

BLEMISHED UN PEACEKEEPING



REPORTAGE FROM THE GROUND



ASIAN CENTRE FOR HUMAN RIGHTS

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Published by:

Asian Centre for Human Rights
C-3/441, Janakpuri, New Delhi 110058 INDIA
Tel/Fax: +91 11 25620583, 25503624
Website: www.achrweb.org
Email: director@achrweb.org

First Published:

June 2014

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ISBN: 978-81-88987-50-4

Suggested contribution Rs. 595 /-

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LIST OF ABBREVIATION

ACHR	Asian Centre for Human Rights
AF	Advocacy Forum
AFSPA	Armed Forces Special Power Act
AMC	Army Medical Corps
AOG	Armed Opposition Group
APF	Armed Police Force
AR	Assam Rifles
ASP	Assistant Superintendent of Police
ASR	Army Service Regulations
AU	African Union
BDR	Bangladesh Rifles
BGB	Border Guards Bangladesh
BMA	Bangladesh Military Academy
BNP	Bangladesh Nationalist Party
BSF	Border Security Force
CAPF	Central Armed Police Forces
CBI	Central Bureau of Investigation
CHT	Chittagong Hill Tracts
CID	Criminal Investigation Department
CISF	Central Industrial Security Force
CISLAC	Civil Society Legislative Advocacy Centre
CJM	Chief Judicial Magistrate
CoI	Court of Inquiry
CoAS	Chief of Army Staff
CoS	Chief of Staff

CPO	Central Police Organisation
CRPF	Central Reserve Police Force
DDRRR	Disarmament, Demobilization, Repatriation, Reintegration and Resettlement
DPKOs	UN Department of Peacekeeping Operations
ECOMOG	Economic Community of West African States Monitoring Group
ECOWAS	Economic Community of West African States
FDLR	Forces Democratiques de Liberation du Rwanda
FIR	First Information Report
FPU	Formed Police Unit
Gen	General
GOC	General Officer Commanding
IPO	Individual Police Officer
INDBATT	Indian UN battalion
ITBP	Indo Tibetan Border Police
JTF	Joint Task Force
Lt	Lieutenant
Maj	Major
MEA	Ministry of External Affairs
MHA	Ministry of Home Affairs
MINUSTAH	UN Stabilization Mission in Haiti
MoD	Ministry of Defence
MONUC	UN Organization Mission in the Democratic Republic of Congo
MONUSCO	UN Organization Stabilization Mission in the Democratic Republic of the Congo
NA	Nepal Army

NA	Nigerian Army
NHRC	National Human Rights Commission
NOPRIN	Network of Police Reform in Nigeria
NPF	Nigeria Police Force
OIOS	UN Office of Internal Oversight Services
ONUC	UN Operation in the Congo
Ops	Operations
PBOR	Personnel Below Officers Rank
PCJSS	Parbatya Chattagram Jana Samhati Samiti
PET	Physical Efficiency Test
PHRA	Protection of Human Rights Act
PKOs	UN peacekeeping operations
PST	Physical Standards Test
RAB	Rapid Action Battalion
RDO	Rural Departmental Officers
RPC	Ranbir Penal Code
RR	Rashtriya Rifles
SAAT	UN Selection Assistance and Assessment Team
SP	Superintendent of Police
SSB	Sashastra Seema Bal
TCCs	Troop Contributing Countries
UN	United Nations
UNDOF	UN Disengagement Observer Force
UNFICYP	UN Peacekeeping Force in Cyprus
UNIKOM	UN Iraq-Kuwait Observation Mission
UNMEM	UN Military Experts on Mission
UNMIS	UN Mission in Sudan

UNPKOs	UN Peacekeeping Operations
UNSAS	UN Standby Arrangement System
UPSC	Union Public Service Commission
UT	Union Territory
VDP	Village Defence Party

1. INTRODUCTION: BLEMISHED UN PEACEKEEPING

Can UN allow its staff to violate human rights?

The United Nations (UN) is employer of one of the largest armies in the world. Currently, it has more than 97,000 uniformed personnel (Military and Police) coming from over 110 countries and the number has been steadily growing.

While the debate between the troops contributing countries (TCCs) and top funders of the UN peacekeeping operations (UNPKOs) continue on a range of issues relating to peacekeeping, the responsibility of the peacekeepers performing duties for and on behalf of the UN has seldom been discussed. Can the UN deploy human rights violators or human rights violations by its own employees including the peacekeepers?

Reportage from the ground of the Troops Contributing Countries: Violators selected as peacekeepers

The country research on the deployment of the peacekeepers from four major troops contributing countries i.e. Bangladesh, India, Nepal and Nigeria by Asian Centre for Human Rights (ACHR) of India, Advocacy Forum (AF) of Nepal and Civil Society Legislative Advocacy Centre (CISLAC) of Nigeria brings out startling findings about the selection of human rights violators as the UN peacekeepers.

Bangladesh and Nigeria do not have formal policies for selection of the peacekeepers. The current selection of the UN peacekeepers in these countries has been marred by corruption and nepotism. Nepal has a policy which is seldom followed. India's policy for selection of its UN peacekeepers gives "*preference to those who have proven themselves while serving in counter-insurgency operations*"¹ or "*have served for at least two years in the hard/extreme hard areas like Jammu and Kashmir, North East region or the Naxal Affected states*".² The involvement of security forces of Bangladesh, India, Nepal and Nigeria in human rights violations, especially in conflict situations, require little

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1. See Delhi High Court judgement in the case of *Naib Subedar K.C. Jena vs Union of India & Ors.* on 1 February, 2010 [W.P.(C) No.7994/2009 & C.M. No.4481/2009] judgement available at <http://delhicourts.nic.in/Feb10/Naib%20Subedar%20K.C.%20Jena%20Vs.%20UOI.pdf>
 2. See criteria for selection of officers for deployment with UN/Foreign Missions, available at <http://bsf.nic.in/doc/recruitment/r46.pdf>
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introduction. It is clear that human rights violators had been given preference for deployment as UN peacekeepers.

Even the UN Civilian Police who are selected through UN administered Selection Assistance and Assessment Team (SAAT) Test have not been free of human rights violators. In the SAAT Test held in 2013 by India those selected include Sanjeev Kumar, Assistant Sub-Inspector of Punjab Police accused of custodial torture,³ Superintendent of Police Altaf Ahmad Khan of Jammu and Kashmir Police accused of rape and custodial death,⁴ Head Constable Shiv Charan of Chandigarh Police already arrested by police on the charge of kidnapping and extortion,⁵ and Inspector Atul Soni of Punjab Police arrested under Section 25 of the Arms Act for carrying 52 unauthorised live cartridges of different calibers at the Indira Gandhi International Airport in New Delhi while boarding a Philippines Airlines flight to Manila.⁶

It comes as no surprise that the UN had to repatriate Captain Niranjana Basnet of the Nepal Army (NA), an accused in the murder of Maina Sunuwar⁷ from peacekeeping mission in Chad and Deputy Superintendent of Nepal Police Basanta Kunwar, accused of committing torture,⁸ from peacekeeping mission in Liberia.⁹ In January 2013, British Police arrested Colonel Kumar Lama, serving as an expert with the UN mission in South Sudan for committing torture in Nepal.¹⁰

