

UNwilling or UNable?

The United Nations and the recurrent problem of sexual abuse

Sandra Egelström, Master's in Criminology¹

Abstract

Since its establishment in 1945, the United Nations has grown to become a powerful intergovernmental body enjoying respect and legitimacy among a large part of the international community. Unfortunately, since the 1990s there have been recurrent problems with the organization's peacekeeping forces being accused of sexual violence against the very people they are supposed to protect. In this article, the UN's management of events in the Central African Republic (CAR) in 2014 and its inability to put an end to the sexual assaults committed by its representatives have been used to explore whether the organization could be accused of a state crime – under the presumption that the UN can be equated with a state. To do this, the definition of state crime and the complicity continuum developed by Kauzlarich, Mullins and Matthews (2003) are used to evaluate the UN's actions in relation to the events in the CAR. The responsibilities of the UN in situations like the one in the CAR are examined and discussed.

Abstract

Förenta nationerna har sedan starten 1945 utvecklats till en mäktig mellanstatlig organisation som åtnjuter respekt och legitimitet från majoriteten av det internationella samfundet. Dessvärre har det, sedan 1990-talet, vid upprepade tillfällen uppdragats att organisationens fredsbevarande styrkor anklagats för sexuellt våld mot just de grupper som de är satta att beskydda. I denna artikel användes organisationens hantering av händelserna i Centralafrikanska republiken (CAR) under 2014, samt dess oförmåga att stoppa sexuella övergrepp utförda av dess företrädare, för att undersöka om FN kunde anklagas för en statligt brott, under förutsättning att organisationen kan likställas med en stat. För detta användes

1. The work on this article has been done within the project funded by Riksbankens Jubileumsfond, called "Business as usual. Företags försvarsstrategier vid beskyllningar om brott (Dnr: P15-0176: 1)". Thanks to two anonymous reviewers for valuable comments and David Shannon for the proofreading. Thanks also to Jan Flyghed, Isabel Schoultz, Enes Al Weswasi, Gustav Grut and Evelina Jansson for rewarding discussions and comments.

Kauzlarich, Mullins och Matthews (2003) definition av statlig brottslighet, samt det complicity continuum som de utvecklat, för att utvärdera FN:s åtgärder under händelserna i CAR. FN:s ansvar i situationer som det i CAR problematiseras och diskuteras.

Introduction

Since its establishment after the Second World War, the United Nations (UN) and its peacekeeping forces have enjoyed a high level of trust from the international community and the civilian groups whom they have been assigned to protect (Deschamps, Jallow & Sooka, 2015:i). However, since the 1990s, media and human rights organizations have repeatedly reported about sexual exploitation and assault perpetrated by UN peacekeeping forces. In 1996 the UN compiled a report on the effects of armed conflicts on children. The author stated that the arrival of peacekeeping troops was associated with a rapid increase in child prostitution in 6 of the 12 countries studied in the report (Machel, 1996:31). Since the reporting started almost thirty years ago, many UN missions have been stained by allegations of sexual exploitation and assault, such as the missions in Kosovo, Cambodia, the Democratic Republic of Congo and Haiti (Deschamps, Jallow & Sooka, 2015:15). During these missions, peacekeepers were accused of crimes such as sexual exploitation of children, rape, and sexual assaults. One of the most notable cases in recent years is that of the Central African Republic (CAR), where women and children were raped and sexually abused. This article will from here on focus on the events in the CAR.

These cases raise the question of the accountability of powerful organizations such as the UN. It is a topic that is highly relevant to the field of criminology, and in particular to the area labeled *Crimes of the powerful*. For some time, there has been an increasing desire to use a definition of crime that is not based exclusively on politically created laws, but which also considers harm (Rothe et al., 2009:7). There are a variety of actions that may be non-criminal in strictly legal terms but which nonetheless cause a significant amount of social harm (Evertsson, 2017:510; Tombs & Whyte, 2015:35). According to Rothe and Kauzlarich (2016:15), an act or omission can be considered a crime if it causes social harm and resembles an illegality, whether or not it constitutes an illegal act. In the global arena, we find states and corporations that both separately and together commit such actions for the benefit of their respective organizations, causing devastating harm to their victims (Rothe & Kauzlarich, 2016:7ff). In this context it is important to clarify that it is the individuals representing the state or corporation who commit the criminal acts, not the organizations themselves (Ibid:5).

