

Forum: SOCHUM 2

Question: The question of the behaviour of foreign development workers in LEDCs

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Introduction:

Earlier this year, to the horror of many, it was revealed that Oxfam aid workers were guilty of sexually abusing vulnerable and sometimes underage women in Haiti after being posted there to distribute supplies and aid reconstruction following the 2010 earthquake. This prompted further inquiry into abuse of power in the humanitarian sector, a sector which is often not held accountable due to the nature of its work. In July 2018, the British government published a report looking into the issue of sexual exploitation and abuse by aid workers. While welcoming recent focus on the issue, the report struck a condemnatory tone elsewhere, lamenting the lack of funding and attention going into the establishment of reporting mechanisms and proper implementation of safeguarding procedures and guidelines. It also highlighted aid organisations' concern for their own reputations as a principal contributing factor to their opacity.

Of particular note are the report's comments on the United Nations itself and its own Protection from Sexual Exploitation and Abuse (PSEA) measures. As well as providing suggestions for independent charities in order to coordinate codes of conduct for all aid workers more effectively and protect against abuses of power, the UN must focus on its aid organisations and ensure that PSEA measures are co-ordinated and outcomes-focused. Currently, investigations into abuse are handled in a decentralised fashion and, according to the 1946 Convention on the Privileges and Immunities of the United Nations, UN aid workers have immunity from legal process in member states' national courts. This often leaves internal investigations responsible for handling most allegations of misconduct, which may pose problems for transparency.

On paper, the UN seems to have ample measures to act against rule-breaking aid workers. The *Putting Ethics to Work* document published by the UN Ethics Office sets out ethics guidelines for all UN employees, and the 1946 Convention did specify that legal immunity could be waived in instances where doing otherwise would "impede the course of justice." In 2003, resolution 57/306 "Investigation of sexual exploitation of refugees by aid workers in West Africa" was passed, and soon after that a Secretary-General's Bulletin on "Special measures for protection against sexual exploitation and sexual abuse" was published, addressing the issue in more general terms. Another resolution mentioning the matter was published in 2016, followed by a report in 2017. However, as 168 sexual exploitation and abuse (henceforth SEA) allegations were made against UN aid agencies alone in 2016 and 138 in 2017, much more remains to be done.

Problems within the aid sector:

2.1 Sexual abuse and illegal activity

The well-publicised Oxfam scandal reveals much about the state of illegal activity perpetrated by aid workers in LEDCs. The aid workers were accused of paying sex workers in a country where prostitution is illegal. Instead of listening to the victims and firing the aggressors, Oxfam actively tried to cover up what had been happening, declining to report the incident to the Haitian government for fear of compromising their reputation or losing the right to work in Haiti (as they eventually did once the allegations surfaced). The charity also hid these events from the aid workers' home governments, where they could have been tried under child sex tourism laws, as it is believed that many of these victims were under the age of 18.

This case demonstrates two separate yet interlinked problems with the behaviour of foreign development workers in LEDCs. The first is the abuse of power which is unfortunately much more

widespread in the sector than one might realise. In LEDCs, where victims – often young and female – depend on aid due to the deprivation caused by war, natural disasters or dire poverty, there is a stark imbalance of power between foreign development workers and those they are supposed to be helping. This means that if a victim is forced to have sex in exchange for sorely needed food and water supplies, for example, they have no choice but to give in. Such incidents are known to have occurred in Liberia, Guinea, Sierra Leone and more recently in Syria, and can lead to pregnancy, sexually transmitted diseases and social exclusion. Thus the unique power dynamics between foreign development workers and the highly vulnerable populations of the countries to which they are posted can have devastating consequences without appropriate preventative measures.

2.2 Impunity

The second problem is the impunity that foreign development workers sometimes enjoy. Had aid organisations been more transparent about their employment practices and their employees' actions, and had there been a more straightforward channel for them or the victims to report the crimes of the aid workers to national governments involved, the issue would not have developed into such an enormous cover-up. The sensitivity and vulnerability of those living on aid make it even more crucial that aid workers engaging in any illegal activity should be held to account just as any other perpetrator of a criminal offence would be. Greater transparency and clearer codes of conduct for aid workers and organisations are essential to improving accountability, and the UN could play a part in encouraging this.

Complicating the issue is the legal immunity of UN aid workers. This measure was originally put in place to protect UN employees from dubious prosecution in countries where the rule of law is less strong, which is still a concern today. It is widely believed, however, that UN employees are immune from prosecution in national courts *without exception*, which is not true; UN agencies are able to waive officials' immunity in certain specific cases. In practice, this does not occur as frequently as it should due to a lack of awareness of this mechanism. Most allegations of misconduct by officials are reported to the UN itself and investigated by the Office of Internal Oversight Services (OIOS), a body with little transparency, little published data and an evident conflict of interest as the employer of the accused. This creates logistical problems as well as raising questions about neutrality, since the UN has to spend time gathering evidence and deciding whether there is enough to present to a prosecuting authority. Consequently, UN aid workers can be *de facto* above the law if they commit a crime, which does not set a good precedent.

