, however, is that the website indicates that despite this finding, the decision has been made that the staff member was **not** to be referred for criminal accountability.

Given the criticisms being currently levelled at the UN in the media; **would the Secretary-General be so kind as to explain why this particular offender should be insulated from the legal consequences of his own depravity?**

This rather unusual decision stands in stark contrast to the public statements that the UN is keen to make to the media on the subject of child sex abuse.

You will therefore appreciate the concern that exists in the minds of the general public, and the commensurate need for transparency when *immunity* appears to be abused.

Yours sincerely



Peter A Gallo
Director



HEAR THEIR CRIES

Annex F

1 March 2018

Mr. Antonio Guterres
Secretary-General
United Nations
New York, NY 10017

Dear Mr. Guterres,

The Conduct and Discipline Unit website shows that following a complaint in November 2017, a civilian staff member in the MONUSCO mission was investigated for the repeated rape of a child over a period of time commencing in September 2016.

This case is shown on the database as being investigated by OIOS though the staff member has been placed on administrative leave without pay. Clearly, either ST/AI/2017/1 para 11.4(a) 11.4(b) applies, and the fact this case was reported through the Conduct and Discipline Team implies that they carried out their usual preliminary assessment and were unable to dismiss the allegation.

OIOS has now been investigating this complaint for some three months, yet the ‘referral for criminal accountability’ column on the Conduct & Discipline Unit website still shows that this is “pending.”

Would the Secretary-General therefore be so kind as to provide the date on which this particular matter was referred to the national authorities of the Democratic Republic of the Congo for criminal accountability?

This would appear to be a straightforward case of a UN staff member - specifically an *international staff member* - being accused of a child rape; something the UN has confirmed is *not* covered by the Privileges and Immunities. The fact he has been suspended without pay is an indication that the Organization considers there is at least *probable cause* to believe that he is guilty of the offence.

While your spokesman’s message about immunity *not* applying in child rape cases is welcome, there are legitimate concerns that continued investigative activity by OIOS risks compromising the more important criminal investigation, and that unnecessary delays by the Office of Legal Affairs will render your assurances on this subject to be quite pointless. You will therefore appreciate the legitimacy of this enquiry.

Yours sincerely

Peter A Gallo
Director

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1 March 2018

Mr. Antonio Guterres
Secretary-General
United Nations
New York, NY 10017

Dear Mr. Guterres,

The Conduct and Discipline Unit website shows that in November 2017 an international staff member in the UNAMID mission was accused of child rape. The UN must also be satisfied this complaint was sufficiently credible to be investigated, and also for the staff member to be placed on Administrative Leave *without Pay*.

We understand that Sudan has no legal definition of an ‘age of consent’ as such, and that sexual intercourse outside of marriage is a criminal offence, so the fact that the UN is describing this as a child rape excludes the possibility of this *not* being a potentially criminal matter.

This would therefore appear to be a straightforward case of a UN staff member having raped a child. If this what happened, it would be an extremely serious matter.

What is slightly peculiar, however, that this case is *not* being investigated by the ostensibly “independent” OIOS but is instead being investigated locally by the UNAMID mission.

We appreciate that may be procedurally permissible. ST/AI/2017/1 formalises the practice which has arisen over a number of years, whereby allegations of serious misconduct are referred out to another department for investigation, but this is clearly a ‘Category I’ misconduct case, and the concern is that OIOS has been known to refer potentially embarrassing cases to other departments that can be relied upon to reach a finding that does not cause embarrassment to the Organization.

If substantiated, this complaint would reflect badly on the UN as a whole. It would also require an international staff member to be held accountable under the criminal law of Sudan – a country that is not supportive of the UN presence within its borders.

It would be in the best interests of the UN as a whole and the UNAMID mission in particular if the accused staff member here were to be cleared of any wrongdoing, and to that end, it must be suspicious that OIOS would refer such a sensitive case to be investigated by the Mission.

We appreciate that the Secretary-General is not responsible for decisions made by OIOS, but this is not now an OIOS investigation, and the Secretary-General must therefore be answerable for ///

/// the actions of the UNAMID mission in carrying out that investigation, and OLA if the ‘referral for criminal accountability’ column on the Conduct & Discipline Unit website is correct in still showing this is “pending.”

Would the Secretary-General therefore be so kind as to confirm:

- 1. whether he is comfortable with such a sensitive investigation being delegated to the mission,**
- 2. whether the investigation has yet established ‘reasonable grounds to believe that a criminal offence has been committed’, and**
- 3. whether the matter has yet been referred to the national authorities for criminal investigation?**

Yours sincerely,



Peter A Gallo
Director

REFERENCE:

12 March 2018

Dear Mr. Gallo,

I refer to your letters to the Secretary-General, dated 1 March 2018, regarding a number of allegations of sexual exploitation and abuse against current and former United Nations staff members. The United Nations publicly reported these allegations on its Conduct and Discipline website, including information as to the nature of the allegation, the category of the implicated personnel and the status of action taken by the Organization. *as anyone would know from the fact that my correspondence specifically referred to the website!*

Allegations of this nature are matters of serious concern to the Organization. The Secretary-General has condemned such acts in the strongest terms and has underlined his personal resolve to lead the collective effort, across the United Nations system, to stand up to sexual exploitation and abuse in all its forms. In this regard, the Secretary-General has emphasized the need to harness the power and energy of all actors, including civil society groups, in order to give effect to the Organization's zero-tolerance approach to sexual exploitation and abuse. *More unnecessary verbiage of little relevance.*

Your letters contain a number of specific requests for further information regarding the action taken by the Organization with respect to these allegations. Specifically, you have sought clarification as to the process applied by the United Nations in these cases in order to ensure accountability, including criminal accountability, for those alleged to have committed such acts. **INCORRECT!** We sought information about the DATES on which these cases were referred to the Member States.