The sexual abuse committed against refugees in the CAR by peacekeeping soldiers was not only a grave abuse of the trust of the international community but could also be considered a crime against humanity and human rights due to the serious harm it caused (Deschamps et al., 2015:xiii). However, there is currently no legal entity whose jurisdiction covers intergovernmental bodies such as the UN. As the process of globalization has continued, the need for a discussion regarding the accountability of international organizations has become more and more prominent. Traditional accountability structures for states, and organizations that function like states, have proven insufficient for ascribing accountability when harm is caused to civilians as a result of the actions or inaction of these institutions (Freedman, 2018:692).

Against this backdrop, this article aims to problematize the UN's accountability and responsibility in situations like that in the CAR. Since a state could be held accountable for such actions against its citizens, it does not seem unreasonable to expect similar accountability from the UN. In order to put the events in a new perspective and to elaborate on the question of accountability for those in power, the UN will here be equated to a state. Based on this premise, this study will seek to answer the following research question: Can the UN be considered guilty of a state crime regarding the problem of recurrent sexual abuse and the organizational procedures and decisions taken in dealing with the sexual abuse committed by peacekeeping forces in the CAR?

Method

The article begins by explaining and defining the concept of state crime. It then presents a brief overview of the UN's structure and functions, which is followed by a presentation of previous research in the field. A more detailed description of the events in the CAR is then provided as a basis for the subsequent analysis. The analysis will be based on the report of the independent investigation into the CAR situation, written by Deschamps, Jallow and Sooka (2015). The report was chosen as the source for the analysis because of the scope of the investigation, and because it was conducted by an independent panel. The investigation was initiated after the events in the CAR had become public, and it thoroughly describes the crimes, the interorganizational procedures and internal investigations conducted by the UN, as well as the organization's actions regarding the management of perpetrators, victims and the whistleblower Anders Kompass. In the analysis, the concept of state crime will be explored and compared to the described events. The article concludes with a discussion of the results.

State crime

William Chambliss first defined state crime as “acts defined by law as criminal and committed by state officials in pursuit of their jobs as representatives of the state” (1988:184). The concept has since been broadened to include both acts that violate laws and harmful acts that are not necessarily criminalized, such as torture (Rothe & Kauzlarich, 2016:7). Also included are omissions resulting in harm, such as a state neglecting to provide sufficient aid during a natural disaster. Power is crucial to the concept, since it is power that creates the conditions for, and also permits and facilitates, harmful and potentially criminal behavior (Ibid:49). Power is closely linked to authority and trust; for example, politicians possess delegated power and are entrusted to make decisions in the public’s place, which are expected to be promotive of the public interest (Ibid:4). Sutherland (1940:5) believed that crimes committed by people with power primarily involve a violation of trust, which in turn harms the social relationships and morals of society at large.

Since a definition of state crime must be broad enough to be useful in many different contexts, Kauzlarich, Mullins and Matthews (2003:244) have developed a definition that is suitable for both national and international contexts. It is based on five different criteria, which establish that a state crime: (1) causes harm to individuals, groups or property; (2) is the product of an act or omission from the state or any state actor; (3) the act or omission is directly linked to an assigned or implied trust or obligation; (4) is committed or omitted by a government agency, organization or representative, and; (5) is performed with a vested interest of (a) the state or (b) the ruling class. With the last criteria, this definition highlighted an important aspect of state crime which historically had not been as systematically researched, regarding who initiated the harmful action, the state or the power elite (Ibid:246). This broadens the concept as a differentiation is made between actions that benefit the state, and actions that benefit the ruling class.

Kauzlarich et al. (2003:248ff) have also developed a *complicity continuum* of state crime. On this continuum, there are four different levels of state complicity or state participation. *Explicit acts of commission* involve a state having acted intentionally and purposefully, for example through genocide. *Implicit acts of commission* include actions through which a state supports developments that cause social harm; in this case, however, the state’s involvement is not as direct as in explicit acts of commission. *Explicit acts of omission* involve a state disregarding unsafe and/or dangerous conditions even though it has a responsibility to ensure that different situations and contexts meet certain security requirements. *Implicit acts of omission* involve cases in which a state, by not acting, allows

harmful behavior from for example unequal, or marginalizing institutions and actors. What separates these two categories of acts of omission is the degree of negligence on the part of the state, and the extent to which the state has a responsibility to act.