2.3 Organisational culture

Another issue to consider is the culture behind the actions of aid workers who abuse their power or otherwise break the law, and their ability to act with impunity. Aid organisations – including UN bodies themselves – have a worrying tendency to preserve their own reputations at all cost, even if this means letting a criminal offence go unpunished. This can lead to them punishing the wrong people, such as whistleblowers, and neglecting to listen to victims. If this culture persists, organisations and individual offenders will continue to feel compelled not to accept responsibility for their actions and safeguarding policies will never be properly implemented. Transparency is also a question of culture, to a considerable extent. The report delivered by Oxfam to the Department of International Development was deliberately obfuscatory, which is unacceptable but lamentably common in the industry.

Existing UN measures:

3.1 Ethics and conduct guidelines

The UN Ethics Office published a document called *Putting Ethics to Work*, which is made available to every UN employee. It outlines how to behave on missions and what to do if someone violates this code of conduct. A theme running throughout the document is that, fundamentally, UN

employees must show respect and tolerance for all people and cultures when carrying out a mission, and this means compliance with local laws, behaving as a guest in the host country at all times, and a zero tolerance policy on sexual abuse. If an employee believes that they have or a colleague has behaved inappropriately, they are urged to report this activity to OIOS, their head of office, an HR representative or their Conduct and Discipline Team. While this rhetoric is laudable, the procedures laid out in this document have not been implemented as smoothly as intended. Even the fact that there are four different ways to report suspected wrongdoing shows that the reporting process may be excessively decentralised.

In 2010, the Inter-Agency Standing Committee (IASC) conducted research on the effectiveness of PSEA measures. It found that, although many policies in this area had been established, these had not translated into consistent understanding of these policies across aid organisations; staff and managers were insufficiently aware of their duties. Clearer directives and guidance from head offices were needed, which can only be achieved if senior management proactively promotes PSEA strategy. In addition, community-level awareness mechanisms would have greatly helped the efficacy of these policies. As it stands, victims are frequently unable to lodge complaints because they are not sure which channels to use.

3.2 Resolutions and bulletins

The first resolution to look specifically at sexual abuse by aid workers in detail was resolution 57/306 of May 22 2003, passed in response to the discovery that West African refugees were being exploited by aid workers. This resolution condemned the actions of these aid workers and emphasised the need for greater cooperation and accountability on this matter across UN organisations, and also called for a Secretary-General's Bulletin to be published addressing the subject. It also encouraged UN organisations and NGOs to include references to sexual harassment policy in their codes of conduct, and for data on previous investigations to be maintained. As the precursor to a Secretary-General's Bulletin, it did not contain many concrete suggestions.

This Bulletin in question was more specific, laying out the duties of officials in senior positions with regards to preventing sexual harassment and the procedure for reporting it to local authorities. Unfortunately, as described in section 2.2, there is not enough awareness of this document and it is still widely believed that any UN official is totally immune to prosecution by such local authorities. This has prevented it from having as much impact as it should have, even though a flurry of new policies were introduced following its publication (the UNOCHA website has more information on this).

In 2016, resolution 70/286 “Cross-cutting issues” was passed, in which section IV addressed the concerns over sexual harassment which were mounting once again. It called for more training for UN staff, more support for victims, the facilitation of information exchange and regular reporting on the subject and a framework for greater collaboration between UN organisations and member states in the process of investigating allegations, among other suggestions. This was followed up by the Secretary-General's Report A/71/818, published in 2017, which went into much more depth. It discussed improving victims’ rights, accountability, investigations and strategic communication, and submitted several proposals for action that should be taken by the General Assembly – of course, however, it was not a resolution. Although this document aims to address sexual exploitation by UN employees in particular, its suggestions are generally applicable to other forms of criminal activity and as a basis for suggestions to NGOs and independent charities, and are worth reading and developing on in a resolution.

Perspectives and questions to consider:

There is an undisputed need to prevent foreign development workers from abusing their power, contravening the law or withholding information from local governments, whether they be

employed by the UN or by other organisations. The difficulty lies in establishing to what extent the UN is free to suggest stricter, common standards of conduct for all international aid organisations (a good starting point here would be the *Code of Ethics and Conduct for NGOs*), and how exactly the UN can ensure that good policy leads to good practice. All of the various aspects to dealing with law-breaking should be considered, including victim support, communication, raising awareness and the rights and responsibilities of the different bodies involved (UN agencies, national governments and so on). Delegates should also consider the question of UN employees' immunity, and how the process of investigating allegations could be streamlined and protected from conflicts of interest.

Bibliography:

<https://publications.parliament.uk/pa/cm201719/cmselect/cmintdev/840/84002.htm>

<https://odihpn.org/magazine/sexual-exploitation-and-abuse-by-un-ngo-and-ingo-personnel-a-self-assessment/>

<https://www.devex.com/news/accountability-in-the-aid-sector-humanitarians-can-no-longer-be-above-the-law-92133>

http://www.un.org/en/ethics/pdf/putting_ethics_to_work_en.pdf

<https://www.chsalliance.org/files/files/Resources/Tools-and-guidance/CHS-Alliance-PSEA-Conference-2016-Joint-speaker-presentations.pdf>

<http://www.un.org/news/dh/infocus/a-57-465.pdf>

All documents mentioned in section 3.2.