In this regard, I can confirm that all of the cases addressed in your correspondence have been brought to the attention of national authorities, with the exception of one case where the alleged victim recanted her initial allegations. In addition, the Organization has sought to cooperate with national authorities in order to facilitate any subsequent criminal investigation or proceedings. but WHEN???

The UN claims that the S-G's practice is to cooperate with national investigations and proceedings - but in practice, the UN will only refer a case to the member state to initiate a criminal investigation if the UN has determined he is almost certainly guilty.

Your letters also make reference to the privileges and immunities of United Nations personnel. In this regard, I note that under the Convention on the Privileges and Immunities of the United Nations, officials and experts on mission of the Organization are accorded immunity from legal process, but only in respect of their official functions. The Secretary-General's practice is to cooperate with national investigations and proceedings and to ensure that immunities do not impede the course of justice. In this context, I can confirm that he has not asserted immunity with respect to any of the cases referred to in your letters. This whole paragraph does not appear to be compatible with the manner in which the UN General Counsel obstructed the French investigation into the child sex abuse allegations in the CAR in 2015.

Mr. Peter A. Gallo
Director
Hear Their Cries - Stop Child Rape in Aid
Geneva

This is answering a question that was never asked. There is no need for the Secretary-General to "assert" immunity because the UN presumes that it exists, and proceeds on that basis.

How is it possible for ANY sexual offence to fall within the scope of the "official functions" of ANY UN official?

MISLEADING!

UN / OIOS investigative practices are **not** designed to establish criminal accountability and the burden of proof required before a case will be referred is significantly higher that required in any member state.

In responding to allegations such as those highlighted in your correspondence, the Organization's primary focus is on providing support to victims and ensuring that those responsible are held fully accountable. In order to protect the integrity of ongoing action by the Organization in these cases, as well as any other investigations or potential criminal proceedings initiated by Member States, I trust you will understand that we are not in a position to provide any further information in relation to the individual allegations you have highlighted.

Not done in the Central African Republic !!!

MISLEADING!

Please be assured that the United Nations will continue to make information publicly available about the cases referenced in your letters, but only to the extent that the disclosure of such information does not prejudice ongoing action or proceedings, and in a manner consistent with the legal framework established by the General Assembly through its resolution 62/63 on Criminal Accountability of United Nations officials and experts on mission.

Information about the DATE on which the UN reported information about a criminal offence to the member state in whose jurisdiction that offence took place:

* **cannot** have any impact on the "integrity of ongoing action by the Organization", because, by the time the case is referred, the Organization will have completed their investigation,

and

* **cannot** have any bearing on any other investigations or potential criminal proceedings initiated by Member States; the date on which a case is reported has no impact on the criminal investigation (unless, of course, it is time barred) and therefore not investigated.

Yours Sincerely,



Miguel de Serpa Soares
Under-Secretary-General for Legal Affairs
and United Nations Legal Counsel

UN's response to Prof. Andrew MacLeod's appearance on CNN
(see <https://www.youtube.com/watch?v=ZwQ7RM66F0g>)

UN Spokesperson  
@UN_Spokesperson
Official Twitter account of the Office of the Spokesperson for United Nations Secretary-General @antonioguterres
New York, USA un.org/sg/spokesperso...
1,029 Following 501.1K Followers

Tweets Tweets & replies Media Likes

UN Spokesperson  @UN_Spokesperson · 2h
Let's be clear. The answer is no. Sexual abuse is a crime. The United Nations does not and will not claim immunity in such cases. @CNNInternatDesk @HalaGorani

Andrew M MacLeod @AndrewMMacLeod
Something YOU can do to help end Child-Abuse In Aid? Write to your MP & ask "Does the UN Secretary-General believe that legal immunity applies to UN workers who abuse children?" We need the answer 'No'. Please re-tweet #oxfamscandal

3 14 17



25 March 2018

No response

Mr. Miguel de Serpa Soares
Under-Secretary-General for Legal Affairs
United Nations
New York, NY 10017

Dear Mr. Soares,

Thank you for your response dated 12 March, but your claim that you are “*not in a position to provide any further information in relation to the individual allegations [we] have highlighted*” goes beyond the implausible to the point of being an insult to one’s intelligence.

We believe you are evading the question because the answer will confirm that the UN’s practice knowingly minimises the chances of any staff member ever being held criminally accountable for child rape.

Your office does not refer cases to the member state for criminal investigation until after the UN’s administrative investigation is completed, and no one is asking for information about the progress of any criminal investigations; our questions related only to the date when the UN passed the information to the member states. We fail to see how disclosing that date could possibly “*prejudice ongoing action or proceedings.*”

In 2015, you insisted that the 1946 Convention on Privileges and Immunities prevented a UN staff member from co-operating with a Third Party criminal investigation as a *witness*. The foreseeable consequence of that argument was to protect those engaging in the sexual abuse of children.

On 13 February this year, the Secretary-General’s spokesman stated publicly that the UN never claims immunity in child sex abuse cases, but you are now trying to conceal the length of time the UN delays referring such cases for criminal investigation.

The world must be entitled to an explanation here because these statements appear to be inconsistent, and it is difficult not to conclude that the UN’s policy, executed by your department, is intended to protect the paedophile rather than the victim of child sex abuse.

We invite you to prove that our interpretation of the evidence here is erroneous, whereupon we will be pleased to apologise. We would be obliged, therefore, if you would answer the questions that we asked.

Sincerely

Peter A. Gallo
Director