Kauzlarich et al. (2003:251) note that although this continuum may be useful in studies of state crime, concrete examples may be more complex, since states can act in different directions simultaneously, and one state crime can, for example, fit into multiple categories on the continuum. Using the continuum to establish the level of complicity and participation of the UN will serve as an assessment of the organization's awareness of the issue at hand, which will in turn affect the issue of accountability. Kauzlarich et al. (2003:246) argue that acts of omission have a less direct, or causally distal relationship to state goals than do acts of commission. This seems to imply that the question of accountability becomes more complicated, and easier to distance from the state, regarding omissions.

The organization and purpose of the UN

The UN was established in 1945 as an intergovernmental body and global forum in order to facilitate cooperation, decisions, and agreements between states on key issues (United Nations Association of Sweden [UNAS], 2017a:1). All 193 member states are committed to complying with the UN Charter, which stipulates rights and obligations both between states and towards the organization. The Charter establishes the rules of procedure, organization, commission, and the tasks of the UN. The four main objectives of the UN are: (1) the maintenance of international peace and security; (2) the development of friendly relations between countries; (3) providing international cooperation for the promotion of development and human rights, and; (4) providing an intermediate point for countries' cooperation to achieve these goals (Ibid). However, the UN is neither world government nor world police, and the UN Charter clarifies that the organization should not violate the sovereign rights of states.

Since the founding of the UN, one of the biggest tasks of the organization has been that of developing and maintaining human rights (UNAS, 2017c:1). The Universal Declaration of Human Rights (UDHR) regulates the relationship between states and individuals by limiting the state's power over the individual while at the same time defining certain state obligations. The UDHR constitutes a moral guiding principle for the world, and since its introduction, human rights have become an international concern (Ibid.; Wigenmark, 2003:164f).

The significant task of ensuring peace and security is largely handled by the Security Council. The council deals solely with issues relating to peace and conflicts in the world and investigates all situations that could lead to international conflict (UNAS, 2017c:1). However, since the UN and the Security Council were founded, both the world and the nature of conflict have changed. Today, many conflicts are internal rather than intergovernmental and they particularly affect civilian populations (Ibid:4). The Charter states that the UN has a responsibility to react if states expose their citizens to crimes such as forced labor, sexual violence and executions. Interventions of this nature should primarily be made based on peaceful means, encouragement and providing the state with assistance to protect its own citizens (UNAS, 2017b:4). If this fails, the UN has an obligation to intervene by all means available, including the use of military force.

To ensure that the UN can operate freely and pursue its missions without the interference of separate states, the organization has historically enjoyed absolute immunity from the jurisdiction of national courts (Freedman, 2014:241). However, steps have recently been taken towards treating international organizations as quasi-states. This entails the application of restrictive foreign sovereign immunity to such organizations, which means that they are only protected in relation to actions that relate to their function. Nevertheless, most of the member states still grant the UN absolute immunity, even when the organization's actions (and inaction) cause harm (Ibid:243).

Following the recurrent reports and severe allegations of sexual abuse and sex purchases among UN peacekeeping forces, in 2003 then Secretary-General Kofi Annan introduced a zero-tolerance policy against sexual exploitation and abuse for all personnel under UN command (Deschamps et al., 2015:4). However, each state that submits forces to UN peacekeeping missions is accountable for the troops' behavior, and the individual states have the responsibility for acting against any misconduct. This is partly because the UN currently does not have the means to investigate and prosecute the perpetrators (Freedman, 2015). What the organization does have is a certain amount of political and financial power, which the UN could use to ensure that perpetrators are held accountable, something that the member states often fail to do. Unfortunately, the zero-tolerance policy, and the several high-level inquiries into the problem that has followed it, has had little effect. This is probably due to the UN having failed to properly implement the policy and most of the recommended changes from these reports. The organization has since developed more policies, codes of conduct and training for its employees, but has not implemented such important recommendations as creating a permanent professional investigative mechanism (Ibid:16).