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3. ASI booked for making inmates dance in nude, *The Tribune*, 7 February 2005 <http://www.tribuneindia.com/2005/20050207/punjab1.htm#32>
 4. Lesson in irony: Gallantry award goes to rape accused, *Tehelka*, 17 August 2012, available at: http://archive.tehelka.com/story_main53.asp?filename=Ws170812JK.asp
 5. Head Constable held for kidnapping, extortion, *The Tribune*, 27 February 2006
 6. Held with live ammo, Punjab cop gets bail, *The Tribune*, 14 June 2012, available at: <http://www.tribuneindia.com/2012/20120614/punjab.htm#12>
 7. Advocacy Forum, "Maina Sunuwar: Separating fact from fiction", February 2010, available at <http://www.advocacyforum.org/downloads/pdf/publications/maina-english.pdf>.
 8. See Advocacy Forum, "Arjun Gurung", available at <http://www.advocacyforum.org/torture-compensation/2011/10/arjun-gurung.php>.
 9. Investigations into serious violations of UN rules are conducted by members of the UN Office of Internal Oversight Services. The final decision to repatriate individuals is made by the New York Headquarters of the Department of Peacekeeping Operations. The cost of repatriations is born by the contributing nation. See Nina Rastogi, "Peacekeepers on Trial", *Slate Magazine*, 28 May 2008, available at: http://www.slate.com/articles/news_and_politics/explainer/2008/05/peacekeepers_on_trial.html last accessed on 26 May 2013. Also see Column Lynch, "Is Nepal sending accused criminals to serve in UN peacekeeping missions?", *Turtle Bay*, 11 November 2011, available at http://turtlebay.foreignpolicy.com/posts/2011/11/11/is_nepal_sending_accused_criminals_to_serve_in_un_peacekeeping_missions, last accessed on 26 May 2013.
 10. Nepal's Colonel Kumar Lama held after court appearance, *BBC*, 5 January 2013 available at <http://www.bbc.com/news/uk-20919827>
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Reportage from the ground of the troops' recipient countries: Violators continue the abuses

The UN peacekeepers from these four countries were also responsible for serious human rights violations, in particular sexual exploitation and abuses, in the troops' recipient countries.

Indian peacekeepers were accused of series of sexual abuse and exploitation in the UN Organization Mission in the Democratic Republic of Congo (MONUC). In January 2005, the UN Office of Internal Oversight Services (OIOS) made eight recommendations including to the MONUC Force Commander and the Contingent commanders¹¹ following confirmation of sexual exploitation and abuses by the peacekeepers. However, Indian peacekeepers continued sexual exploitation and abuses. The DNA testing by the OIOS in May 2008 further reported that children born in the area had “distinctive Indian features” confirming the allegations of sexual abuse and exploitation.¹²

Nigeria's Peacekeepers were accused of corruption,¹³ involvement in illegal diamond trade, making false passports, drug smuggling and other illegal activities, apart from sexual exploitation and abuse.¹⁴ Between 1990 and 1998, West African soldiers from Nigeria and some other members of Economic Community of West African States (ECOWAS) reportedly fathered some 25,000 children during peacekeeping missions in Liberia and the Nigerian contingent reportedly accounted for 50 percent of the cases. All the fathers abandoned the children.¹⁵ Some of these children are being sheltered in an orphanage, known as ECOMOG Children's Home, as the children's mothers could no longer take care of them.¹⁶ In 2005, 11 Nigerian policemen serving with MONUC had to be withdrawn and subsequently suspended from duty after a special investigation panel found corroborating evidence of sexual

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11. Investigation by the Office of Internal Oversight Services into allegations of sexual exploitation and abuse in the United Nations Organization Mission in the Democratic Republic of the Congo, UN General Assembly Document No. A/59/661 dated 5 January 2005.
 12. See Varinder Bhatia, *Indian Army probes reports of its UN peacekeepers fathering kids in Congo*, The Indian Express, 07 June 2011, available at: <http://www.indianexpress.com/news/indian-army-probes-reports-of-its-un-peacekeepers-fathering-kids-in-congo/800244/>, last accessed on 14 August 2013.
 13. See Ewen MacAskill, *UN gets warning shot peacekeeping, Huge corruption in Sierra Leone shows the need for rapid reform*, available at <http://www.theguardian.com/world/2000/sep/09/sierraleone2>, last accessed on 14 February 2014. See also The Sierra Web, *Report on the Crisis in Sierra Leone*, available at <http://www.sierra-leone.org/Other-Conflict/jetley-0500.html>, last accessed on 14 February 2014.
 14. *Ibid*
 15. See CNN, 'Time for a blunt message to Africa', By George B.N. Ayttey, available at: <http://edition.cnn.com/fyi/backgrounders/aids.africa/stories/war.africa.aids/>
 16. See <http://www.soschildrensvillages.ca/peacekeepers-implicated-child-abandonment>
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exploitation and abuse, including against the commander.¹⁷ During the peacekeeping mission in Sierra Leone, Major General Vijay Kumar Jetley complained about the corruption of the Nigerian peacekeeping forces¹⁸ and that the Nigerian Army “has obstructed peace moves in Sierra Leone because its officers and men are getting rich through illegally trading diamonds.”¹⁹ Though General Jetley’s allegations were contested by the Nigerian Army,²⁰ the Nigerian Army’s earlier requests to command the UN mission in Sierra Leone was turned down due to its “patchy record in previous attempts to restore peace.”²¹

Bangladeshi security forces have also been involved in sexual exploitation during peacekeeping missions. In 2007 four Bangladeshi peacekeepers deployed to the UN Mission in Sudan had to be repatriated following investigations into allegations of sexual exploitation and abuse of children.²² The UN announced its intention to follow up with the Government of Bangladesh for prosecution²³ but the Government of Bangladesh failed

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17. See Agence France-Presse, *11 Nigerian police peacekeepers sanctioned over sex scandal in DR Congo*, Reliefweb, 26 September 2005, available at <http://reliefweb.int/report/democratic-republic-congo/11-nigerian-police-peacekeepers-sanctioned-over-sex-scandal-dr>, last accessed on 14 February 2014. See also See BBC, *Nigeria acts on police sex abuse*, 27 September 2005, available at <http://news.bbc.co.uk/2/hi/africa/4285650.stm>, last accessed on 14 February 2014. See also United Nations Secretary-General Ban Ki-moon, *Statement attributable to the Spokesman for the Secretary-General on the recall of a Nigerian unit from MONUC*, available at <http://www.un.org/sg/statements/?nid=1677>, last accessed on 14 February 2014. See also Wikileaks, *Cable 05KINSHASA1501_a*, 16 September 2005, available at http://www.wikileaks.org/plusd/cables/05KINSHASA1501_a.html, last accessed on 14 February 2014. See also Wikileaks, *Cable 05KINSHASA1484_a*, 14 September 2005, available at http://www.wikileaks.org/plusd/cables/05KINSHASA1484_a.html, last accessed on 14 February 2014.
 18. See Ewen MacAskill, *UN gets warning shot peacekeeping, Huge corruption in Sierra Leone shows the need for rapid reform*, available at <http://www.theguardian.com/world/2000/sep/09/sierraleone2>, last accessed on 14 February 2014. See also The Sierra Web, *Report on the Crisis in Sierra Leone*, available at <http://www.sierra-leone.org/Other-Conflict/jetley-0500.html>, last accessed on 14 February 2014.
 19. See Ewen MacAskill, *UN gets warning shot peacekeeping, Huge corruption in Sierra Leone shows the need for rapid reform*, available at <http://www.theguardian.com/world/2000/sep/09/sierraleone2>, last accessed on 14 February 2014. See also The Sierra Web, *Report on the Crisis in Sierra Leone*, available at <http://www.sierra-leone.org/Other-Conflict/jetley-0500.html>, last accessed on 14 February 2014.
 20. See BBC, *Nigeria: Sack UN force commander*, available at <http://news.bbc.co.uk/2/hi/africa/917962.stm>, last accessed on 14 February 2014.
 21. Major-General Jetley was replaced, although varying reasons were given for his replacement, such as the expansion of the mission and the need for a three star general (he was only a two star general). See BBC, *Nigeria: Sack UN force commander*, available at <http://news.bbc.co.uk/2/hi/africa/917962.stm>, last accessed on 14 February 2014. See also BBC, *UN announces Sierra Leone shake-up*, 23 September 2000, available at <http://news.bbc.co.uk/2/hi/africa/938281.stm>, last accessed on 14 February 2014.
 22. See Wikileaks, *Cable No. 07KHAROU31_a*, 8 January 2007, available at: http://www.wikileaks.org/plusd/cables/07KHAROU31_a.html, last accessed on 4 October 2013. See also UN News Centre, *Four peacekeepers accused of sex abuse already repatriated - UN mission in Sudan*, available at: <http://www.un.org/apps/news/story.asp?NewsID=21160>, last accessed on 1 September 2013.
 23. See UN News Centre, *Four peacekeepers accused of sex abuse already repatriated - UN mission in*
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to indicate publicly as to whether any action had been taken against the accused.