Previous research

Some of the previous research in the field has focused on crimes committed by peacekeeping forces, on the conditions that may enable such crimes, and how they can be prevented (e.g. Johansson & Hultman, 2019, regarding sexual violence). Such research has tended to focus on the individual accountability of the perpetrators. Despite numerous reports of recurrent problems with various forms of crime committed by peacekeepers, it is unusual for states to prosecute their troops (O'Brien, 2012:224). Therefore, O'Brien (2012:225, 226, 239) argued that peacekeeping personnel could be prosecuted for war crimes and crimes against humanity before the International Criminal Court. However, this possibility involves its own set of problems. With regard to UN accountability, some research has focused on whether actions that violate human rights may serve as a challenge to the organization's immunity (Freedman, 2014:240ff). In a later article, Freedman (2018:975) has claimed that it is widely accepted that international law and general principles regarding responsibility are applicable to international organizations, and that the UN is seen as at least partially being bound by such laws and principles. It is still unclear, however, whether the UN is considered to be bound by international human rights law (Ibid.), even though upholding human rights constitutes part of the organization's mission. This article contributes to the existing research in this field by delving further into the question of whether the UN's immunity can be challenged in relation to human rights violations.

The scandal of the Central African Republic

After years of political instability and poor development, internal battles broke out in the CAR in 2013 (Deschamps et al., 2015:12). Large groups of the civilian population were exposed to violence and violations of their human rights, and hundreds of thousands of people fled their homes. Many sought shelter in temporary IDP camps, some of which were protected by international troops. One of these camps was M'Poko, just outside the capital Bangui, with as many as 120,000 refugees estimated to have been living in the camp when the conflict was at its most serious. Due to the increasing security risk and a humanitarian, political and human rights crisis, the UN Security Council decided to establish the Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), with an initial group of 10,000 peacekeeping soldiers. Their priority was to protect the civilian population, especially women and children (Ibid:13f).

In March 2014, the French force known as the Sangaris force, arrived in the CAR to support the UN forces and their work. The French soldiers did not for-

mally belong to the troops that were under UN-command but had the support of and a mandate from the Security Council and were therefore to be regarded as part of the peacekeeping forces (Ibid:22). Within a few months of the Sangaris force's arrival in the M'Poko area, the head of a non-governmental organization was notified that children were receiving food and money from some of the French soldiers in exchange for sexual services. The accusations were reported to the MINUSCA Human Rights and Justice Section and UNICEF's Bangui Office and a minor investigation was conducted, in which six children were interviewed about the events. The investigation was later compiled into a confidential report called "Sangaris Notes".

The sexual abuse reported in the Sangaris Notes proved to be so serious that it should have been classified under the UN-developed definition of conflict-related sexual violence, and as involving serious violations of international law and human rights (Ibid:20f). However, the report was passed from desk to desk at the UN headquarters without anyone acting. After UN officials in the CAR failed to forward and properly respond to the report, a human rights officer who had participated in the investigation in the CAR, forwarded the "Sangaris Notes" to UN officials in Geneva where it ended up in the hands of Swedish UN official Anders Kompass (Ibid:57). He conveyed the report to the French delegation in Geneva shortly thereafter, which later led to his being accused of having "leaked" confidential material to third parties. He was suspended from his position and placed under several investigations but was later cleared of the allegations by the independent investigation, on which this article is based.

Despite the zero-tolerance policy introduced in 2003, and other attempts to implement preventive and punitive actions, the UN failed to put an end to the problems in the CAR. The Sangaris force was not considered part of the UN mission by the organization's officials since it was not formally part of the peacekeeping forces (Ibid:22). Representatives therefore assumed that the organization was not obliged to manage the allegations and that this responsibility rested with the French state. While the "Sangaris Notes" were passed around between UN officials, the victims were left without help and the perpetrators were able to continue with their abuse (Ibid:28).

Can the UN be considered guilty of a state crime?

Based on the concept of crimes of the powerful, the UN may be said to be an organization that possesses a substantial power capital. This is closely linked to the global trust enjoyed by the UN to safeguard the public interest in peace and security among all the people of the world, a mission similar to that of a state towards

its citizens. In short, the UN may be viewed as a peace organization with a monopoly on violence (Wigenmark, 2003:169). The UN has also been involved in the creation of international laws and has created moral guiding principles for the rest of the world through the UDHR (UNAS, 2017c:1). When the organization violates these laws or neglects to prevent such crimes, it commits the same kind of atrocity as a state committing a state crime. For the purpose of this article, as a means of problematizing the UN's accountability, the organization will here be equated with a state, and the events in the CAR and the organization's management of these events will be evaluated by means of a comparison with Kauzlarich et al.'s (2003) definition and conceptualization of the complicity continuum of state crime.

As was mentioned earlier, Kauzlarich et al. (2003:244ff) developed a comprehensive definition of state crime, which is divided into five concrete items. According to Kauzlarich and colleagues, state crime *causes harm* and is the product of an *act or omission* which *violates a trust or obligation*. The crime is executed by *a government agency, organization or representative*, and is performed with a *vested interest*. In order to analyze the events in the CAR as clearly as possible, the events will be separated into two potential crimes. The UN's failure to prevent the abuse performed by peacekeeping forces is viewed as one potential crime, and the UN's handling of both the perpetrators and victims of the assaults is viewed as another. In the following section, these two potential crimes are analyzed individually in relation to each item included in the definition.

Harm caused

The UN's failure to end the abuse perpetrated by peacekeeping forces has undoubtedly caused harm on multiple levels, both in general and in the current situation. The abuse was aimed at one of the most vulnerable groups that can be found globally, namely children who were in the midst of a humanitarian crisis. In the CAR, children had already been suffering as a result of being refugees and experiencing acts of violence, hunger and for many, the loss of close relatives (Deschamps et al., 2015:17). In this case, the abuse resulted in harm not only for specific individuals but also for the entire civilian group in the refugee camp at the time, a group that needed protection from the threat of expulsion and possibly also an imminent genocide. The abuse can be regarded as a further violation directed at a group of already low status, which could be expected to be further reduced by sexual assault, for example as a result of shame and guilt. Also, the fact that the perpetrators were individuals who had been appointed to protect the group further aggravates both the abuse and the victims' vulnerability.

The way that the UN handled the problem can also be said to have caused harm. This is partly because the affected individuals did not receive the assistance and support that they needed and were entitled to (Deschamps et al., 2015:41f) and partly because the UN's inability to investigate and sanction the guilty soldiers probably caused more people to suffer. The children initially received little help and it was only when the level of media attention grew that the UN followed up on the victims to ensure that those affected were given the help to which they were entitled. This was however not the whole truth according to the British journalist Ramita Navai, who investigated UN aid programs in several areas affected by sexual abuse, including the events in the CAR (SVT, 2018). According to the testimony of several individuals, the organization had still failed to find and identify many of the victims years after the events, even though the journalist had managed to find several in a matter of days.

Act or omission

The UN has a responsibility towards its member states and their civilian populations. This resembles the responsibility of a state towards its subjects. The fact that the UN has had issues with sexual assaults among its peacekeepers for many years without the organization having succeeded in resolving these problems is a clear failure. At the time of the assaults in the CAR, twelve years had passed since the introduction of the zero-tolerance policy, and yet the problems continued. The UN's main task is to promote human rights and work to combat such violations and this work must also be undertaken within the organization itself. The result of the neglect has been that neither victims nor perpetrators have been given any reason to believe that such behavior will be detected and punished, resulting in a permissive culture within the peacekeeping forces and very probably in very few victims reporting such incidents.

The deficient management of the sexual assaults in the CAR was a result of the organization's negligent behavior towards the information that was provided about the events (Deschamps et al., 2015:i). Several of the officials who should have responded and acted against the assaults believed that the organization had no obligation to act since the Sangaris force was not under the direct command of the UN (Ibid:28). This belief was correct in the sense that the zero-tolerance policy applies only to personnel under UN command. However, ultimately it was incorrect since the UN's overall mission means that the organization is required to promote human rights and prevent violations of international law, even in situations where the original mission is a different one (Ibid:22f, 25). In this case, part

of the original mission was also to protect the population from sexual violence and other forms of abuse (Ibid:26).