In July 2005, six Nepali soldiers were jailed for sexual abuse in Democratic Republic of Congo where they were serving as United Nations peacekeepers. A General Court Martial found them guilty of sexual abuses and each of the six soldiers was sentenced to three months in jail. These soldiers were recalled in May 2005 to face investigation into the allegations of abuse committed in 2003.²⁴

Though not covered under this report, there have been well documented cases of sexual abuse by the peacekeepers from Uruguay deployed at UN Stabilization Mission in Haiti (MINUSTAH),²⁵ from Benin deployed in Ivory Coast,²⁶ from Sri Lanka deployed in Haiti,²⁷ from Pakistan deployed in Haiti,²⁸ from Brazil in Haiti,²⁹ cases of maltreatment by the Canadian UN troops deployed in Bosnia,³⁰ among others.

The challenge before the UN

The UN Peacekeeping missions stand blemished.

Impunity for violations committed by the UN peacekeepers is the *fait accompli* as the national governments do not take action against the violators upon repatriation by the United Nations. For example, with respect to sexual exploitation committed by the Indian troops during their deployment with the MUNOC, in November 2012, then Chief of Army Staff, General Bikram Singh who himself was the Deputy Force Commander under the MUNOC at the time of commission of the crimes, told the media that the Court of Inquiry had found one person responsible for sexual abuse and three others

Sudan, available at: <http://www.un.org/apps/news/story.asp?NewsID=21160>, last accessed on 1 September 2013

24. Nepal jails six peacekeepers for sex abuse in Congo, Gulf News, 24 July 2005, at: <http://gulfnews.com/nepal-jails-six-peacekeepers-for-sex-abuse-in-congo-1.295124>
25. See 'Uruguay to probe alleged sexual misconduct by its UN peacekeepers in Haiti' UN News Centre, 9 September 2011 at: <http://www.un.org/apps/news/story.asp?NewsID=39499#.U7qUrp5Szs>
26. See 'Peacekeepers' Sex Scandals Linger, On Screen and Off', The New York Times, 7 September 2011 at: http://www.nytimes.com/2011/09/08/world/08nations.html?pagewanted=all&_r=0
27. See 'Peacekeepers' Sex Scandals Linger, On Screen and Off', The New York Times, 7 September 2011 at: http://www.nytimes.com/2011/09/08/world/08nations.html?pagewanted=all&_r=0
28. See 'U.N. Faces More Accusations of Sexual Misconduct', The Washington Post, 13 March 2005 at: <http://www.washingtonpost.com/wp-dyn/articles/A30286-2005Mar12.html>
29. See 'U.N. Faces More Accusations of Sexual Misconduct', The Washington Post, 13 March 2005 at: <http://www.washingtonpost.com/wp-dyn/articles/A30286-2005Mar12.html>
30. Reported in The Telegraph, 15 May 2004, see <http://tundrabloids.com/2012/05/dr-manfred-gerstenfeld-the-shalom-eisner-affair-and-the-un.html>

for command and control failure.³¹ However, in a letter dated 1 April 2013 to the Asian Centre for Human Rights, Major General Anil Mehta of the Army Headquarters stated that the “*investigation on the subject incident is still not completed*”.

However, as the UN is desperate to hire peacekeepers in order to restore stability of certain countries, it has essentially turned its blind eye for selection of the troops accused of human rights violations and at times further strengthening the hold of the army in national political affairs of the country such as Bangladesh through the UN peacekeeping missions. The UN peacekeeping deployment has been so lucrative³² that Bangladesh Army has monopolised the deployment in the UN peacekeeping missions. In fact, the denial of opportunity to the Bangladesh Rifles (BDR) to be deployed as UN peacekeepers was one of the reasons for the revolt at the BDR Headquarters at Pilkhana, Dhaka on 25 February 2009 in which a total of 74 persons including 57 Army Officers deputed to the BDR from the Bangladesh army were massacred. The Bangladesh Army and the government continue to maintain that the “*United Nations has objected to the proposal of BDR members being taken to foreign missions. Bangladesh Government has no jurisdiction in this matter*”.³³ This is a blatant lie considering that neighbouring India has been sending its Border Security Force, equivalent of the BDR in Bangladesh, to the UN missions.³⁴ Further, participation in UNPKOs has become the official *raison d’etre* for increasing the military expenditure of the country by over 11% during Financial Year 2011-12.³⁵

The question remains whether these tainted peacekeepers are contributing to effective peacekeeping in the troops’ recipient countries.

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31. Indian army’s shame: Indictment of 4 Indian peacekeepers for ‘sexual misconduct’ on a UN posting in Congo dents the army’s honour, Mail Today, New Delhi, November 25, 2012 available at: <http://indiatoday.intoday.in/story/indian-army-shamed-action-against-jawan-for-fathering-child-congo-india-today/1/234613.html>
 32. At the UN standard rate, a Bangladesh Army personnel deployed with UN Peace Keeping Operations earn upwards of US \$2,200 a month for an officer and US \$1,100 for a soldier, in addition to other allowances and perks. The average monthly pay is Taka 7,717 (about US \$100) for a Bangladeshi soldier and Taka 15,000 (about US \$200) for a Bangladeshi officer. See Nicolas Haque, *Bangladesh troops lead global peacekeeping*, Aljazeera, 29 May 2012, available at: <http://www.aljazeera.com/indepth/features/2012/05/201252982553900996.html>, last accessed on 1 September 2013 and Bangladesh Army, *Benefits*, available at: <http://www.joinbangladesharmy.mil.bd/benefits/money>, last accessed on 1 September 2013
 33. Revolt at the BDR Headquarters situated at Peelkhana: Report of the Investigating Committee created for Investigation of the Heinouss Massacre, 21 May 2009 available at http://www.hrw.org/sites/default/files/related_material/Investigation%20Report%20-%20Government%20Inquiry_0.pdf
 34. Please visit <http://crpf.nic.in/un.HTM> which shows that India’s Central Reserve Police Force personnel have been deployed on UN Missions in Haiti, Kosovo and Liberia.
 35. Army to get 44 tanks, 2 helicopters also on purchase list, *The Daily Star*, 27 June 2011, available at <http://archive.thedailystar.net/newDesign/news-details.php?nid=191737>
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The report of the UN Office of Internal Oversight Services, “*Evaluation of the implementation and results of protection of civilians mandates in United Nations peacekeeping operations*”, in March 2014 “noted a persistent pattern of peacekeeping operations not intervening with force when civilians are under attack. The use of force is legally authorized and consistent with the intent of the Security Council and the expectations of civilians, but appears to have been routinely avoided as an option by peacekeeping operations. The reasons include different views in the Security Council and among troop-contributing countries and, importantly, a *de facto dual* line of command involving mission leadership and troop-contributing countries that regulates the use of force by missions. In addition, the obligation of missions to act when host Governments are unable or unwilling to discharge their primary responsibility to protect civilians is not well understood; missions perceive themselves as having insufficient resources to respond to force with force; and contingent members themselves are concerned about possible penalties if their use of force is judged inappropriate. Partly as a result, and despite major commitments by the United Nations and troop- and police-contributing countries, civilians continue to suffer violence and displacement in many countries where United Nations missions hold protection of civilians mandates.”³⁶

The OIOS in its report stated that “no part of the peacekeeping architecture is uniquely responsible for that situation” but stated that “what is required is a frank dialogue on the issue within the peacekeeping partnership of troop-, police- and finance-contributing countries, host Governments, the Security Council, the Secretariat and other parties. Solutions also require the involvement of the General Assembly as the main deliberative organ of the United Nations”.³⁷