Trust and obligations

It can be argued that the UN, as a representative of the international community and as the only peacekeeping organization with a monopoly on violence, possesses a substantial capital of trust. It is reasonable to assume that the international community trusts the organization to take its main tasks seriously and not only to prevent and counter violations of human rights globally but also to ensure that the organization itself leads by example. Failure to prevent violations and infringements of this kind within the organization must be regarded as the ultimate crime against this trust. Even the peacekeeping forces themselves generally enjoy a high level of trust and the dependence from the international community regarding their ability to help vulnerable groups. Even in the CAR, it must be assumed that the peacekeeping forces managed to save thousands of people from being injured or killed (Deschamps et al., 2015:xiii). Therefore, the UN violated not only one but two clear mandates of trust and established obligations.

As regards the management of the abuse, this can also be said to have violated the public's trust. The representatives of the organization chose not to act on the information made available to them even though they had an obligation to do so. As the main advocate of human rights, peace and security, the international community expects the UN to act in accordance with its main mission, but in this case, the organization chose to displace its responsibility and ascribe it to the Sangaris force's home nation France, thus turning a blind eye to its own responsibility.

Agency, organization or representative

According to Kauzlarich et al. (2003:246), this is a crucial point because the state's involvement is, of course, a necessity for a crime to be a state crime rather than some other form of crime. Despite the preparation of several policies and other measures, the UN's internal organization has failed, or has not done enough, to avert and prevent continued abuse. The responsibility for this failure lies with the organization. The same applies to the management of the problems in the CAR. The officials who in this case were informed of the abuse problems, but did not act, work within and represent the "state" of the UN.

Vested interest

This analysis only explores the perspective of the UN as a state, since the concept of a ruling class within the UN was deemed too complex for this example.

Violations such as the ones in the CAR can hardly be said to favor anyone other than the perpetrator. It is not only likely, but rather inevitable, that the accumulated trust and reputation of the UN was negatively affected by these behaviors, and that continued problems with such behaviors will sooner or later affect the organization to a large extent. Without its capital of trust, the UN cannot function as it is meant to and it is therefore, presumably, in the interest of the organization to put an end to all forms of abuse and violations among its staff. However, the organization has displaced the responsibility for punishing perpetrators, as is demonstrated in the zero-tolerance policy, on the member states (Deschamps et al., 2015:25). This meant that the UN deprived itself of the opportunity to participate in and follow up any such punishment processes, and it therefore has difficulty estimating to what extent perpetrators are really held accountable. This may have been an attempt to avoid accountability for such problems, which indirectly places the burden of the unacceptable behavior on the states. If the responsibility lies with someone other than the UN, it is likely that the continued abuse will not reflect as badly on the organization.

It can also be argued that the organization failed because its officials were trying to cover up the scandal. When the French authorities requested UN support to investigate the allegations, the organization's work focused on finding the whistleblower who had informed the French, while the victims and their needs were left unattended to (Deschamps et al., 2015:i). This surprising focus from parts of the UN's highest leadership can undoubtedly be interpreted as the organization attempting to avoid another scandal by silencing the allegations, so that the UN "state" would not be drawn into in yet another spiral of accusations that would threaten to affect the organization's trust and reputation.

UN participation

In relation to the complicity continuum of state crime, the assaults in the CAR may be considered an act of omission on the part of the UN, since the organization has had a long history of problems of sexual abuse and sexual exploitation among its peacekeeping forces. Despite repeated efforts, the UN has failed to overcome these problems. In defense of the organization, several new policies have been developed, rules have been tightened and the assaults have been publicly condemned. It is obvious however that the measures taken to resolve the problems have been insufficient, and it is reasonable to assume that the organiza-

tion is aware of this. The UN may be considered to have acted negligently towards enforcing its own policies, and the organization has made great efforts to displace both the responsibility to protect civilians, and the management of its own staff. The events in the CAR may therefore be considered to constitute explicit rather than implicit acts of omission.

As regards the management of the problems in the CAR, this may also be considered an explicit act of omission, since the UN officials chose not to act on the information that had been shared with the organization. Although the officials in question believed that they did not have the mandate to act against the abuse, the independent investigation has concluded that they should have acted on the basis of the organization's main objective being that of safeguarding human rights (Deschamps et al., 2015:22f, 25). It would be reasonable to assume that representatives of the organization were, or should have been, aware that they had a responsibility to act.

Discussion

The purpose of this article has been to problematize the events in the CAR on the assumption that the UN can be equated with a state, and for this purpose the UN may be considered to have committed at least one state crime, namely the deficient management of the assaults in the CAR. Since the organization's *omission* (to prevent the assaults and to deal with the problems adequately) has *caused harm* (for individuals and a civic group), the UN *has violated a trust* given to the organization by the international community. In addition, the attempt to cover up the scandal may have been *in the interests of the organization*.

The failure to properly manage the allegations in the CAR, and the UN's behavior towards Anders Kompass, is noteworthy since the organization seems to have been more focused on covering up the abuse than stopping it. The decision to suspend Kompass might even serve to discourage future whistleblowers within the organization (Burke, 2016:99). This is potentially a serious problem, since allegations of sexual abuse performed by peacekeepers in the CAR have continued following the conclusion of the independent investigation.

Because of the substantial trust and political mandate enjoyed by the UN, the organization may be said to hold such a high position in the global social structure that any harmful actions or omissions by the organization may be considered to fall under the concept of crimes of the powerful. Although the UN does not enjoy political power to the same extent as, for example, the EU, and thus does not have direct political influence over its member states, the organization still has the power to make certain types of decisions with which members must comply

(UNAS, 2017a:1f). However, the UN can never be more powerful than the member states allows it to be.

Through the analysis it was made clear that a similar event, in which one of the member states had been responsible, could have been treated as a state crime (Kauzlarich et al., 2003:244ff). Since the UN clearly has failed to take enough responsibility in areas connected to its main mission, it may seem remarkable that the organization has not been held accountable for its omissions in the same way a state would have been.

In relation to the complicity continuum, both potential crimes can be considered to constitute explicit acts of omission. The responsibility to prevent and counter violations like those in the CAR is clearly stated in the UN Charter; this responsibility is formulated in the organization's main objectives, and in addition, it constituted part of the specific instructions for the UN mission in the CAR (Deschamps et al., 2015:22f, 25, 26). Neither the UN nor the international community can reasonably deny that the organization is responsible for the failure to prevent these events. In terms of dealing with the abuse, the organization should have been aware that it was obliged to act based on its mandate to safeguard human rights in all situations. This is the same framework that imposes on the organization the responsibility to prevent sexual abuse in the first place (Ibid.). Of course, this is not to say that there is intent behind these omissions, since the risk is imminent that the sexual abuse will negatively affect the UN's mandate to act in conflicts, and without solving these problems, the future of similar operations may be in jeopardy (Deschamps et al., 2015:ii).

This article therefore argues that the issue of responsibility, regarding the events in the CAR, can be considered to be settled. The remaining question is if and how this can be used to hold the UN accountable. As shown through the analysis, the recurrent problem of sexual abuse committed by peacekeepers is a matter of violations of human rights. According to Freedman (2014:240ff) human rights violations may present a challenge to UN immunity. The International community must make up its mind about whether or not the UN should be held accountable for, not only failing but violating its core mission, to work to uphold human rights. International organizations in general are considered to be bound by international law and international human rights law (Freedman 2018:975). The UN, arguably the most powerful international organization, should therefore be held responsible and accountable for any violations against such law.

Conclusion

This article has found that even if the failure to prevent sexual abuse does not meet all the requirements of Kauzlarich et al.'s (2003:244f) definition of a state crime, the fact is that sexual assaults have been committed in an almost systematic way by parts of the UN peacekeeping forces for the past 30 years. The organization seems perplexed, pointing with one hand to the member states' responsibility and with the other to the actions it has taken, although these "new" policies continue to displace the organization's responsibility onto the member states. At present the UN cannot be held accountable for a state crime. The question must nevertheless be asked: at what point will the international community hold the UN accountable for its' failures, and what will the consequences be?