It is unlikely that the UN peacekeepers who do not have necessary track record of protection of civilians in their own countries will act to defend the civilians in the troops’ recipient countries. If human rights violators are selected for the UN peacekeeping missions by the TCCs, it is unlikely that the same peacekeepers will respect human rights in the troops’ recipient countries. There is no doubt that the selection of the UN peacekeepers remains central but the UN has so far shied away from addressing the issue. The UN has introduced “Human Rights Screening of United Nations Personnel” in December 2012 seeking to verify the antecedents of UN Peacekeepers at the level of Force

36. Report on the activities of the UN Office of Internal Oversight Services “Evaluation of the implementation and results of protection of civilians mandates in United Nations peacekeeping operations” (A/68/787) presented to the UN General Assembly, dated 7 March 2014

37. Report on the activities of the UN Office of Internal Oversight Services “Evaluation of the implementation and results of protection of civilians mandates in United Nations peacekeeping operations” (A/68/787) presented to the UN General Assembly, dated 7 March 2014

Commanders and Deputy Force Commanders. This appears to be a classical case of “too little, too late” to restore the credibility of the United Nations peacekeeping missions. The UN ought to take more proactive measures and the UN Secretary General must lead from the front.

Suhas Chakma
Director, Asian Centre for Human Rights

2. CONTRIBUTION TOWARDS UN PEACEKEEPING BY BANGLADESH, INDIA, NEPAL AND NIGERIA

2.1 Bangladesh

In 1989, Bangladesh began its involvement with the UN Police through its participation in the UN Transition Assistance Group in Namibia.³⁸ Since that time, Bangladesh has continued to send its police to serve in the UN peacekeeping missions and has participated in 20 missions.³⁹ Bangladesh Police has sent two all female Formed Police Units (FPUs) to United Nations Stabilisation Mission in Haiti (MINUSTAH) and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).⁴⁰ As of August 2013, Bangladesh was the top Police Contributing Country with a total of 1,816 personnel serving in seven missions.⁴¹

Bangladesh joined UN peacekeeping operations in 1988 contributing officers to UN Iran-Iraq Military Observer Group.⁴² In 1989, another observer group was sent to Namibia. A battalion was sent to the UN Iraq-Kuwait Observation Mission (UNIKOM) in 1993.⁴³ Since then, Bangladesh

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38. See Bangladesh Police, *Bangladesh Police in UN Missions*, available at: <http://www.police.gov.bd/content.php?id=252>, last accessed on 4 October 2013.
 39. The Bangladesh Police have participated in the following past missions: UNTAES, UNMIBH, UNMOP, UNAMA, UNMIK, UNTAC, UNTAET, ONUMOS, UNAMIK, UNOMSIL, MONUA, UNMIS and UNTAG. Bangladesh Police are currently serving in MINUSMA (FPUs), MINUSTAH (FPUs and IPOs), MONUSCO (FPUs), UNAMID (FPUs and IPOs), UNMIL (IPOs), UNMISS (IPOs) and UNOCI (FPUs). See Bangladesh Police, *Bangladesh Police in UN Missions*, available at: <http://www.police.gov.bd/content.php?id=252>, last accessed on 4 October 2013. See also UN Peacekeeping, *Contributors*, 31 August 2013, available at: http://www.un.org/en/peacekeeping/contributors/2013/aug13_1.pdf, last accessed on 4 October 2013. See also UN Peacekeeping, *UN Mission's Summary detailed by Country*, 31 August 2013, available at: http://www.un.org/en/peacekeeping/contributors/2013/aug13_3.pdf, last accessed on 4 October 2013.
 40. See Bangladesh Police, *UN Missions*, available at: <http://www.police.gov.bd/content.php?id=252>, last accessed on 4 October 2013. See also Salim Mia, BBC News, Dhaka, 12 May 2010, available at: http://news.bbc.co.uk/2/hi/south_asia/8678561.stm, last accessed on 4 October 2013.
 41. Following Bangladesh, the second and third largest Police Contributing Countries are Jordan with 1,571 personnel and Senegal with 1,062 personnel. Bangladesh Police are currently serving in MINUSMA (FPUs), MINUSTAH (FPUs and IPOs), MONUSCO (FPUs), UNAMID (FPUs and IPOs), UNMIL (IPOs), UNMISS (IPOs) and UNOCI (FPUs). See UN Peacekeeping, *Contributors*, 31 August 2013, available at: http://www.un.org/en/peacekeeping/contributors/2013/aug13_1.pdf, last accessed on 4 October 2013. See also UN Peacekeeping, *UN Mission's Summary detailed by Country*, 31 August 2013, available at: http://www.un.org/en/peacekeeping/contributors/2013/aug13_3.pdf, last accessed on 4 October 2013.
 42. See UN Peacekeepers, *Iran-Iraq - UNIIMOG, Facts and Figures*, available at: <http://www.un.org/en/peacekeeping/missions/past/uniimogfacts.html>, last accessed on 4 October 2013.
 43. See Bangladesh Institute of Peace Support Operation Training, *Background*, available at: <http://www.bipsot.net/docs.php?sid>About%20BIPSOT&pid=Background>, last accessed on 1 September 2013. See also UN Peacekeepers, *Iraq/Kuwait - UNIKOM - Facts and Figures*, available at: <http://>
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has been consistently ranked among the top contributing countries to UNPKOs⁴⁴ and currently Bangladesh is the second highest contributor. One hundred and thirteen Bangladeshi personnel have died while serving in UNPKOs.⁴⁵ Approximately 94,768 of Bangladesh Army personnel have been deployed to UN Peacekeeping missions since 1988. Around seven percent of the Army has been constantly deployed in UN peacekeeping operations since 2005.⁴⁶

2.2 India

As a founding member of the UN, India has contributed to the goal of the UN of maintaining international peace and security through peacekeeping.⁴⁷ Since 1950, India has responded, whenever possible, to the request of the UN for troops for peacekeeping missions and has taken part in over 43 peacekeeping missions, contributing over 163,000 personnel.⁴⁸ To date, India remains among the largest and most reliable troop contributing countries to UN peacekeeping operations (PKOs).⁴⁹

India first deployed troops for peacekeeping during the Korean War as a part of the Neutral Nations Repatriation Commission in 1953-54, which involved the facilitation of the withdrawal of the sick and wounded and provision of a custodian force.⁵⁰ This was followed by a troop deployment to Indo-China

www.un.org/en/peacekeeping/missions/past/unikom/facts.html, last accessed on 4 October 2013.

44. For a complete list of Bangladesh's contribution to UN peacekeeping missions since 1988 see Annex 2, 3 and 4
45. Out of 3,149 peacekeepers killed during missions, Bangladesh has lost a total of 113, while India has lost 154, followed by Nigeria with 140, Pakistan with 133, Ghana with 131, Canada with 121. See UN Peacekeeping, *Fatalities, Nationality and Mission up to 30 September 2013*, available at: http://www.un.org/en/peacekeeping/fatalities/documents/stats_2.pdf, last accessed on 4 October 2013.
46. The Army, UN Peacekeeping Mission and Democracy in Bangladesh, Nurul Islam, Economic and Political Weekly, July 17, 2010 Vol. XLV No 29
47. India signed the Declaration by the UN on 1 January 1942 and participated in the UN Conference of International Organization from 25 April to 26 June 1945. See Permanent Mission, India, "India and United Nations," available at: <http://www.un.int/india/india%20%20un/introduction.pdf>, last accessed on 13 August 2013. The UN's other activities include, but are not limited to, conflict prevention and mediation, peacemaking, peace enforcement and peacebuilding. See UN Peacekeeping, Peace and Security, available at: <http://www.un.org/en/peacekeeping/operations/peace.shtml>, last accessed on 14 August 2013.
48. See Dipankar Banerjee, "Contributor Profile: India," Institute of Peace and Conflict Studies, New Delhi, 27 January 2013, available at: http://www.ipinst.org/-ipinst/images/pdfs/india_banerjee130201.pdf, last accessed on 13 August 2013.
49. See UN Peacekeeping, Military, available at: <http://www.un.org/en/peacekeeping/issues/military.shtml>, last accessed on 14 August 2013. See also Indian Army, Peacekeeping Operations, available at: <http://indianarmy.nic.in/Site/FormTemplate/frmTempSimple.aspx?MnId=+lvGBXbiT8qBLligysA5Fw=&ParentID=neWZ5Gt5GCLqW1+og+7E9g==&flag=JtlWd96zLWX233JJPME5Uw==>, last accessed on 14 August 2013.
50. See Permanent Mission, India, "India and UN, India's contribution to UN Peacekeeping Missions,"

(Vietnam, Cambodia and Laos) from 1954-1970 to assist with monitoring, ceasefire compliance and repatriation of prisoners of war, among others.⁵¹ India's first armed troop contingent was deployed from 1956 until 1967 in Gaza in the wake of the conflict between Israeli and Egyptian forces.⁵² Since the end of the Cold War, India has been engaged in most of the UN's peacekeeping missions.⁵³ In addition to providing troops for deployment, India has also provided military observers for many of the UN missions on request from the DPKO.⁵⁴

India is currently the third largest contributor of troops (military and police) to the UN peacekeeping operations after Pakistan and Bangladesh.⁵⁵ As of 30 June 2013, a total strength of 7,878 personnel (6,821 troops, 1,012 police and 45 UN Military Experts on Mission (UNMEM) were deployed in 10 out of 15 UN peacekeeping missions across the world.⁵⁶

available at: <http://www.un.int/india/india%20a%20un/contribution.pdf>, last accessed on 12 August 2013.

51. See *Id.*

52. See *Id.*

53. India participated in the following past missions since 1950: (1) Korea (1950-1954), (2) Indo-China (1954-1970), (3) Middle East (UNEF, 1956-1967), (4) Congo (ONUC, 1960-64), (5) Cambodia (UNTAC, 1992-1993), (6) Mozambique (ONUMOZ, 1992-1994), (7) Somalia (UNITAF and UNOSOM II, 1993-1994), (7) Rwanda (UNAMIR, 1994-1996), (8) Angola (UNAVEM, 1989-1999), (9) Sierra Leone (UNAMSIL, 1999-2001), and, (10) Ethiopia-Eritrea (UNMEE, 2006-2008). See UN Peacekeeping, Past Peacekeeping Operations, available at: <http://www.un.org/en/peacekeeping/operations/past.shtml>, last accessed on 13 August 2013. See also Blue Helmets for Africa: India's Peacekeeping in Africa by Frank van Rooyen, OCCASIONAL PAPER NO. 60, South African Institute of International Affairs, May 2010, available at: <http://www.saiia.org.za/occasional-papers/blue-helmets-for-africa-indias-peacekeeping-in-africa>, last accessed on 12 August 2013.

54. India has provided military observers in the Iran-Iraq (1988-1991) and Iraq-Kuwait border disputes (1991 onwards), Namibia (1989-1991), Angola (1989-1991), Central America (1988-1992), El Salvador (1991-1995), Liberia (1993-1997), and Ethiopia-Eritrea (2000 until 2008). See UN Peacekeeping, Past Peacekeeping Operations, available at: <http://www.un.org/en/peacekeeping/operations/past.shtml>, last accessed on 13 August 2013. See also Blue Helmets for Africa: India's Peacekeeping in Africa by Frank van Rooyen, OCCASIONAL PAPER NO. 60, South African Institute of International Affairs, May 2010, available at: <http://www.saiia.org.za/occasional-papers/blue-helmets-for-africa-indias-peacekeeping-in-africa>, last accessed on 12 August 2013.

55. As of 30 June 2013, Pakistan had contributed 8,230 persons for peacekeeping operations; Bangladesh had contributed 7,986; and India had contributed 7,878 persons. See UN Peacekeeping, Contributors, Ranking of Military and Police Contributors To UN Operations, available at: http://www.un.org/en/peacekeeping/contributors/2013/jun13_2.pdf, last accessed on 13 August 2013.

56. See Contributions to UN Peacekeeping Operations, Monthly Summary of Contribution (Police, UN Military Experts on Mission and Troops), available at: http://www.un.org/en/peacekeeping/contributors/2013/jun13_1.pdf, last accessed on 12 August 2013. See also UN Peacekeeping, Past Peacekeeping Operations, available at: <http://www.un.org/en/peacekeeping/operations/past.shtml>, last accessed on 13 August 2013. These include: 1) UN Stabilization Mission in Haiti (MINUSTAH), 2) UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), 3) UN Disengagement Observer Force (UNDOF), 4) UN Peacekeeping Force in Cyprus (UNFICYP), 5) UN Interim Force in Lebanon (UNIFIL), 6) UN Interim Security Force for Abyei (UNISFA), 7) UN Mission in Liberia (UNMIL), 8) UN Mission in the Republic of South Sudan (UNMISS), 9) UN Assistance Mission in Afghanistan (UNAMA), and, 10) UN Operation in Côte d'Ivoire (UNOCI). See also UN Mission's Contributions by Country, available at: http://www.un.org/en/peacekeeping/contributors/2013/jun13_5.pdf, last accessed on 12 August 2013.

Additionally, India has contributed prominent military advisers, force commanders, elite military contingents, observers and dedicated staff officers.⁵⁷ The Indian Army has also deployed female officers as Military Observers and Staff Officers, in addition to contributing female officers as part of Medical Units on UN Missions. As part of its policy for active participation in UN peacekeeping activities, India keeps one brigade of troops for the UN Standby Arrangement System (UNSAS) for deployment in emergency situations.⁵⁸ India also provided the first full Female FPU for peacekeeping work in 2007 to the UN Operation in Liberia.⁵⁹ More than 100 female police officers from India were sent to Liberia to train the local police and provide support for the work of the UN in that country.⁶⁰ India also deployed personnel of Indian Air Force and Indian Navy for the PKOs.

During the past 64 years, Indian troops have paid the ultimate price in various peacekeeping missions. India has suffered the highest number of casualties, with a total of 154 Indian soldiers losing their lives while serving in UN PKOs as of 31 July 2013.⁶¹

Lastly, in addition to personnel and equipment contributions for peacekeeping, India contributes financially to the UN peacekeeping budget. Over the past several years, India's contribution has been increasing:⁶²