References

- Burke, R. (2016). Central African republic peacekeeper sexual crimes, institutional failings: Addressing the accountability gap. *New Zealand Journal of Public and International Law*, 14(1), 97-128.
- Chambliss, W.J. (1989). State-organized crime – The American Society of Criminology, 1988 Presidential Address. *Criminology*, 27(2), 183-208.
- Deschamps, M., Jallow, H.B., & Sooka, Y. (2015, december 17). Report of an Independent Review on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic. Retrieved from <http://www.un.org/News/dh/infocus/centafricrepub/Independent-Review-Report.pdf>
- Evertsson, N. (2017). State Aid and Taxation of Transnational Companies: A Study of State-Corporate Crime. *Critical Criminology*, 25(4), 507-522.
- Freedman, R. (2014). UN immunity or impunity? A human rights based challenge. *European Journal of International Law*, 25(1), 239-254.
- Freedman, R. (2015, april 29). French peacekeeper abuse scandal fits an old pattern of impunity. Retrieved from <https://theconversation.com/french-peacekeeper-abuse-scandal-fits-an-old-pattern-of-impunity-40991>
- Freedman, R. (2018). UNaccountable: a new approach to peacekeepers and sexual abuse. *European Journal of International Law*, 29(3), 961-985.
- Johansson, K., & Hultman, L. (2019). UN peacekeeping and protection from sexual violence. *Journal of conflict resolution*, 63(7), 1656-1681.
- Kauzlarich, D., Mullins, C.W., Matthews, R.A. (2003). A complicity continuum of state crime. *Contemporary Justice Review*, 6(3), 241-254.
- Kramer, R.C., Michalowski, R.J., & Kauzlarich, D. (2002). The Origins and Development of the Concept and Theory of State-Corporate Crime. *Crime & Delinquency*, 48(2), 263-282.
- Machel, G. (1996, august 26). Impact of armed conflict on children. Report of the expert of the Secretary-General, Ms. Graça Machel, submitted pursuant to General Assembly resolution 48/157. Retrieved from <https://undocs.org/A/51/306>

- O'Brien, M. (2012). Protectors on trial? Prosecuting peacekeepers for war crimes and crimes against humanity in the International Criminal Court. *International Journal of Law, Crime and Justice*, 40(3), 223-241.
- Rothe, D.I., & Kauzlarich, D. (2016) *Crimes by the powerful. An Introduction*, New York: Routledge.
- Rothe, D.L., Ross, J.I., Mullins, C.W., Friedrichs, D., Michalowski, R., Barak, G., Kauzlarich, D., & Kramer, R.C. (2009). That was then, this is now, what about tomorrow? Future directions in state crime studies. *Critical Criminology*, 17(1), 3-13.
- Sutherland, Edwin H. (1940) White-Collar Criminality, *American Sociological Review*, Vol. 5, No. 1, pp. 1-12.
- United Nations Association of Sweden [UNAS]. (2017a). FN-fakta nr 3/17: FN i korthet. Accessed February 7, 2018, at <https://fn.se/vi-gor/vi-utbildar-och-informerar/faktablad/>
- United Nations Association of Sweden [UNAS]. (2017b). FN-fakta nr 1/17: FN:s säkerhetsråd. Accessed February 7, 2018, at <https://fn.se/vi-gor/vi-utbildar-och-informerar/faktablad/>
- United Nations Association of Sweden [UNAS]. (2017c). FN-fakta nr 4/17: FN:s arbete med mänskliga rättigheter. Accessed February 7, 2018, at <https://fn.se/vi-gor/vi-utbildar-och-informerar/faktablad/>
- SVT. (2018). Våldtagen av FN. Accessed March 3, 2019, at <https://www.svtplay.se/video/19443672/valdtagen-av-fn>
- Tombs, Steve & Whyte, David (2015) *The Corporate Criminal. Why corporations must be abolished*. Croydon: Routledge.
- Wigenmark, A. (2003). Mänskliga rättigheter som handelsvara. In Flyghed, J. & Hörnqvist, M. (ed.). *Laglöst land. Terroristjakt och rättssäkerhet i Sverige*. (pp. 149-173). Stockholm: Ordfront.