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57. For example the Indian Army has provided the following military personnel for missions: General Thimayya in Korea & Cyprus, Lt Gen Dewan Prem Chand in Cyprus & Namibia, Lt Gen Satish Nambiar in Yugoslavia, Maj Gen Inderjit Rikhye in Sinai, West Irian & Yemen, Maj Gen PS Gyani in Yemen, Sinai & Cyprus, Maj Gen V Jaitley in Sierra Leone, Maj Gen LM Tiwari in Lebanon, Maj Gen (now Lt Gen) Rajender Singh, SM, VSM in Ethiopia-Eritrea, Lt Gen RK Mehta, PVSM, AVSM, YSM, VSM as Military Adviser to the Secretary General in UN HQ, Lt Gen JS Lidder, UYSM, AVSM in Sudan and Maj Gen Bikram Singh, AVSM, SM, VSM as Divisional Commander in Congo, in addition to many contingent commanders. See India Army, Operations/UN Mission, UN Peacekeeping, available at: <http://indianarmy.nic.in/Site/FormTemplate/frmTempSimple.aspx?Mnld=F21fz7AbalwUHZa61BNZ4A==&ParentID=BFGV9WrbpFJzUmW3xQcbgw==&flag=FUYAl0na1pHx5Xj0PuHyQ==>, last accessed on 13 August 2013.
 58. See UN Peacekeeping: India's Role in UN Peacekeeping Missions, Indian Embassy to Austria and Montenegro and Permanent Mission of India to the International Organisations in Vienna, available at: http://www.indianembassy.at/?page_id=1259, last accessed on 12 August 2013.
 59. See BBC News, "Female peacekeepers reach Liberia," 30 January 2007, available at: <http://news.bbc.co.uk/2/hi/africa/6314263.stm>, last accessed on 13 August 2013.
 60. See UN News Centre, "In a first for UN peacekeeping, all-female police unit arrives in Liberia," available at: http://www.un.org/apps/news/story.asp?newsid=21391&cr=#.UgnjN7_3KfQ, last accessed on 13 August 2013.
 61. Out of 3,135 peacekeepers killed during missions, India has lost 154, followed by Nigeria with 139, Pakistan with 133, Ghana with 131, Canada with 121 and Bangladesh with 113. See UN Peacekeeping, Fatalities, Nationality and Mission up to 31 July 2013, available at: http://www.un.org/en/peacekeeping/fatalities/documents/stats_2.pdf, last accessed on 12 August 2013.
 62. See Questions asked by Mr. Amir Alam Khan during Rajya Sabha Budget session 2010, Indian contribution to UN's Budget, Unstarred Question No. 3745, answered on 29.04.2010, available at: <http://164.100.47.4/newsquestion/ShowQn.aspx>, last accessed on 12 August 2013. See also Lok Sabha Question No. 628 answered on 3.08.2011 respectively by Ms. Preneet Kaur, Minister of State in the Ministry of External Affairs, available at: <http://164.100.47.132/LssNew/psearch/QResult15.aspx?qref=105423>, last accessed on 12 August 2013.
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- a. 2007 – 2008 Rs. 26.95 crore (US \$5,778,925.15);
- b. 2008 – 2009 Rs. 30.02 crore (US \$6,437,229.43);
- c. 2009 – 2010 Rs. 36.55 crore (US \$7,837,466.21); and
- d. 2010 – 2011 Rs. 41.56 crore (US \$8,911,767.32).

India's support for peacekeeping activities flows from her commitment to the UN Charter. India's participation in PKOs is based on an analysis of the situation demanding intervention and on an assessment of national interests. Decisions about whether to participate in a PKO follow set procedures, which include a case by case examination by the Cabinet Committee on Security and the advice/approval of the Ministry of External Affairs (MEA). Troop requests are received from the DPKO by the Permanent Mission, India and then forwarded to the MEA in Delhi. If the MEA tentatively clears the request, the proposal is forwarded to the Ministry of Defence (MoD) for detailed examination. The proposal is then examined from a military perspective by a tri-service joint board under the Director General of Staff Duties at the Army Headquarters. The board's recommendations are then sent to the MEA, where its UN Division may consider the proposed participation further from a political angle. After approval, the External Affairs Minister will announce the decision either through a statement in Parliament, if it is in session, or through a press statement from the ministry's spokesperson.⁶³

India's policy on peacekeeping is governed by the following principles:⁶⁴

- All means for the peaceful settlement of disputes chosen by the conflicting parties should be exhausted before establishing a peacekeeping operation;
- PKOs should strictly adhere to the principles of the UN Charter, in particular the principles of full respect for the sovereignty of States, their territorial integrity and non-intervention in their internal affairs;
- PKOs should be considered at the request of the Member States involved and should be under the command and control of UN;

63. See Dipankar Banerjee, "Contributor Profile: India," Institute of Peace and Conflict Studies, New Delhi, 27 January 2013, available at: http://www.ipinst.org/-ipinst/images/pdfs/india_banerjee130201.pdf, last accessed on 13 August 2013.

64. India has held talks with both the United States and United Kingdom on peacekeeping issues. A number of meetings were held between these countries in order to exchange views on policy and operational aspects of peacekeeping and for planning joint activities and identifying institutional cooperation in peacekeeping. See UN Peacekeeping: India's Role in UN Peacekeeping Missions, Indian Embassy to Austria and Montenegro and Permanent Mission of India to the International Organisations in Vienna, available at: http://www.indianembassy.at/?page_id=1259, last accessed on 12 August 2013.

- The resources for peacekeeping activities should not be at the expense of resources for developmental activities of the UN; and
- It is important to ensure that the distinction between PKOs and other activities of the UN, including humanitarian assistance, is maintained.

2.3 Nepal

The Nepal Army's (NA) association with UN peacekeeping operations dates back to the deployment of five military observers with the UN Observer Group to Lebanon in 1958.⁶⁵ It deployed its first full contingent, led by the Purano Gorakh battalion, to Egypt in 1974. In 2007, Nepal signed a Standby Arrangements System Agreement with the DPKO for the quick deployment of peacekeeping troops, pledging to contribute a maximum of 5,000 troops at any given time. To date, over 93,979 personnel have served as UN peacekeepers.⁶⁶ As of 28 February 2013, Nepal had 4,486 personnel under the DPKO on 12 UN missions, of which 3,382 were army troops.⁶⁷

Since 1958, the NA has contributed senior military personnel to various UN peacekeeping missions around the world. Major General Krishna Narayan Singh Thapa was the first Nepali senior army officer to be given the post of force commander in the UN Iraq-Kuwait Observation Mission (UNIKOM) in 1993. Lt. Gen. Victory Rana served as force commander in Cyprus (UNFICYP) in 1999. Lt. Gen. Balananda Sharma served as force commander in the Golan Heights during the Syrian – Israeli border conflict (UNDOF) from 2004 to 2007. Maj. Gen. Paban Jung Thapa served in Sudan (UNMIS) between 2008 and 2010, and Lt Gen C B Gurung served as deputy military advisor to UN Secretary General Kofi Annan from 2000 to 2002.⁶⁸

The NA has not held any commanding posts on UN missions since Maj. Gen. Paban Jung Thapa's appointment in 2008. Both the military leadership and the Nepal government have attempted to secure more top posts, with the then army chief Gen. Chhatra Man Singh Gurung lobbying

65. The delegation was made up of: Major Tika Shamsher Rana, Captain Ganga Bahadur Bista, Captain Bodendra Bahadur Rayamajhi, Lieutenant Arjun Narshimha Rana and Lieutenant Kanak Shamsher Rana.

66. Nepal Army website, "NA in [UN] Peace Support Operations", available at: http://www.nepalarmy.mil.np/na_un.php?, last accessed on 11 May 2013.

67. See "Contributions to U.N. peacekeeping operations", available at: http://www.un.org/en/peacekeeping/contributors/2013/feb13_1.pdf, last accessed on 21 May 2013.

68. Vetting in Nepal: Challenges and Issues, Advocacy Forum and Asian Centre for Human Rights, July 2014

the UN during his visit to New York in 2011⁶⁹ and Prime Minister Baburam Bhattarai in his address to the 66th session of UN General Assembly in September 2011.⁷⁰

From Nepal's position, the contribution of troops to UN peacekeeping missions is an integral part of its commitment to support efforts to maintain international peace and security. As a result of its participation, the NA has also undoubtedly benefitted professionally as a result of training in modern weapons, equipment and warfare.⁷¹

In addition to the positive impact it has on the image and recognition of Nepal in the international arena, the economic benefits for both the NA and individual soldiers are also key advantages. Participation in peacekeeping is a cherished dream for NA soldiers. The pay is lucrative and it provides an opportunity to work in foreign countries with foreign troops. It is a major source of income for the NA, which it uses to fund various welfare schemes including for the operation of a military hospital, college of medicine, college of nursing and other educational institutions for soldiers and their families.⁷²

Responsibility for the management of the NA personnel involved in UN peacekeeping activities shifted from the Department of Military Operations to the Office of the Chief of Staff (CoS), with the establishment of the Peacekeeping Directorate in August 1984. The CoS is now responsible for all UN peacekeeping operations, as well as nature conservation, wildlife preservation and welfare schemes within the Army.⁷³

69. Kathmandu Post, "[UN] peacekeeping: Gen Gurung rues NA brass sidelining", 9 April 2011, available at: <http://www.ekantipur.com/the-kathmandu-post/2011/04/09/top-story/un-peacekeeping-gen-gurung-rues-na-brass-sidelining/220405.html>, last accessed on 11 May 2013.

70. See Address by Baburam Bhattarai, Prime Minister of Nepal, to the 66th session of the UN General Assembly, available at: <http://www.baburambhattarai.com/content.php?update=52>, last accessed on 17 May 2013.

71. NA Col. Asha Bahadur Tamang, "The Role of Nepal Army in the [UN] Peacekeeping Operations 1958-2009".

72. In 1973 army personnel participating in peacekeeping operations were provided a monthly allowance of US\$ 500 per person. This allowance was steadily increased to US\$ 988 by 1991 and now stands at US\$ 1028 per person per month. From this wage, each soldier contributes 22% (US\$ 226.16) to the Welfare Fund. By 2012 the fund amounted to Rs21.13 billion (US\$1,257,328). Besides the money contributed by army personnel, the income made from provision of medical facilities to civilians, interest from banks and financial institutions, income from Birendra Military High School and income from various other sources go into this fund. See Kathmandu Post, "As Nepali peacekeepers' number fall, army turns to govt for help", 14 September 2012, available at <http://www.ekantipur.com/the-kathmandu-post/2012/09/13/top-story/as-nepali-peacekeepers-number-falls-army-turns-to-govt-for-help/239580.html>.

73. Vetting in Nepal: Challenges and Issues, Advocacy Forum and Asian Centre for Human Rights, July 2014

2.4 Nigeria

Following independence in 1960, the Nigerian Army (NA) was officially formed.⁷⁴ As of 2013⁷⁵, the Nigerian Armed Forces has approximately 130,000 personnel, with approximately 67,000 personnel serving in the NA as soldiers/other ranks or officers.⁷⁶ The NA began recruiting women in 1986.⁷⁷

The NA has directly influenced civilian governance and politics through over 30 years of military rule as a result of six coups and counter-coups.⁷⁸

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74. In 1863, 18 men from the northern territories of Nigeria were recruited by Lt. John Glover of the British Royal Navy as part of the "Glover Hausas," which helped protect British trade routes around Lagos. This was later expanded and formed part of the West African Frontier Force (WAFF). The WAFF was the forerunner of the Nigerian Army. See Nigerian Army, *About the Army - Nigerian Army History*, available at <http://army.mil.ng/NA%20History.html>, last accessed on 14 February 2014. See also The Library of Congress, *Nigeria: A Country Study*, available at <http://lcweb2.loc.gov/frd/cs/ngtoc.html>, last accessed on 14 February 2014.
 75. In 1967, a civil war erupted between Biafran forces and the NA after the Eastern Region of Biafra unilaterally declared its independence as the Republic of Biafra. Colonel Emeka Ojukwu, the head/Governor-General of the Eastern Region, led the Biafran forces. During 1967-1970, the Civil War prompted a massive mobilization and enlistment of people into a federal (NA) faction, loyal to the Head of State, and a Biafran faction, led by the former Governor-General of Eastern Region. As a result at the end of the Nigerian Civil War (1970), the strength of the NA rose to 250,000, which is its highest recorded number to date. Biafra was reabsorbed into Nigeria in January 1970. See Barnaby Philips, *Biafra: Thirty years on*, 13 January 2000, available at <http://news.bbc.co.uk/2/hi/africa/596712.stm>, last accessed on 14 February 2014. See also BBC News, *Nigeria: A history of coups*, available at <http://news.bbc.co.uk/2/hi/africa/83449.stm>, last accessed on 14 February 2014.
 76. The exact number of the armed forces in unknown as Nigeria maintains that the figures are a part of national security. Soldiers/Other Ranks include Recruit, Private, Lance Corporal, Corporal, Sergeant, Staff Sergeant, Warrant Officer (Class I and II) and Army Warrant Officer. Officers include the ranks of Second Lieutenant, Lieutenant, Captain, Major, Lieutenant Colonel, Colonel, Brigadier, Major General, Lieutenant General, General and Field Marshal. See Tajudeen Suleiman, *The World of Female Soldiers*, TELL Magazine, available at <http://tellng.com/nation/world-female-soldiers>, last accessed on 14 February 2014. See also Armed Forces Act, 2004, available at [http://www.icrc.org/ihl-nat.nsf/0/049ea0330082bc31c12576ea005be4a3/\\$FILE/ARMED%20FORCES%20ACT.pdf](http://www.icrc.org/ihl-nat.nsf/0/049ea0330082bc31c12576ea005be4a3/$FILE/ARMED%20FORCES%20ACT.pdf), last accessed on 14 February 2014. See also Global Security, *Nigeria*, available at <http://www.globalsecurity.org/military/world/nigeria/army.htm>, last accessed on 14 February 2014.
 77. Approximately 39 women were recruited in 1986, and nearly 1,000 women have been recruited each year since. However the Nigerian Army does not release exact figures of the number of female members of the Armed Forces. See Tajudeen Suleiman, *The World of Female Soldiers*, TELL Magazine, available at <http://tellng.com/nation/world-female-soldiers>, last accessed on 14 February 2014.
 78. For example in 1966 the then-Prime Minister, Sir Abubakar Tafawa Balewa, was killed in a coup and replaced by Major-General Johnson Aguiyi-Ironsi. Ironsi was then killed six months later in a counter-coup and replaced by Lieutenant-Colonel Yakubu Gowon. Gowon was overthrown and replaced by Brigadier Murtala Ramat Mohammed in 1975. Mohammed was assassinated in a failed coup attempt and replaced by his deputy, Lieutenant-General Olusegun Obasanjo in 1976. After elections are held in 1979, Major-General Muhammad Buhari seizes power in a bloodless coup in 1983. Ibrahim Babangida seized power in a bloodless coup in 1985, and in 1993 power was transferred to an Interim National Government after the military annuls the elections. Two months later General Sani Abacha seized power. When Abacha died in 1998, Major-General Abdulsalami succeeded him. Parliamentary and presidential elections were held in 1999 and Obasanjo is elected as president. The first civilian-run presidential elections were held on 19 April 2003 and Obasanjo is re-elected as president. See BBC, *Nigeria Profile*, 27 November 2013, available at <http://www.bbc.co.uk/news/world-africa-13951696>, last accessed 14 February 2014. See also Washington Post, *Nigeria's History of Turmoil*, available at: <http://www.washingtonpost.com/>
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The military's dominance in the political sphere was noted in former United States' Ambassador John Campbell observations about former President Obasanjo:

[He] is always introduced as the President of the Federal Republic and Commander in Chief of the Armed Forces, and seems to take the latter designation very seriously. He even appears at some military events in camouflage uniform (without rank). His past military service has left him very comfortable dealing with the military, and most members of the government seem to accept the prerogative of the President freely to manage the affairs of the uniformed services. The President selects service chiefs without confirmation by the legislature and the Presidency seems to control the military budget, which is anything but transparent.⁷⁹

Given the levels of mistrust that grew within the military due to the practice of coup and counter-coup, command positions came to be seen and regarded as rewards for political support within the military rather than an award for excellent military conduct.⁸⁰ The sustained military rule has resulted in

wp-srv/inatl/longterm/nigeria/timeline.htm, last accessed 14 February 2014.

79. See Wikileaks, *Cable: 05ABUJA970_a*, 3 June 2005, available at http://www.wikileaks.org/plusd/cables/05ABUJA970_a.html, last accessed on 14 February 2014.
80. For example General Abacha, who apparently followed the example set by General Babangida but on a much greater scale, "repeatedly resorted to detention, dismissals and transfers on questionable grounds; or to forced retirements and filing trumped up charges against those members of the armed forces whom he perceives as a threat." According to a Human Rights Watch report approximately 200 senior officers were "sacked for various reasons between 1995 and 1996," including Major General Chris Ali, the Chief of Army Staff and Rear Admiral Alison Maduek, the Chief of the Naval Staff. Additionally a source who has dealt with the Nigerian military for more than 30 years... and has known the Chief of Defense Staff (CDS) for many years (Ogomudia) said that Obasanjo promoted Ogomudia "to the position of CDS as a political reward for 'taking care' of the situation in Zaki-Biam in 2001, at the direction of the President, while Ogomudia was the Chief of Army Staff." See Human Rights Watch, *Nigeria Transition or Travesty? Nigeria's Endless Process of Return to Civilian Rule*, October 1997, available at http://www.hrw.org/legacy/reports/1997/nigeria/Nigeria-06.htm#P482_118236, last accessed on 14 February 2014. See also Wikileaks, *Cable: 05ABUJA970_a*, 3 June 2005, available at http://www.wikileaks.org/plusd/cables/05ABUJA970_a.html, last accessed on 14 February 2014.

corruption⁸¹ and patronage.⁸²

Moreover frequent purges and executions of coup plotters as a result of the methods the military adopted to remain in power have left many gaping holes in the military leadership.⁸³ Dr. Pita OgabaAgbese noted that:

[The] imperative for instituting measures to permanently bar the military from political intervention stems from the recognition that military rule poses a serious threat to the armed forces as an institution. The naked quest for political power among the military officers has decimated the ranks of the military. Coups, coup attempts and even “rumors” of coups have led to many military officers being executed. In addition, coups have destroyed the hierarchical chain of command in the Nigerian armed forces.

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81. “Nigeria also remains one of the two or three most corrupt countries in the world: A few years ago, Obasanjo’s aides used sacks of cash to secure votes for leadership positions in the legislature. (Though that’s an improvement over his predecessor, the military dictator SaniAbacha, who embezzled \$4 billion from the state during his half-decade in power.) Just as important, Nigeria’s culture of corruption ‘seems to affect every transaction in life’ in Nigeria, says Princeton professor Jeffrey Herbst. ‘It’s not just the big guys ripping off the state.’ The proliferation of e-mailed Nigerian “419 scams” is the latest manifestation of the country’s many cons. See Brendan Koerner, *The Nigerian Nightmare. Who’s sending you all those scam e-mails?*, 22 October 2002, available at http://www.slate.com/articles/arts/tangled_web/2002/10/the_nigerian_nightmare.html, last accessed on 14 March 2014. Nigeria’s reputation in such matters wasn’t helped by its last peacekeeping outing in Liberia, during which some Nigerian officers acted in the manner of warlords by trading diamonds and looting. The peacekeeping monitoring group, the Economic Community of West African States Monitoring Group, earned itself the nickname ECOMOG: Every Car or Moving Object Gone. (These acronym jokes seem to be popular: Nigeria’s electric utility, the National Power Authority, is dubbed “Never Expect Power Anytime.”) See Chris Suellentrop, *Nigeria’s Peacekeeping Problem*, Slate available at http://www.slate.com/articles/news_and_politics/assessment/2003/08/nigeria.html, last accessed on 14 February 2014. “Military corruption is heavily ingrained...The military reflects society at large, so a reduction in military-specific corruption can only reasonably be expected within the framework of larger governmental and societal changes.” See Wikileaks, *Cable: 04ABUJA2106_a*, 21 December 2004, available at http://www.wikileaks.org/plusd/cables/04ABUJA2106_a.html, last accessed on 14 February 2014. “‘Not corrupt’ may better understood as ‘not as corrupt’ as the others, given the endemic nature of corruption among Nigerian leaders,” according to a contact from the Nigerian Defence Intelligence Agency. See Wikileaks, *Cable: 05ABUJA970_a*, 3 June 2005, available at http://www.wikileaks.org/plusd/cables/05ABUJA970_a.html, last accessed on 14 February 2014. “Much of the nation’s wealth is concentrated in the hands of tiny military, political, and commercial elites through corruption and non-transparent government contracting practices.” See Wikileaks, *Cable: 07ABUJA2108_a*, available at http://www.wikileaks.org/plusd/cables/07ABUJA2108_a.html, last accessed on 14 February 2014.
82. The late Supreme Court Justice, UdoUdoma, was quoted as saying, “Now they [the military] have lost the [will] and skill of fighting as soldiers in the field. They are now being trained as politicians. That is a very dangerous situation; ...and, we must retrace our steps [and] get rid of the military. Let the military do its own assignment - protect the country [and] maintain their skills as [Nigerian] warriors ... They must respect the government of the day and be loyal to it. That is very important[.]” See Emmanuel Ike Udogu, *Nigeria in the Twenty-first Century: Strategies for Political Stability and Peaceful Coexistence*, Chapter 2 - Taming of the Shrew: Civil-Military Politics in the Fourth Republic, 1 June 2005.
83. For example the coup by Colonel BukaDimka was foiled in 1976, Dimka and 38 of his co-conspirators were executed. Additionally, General MammanVatsa and nine other officers were executed in 1986 as a result of an alleged coup attempt. In 1990, Major Gideon Orkar and 67 soldiers were executed after an unsuccessful attempt to overthrow General Ibrahim Babangida. See also *Ibid*.
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Junior officers who succeeded in staging coups automatically promoted themselves over and above their erstwhile superior officers. This practice not only damaged the chain of command, [but also] created a climate of mutual suspicion and crimination detrimental to professionalism and military discipline.⁸⁴

As a result, the NA has devolved into what Brigadier General David Mark has described as a “group of disorganized cowboys,” in which “military officers are more or less organized into a variety of factions around the power and authority of retired and serving generals” such as SaniAbacha, OladipoDiya, Yar’ Adua, Babangida, Akinrinade, Obasanjo, Ukiwe, Bali, Idiagbon, Gowon, Buhari, Danjuma, Dogon-yaro.⁸⁵ This has further allowed the culture of violence and corruption to permeate within the NA,⁸⁶ resulting in the destruction of discipline and professionalism.⁸⁷

Approximately 250,000 NA personnel have been deployed to UN peacekeeping missions since Nigeria joined peacekeeping operations in 1960 when it contributed troops for a UN peacekeeping operation in the DRC (ONUC) from 1960 to 1964.⁸⁸ Since then, it has participated in over 50 peacekeeping operations, including more recently contributing peacekeeping

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84. See Pita Ogaba Agbese, *The politics of stable civil-military relations*, available at <http://www.india-seminar.com/2000/490/490%20agbese.htm>, last accessed on 14 February 2014. See also Emmanuel Ike Udogu, *Nigeria in the Twenty-first Century: Strategies for Political Stability and Peaceful Coexistence*, Chapter 2 - Taming of the Shrew: Civil-Military Politics in the Fourth Republic, 1 June 2005.
 85. Whether currently active or retired, these general continue to have their “boys” within the NA who protect their interests and take directions from them, including by reporting back to them concerning the actions or intentions of other officers. See Pita Ogaba Agbese, *The politics of stable civil-military relations*, available at <http://www.india-seminar.com/2000/490/490%20agbese.htm>, last accessed on 14 February 2014.
 86. For example the allegations of General Abacha stealing billions of dollars during his five year rule, in addition to the allegations of military personnel engaging in illicit activities, such as selling their guns, committing armed robbery and setting up illegal toll-booths to extort money from motorists. See Pita OgabaAgbese, *The politics of stable civil-military relations*, available at <http://www.india-seminar.com/2000/490/490%20agbese.htm>, last accessed on 14 February 2014.
 87. For example soldiers arrived in Akure on 30 June 2008 to receive the pay for peacekeeping duties, but after waiting five days without shelter or food being provided, an official finally arrived on 4 July 2008 to inform them that they would receive only half of their salary. No reasons were given to the soldiers for the withholding of their wages. As a result, hundreds of soldiers staged a violent riot to protest the withholding of their peacekeeping salaries after their return to Nigeria. Soldiers reported that the violent reaction was in response to fear “that their situation would mirror that of past missions, which were often denied a significant portion of their salaries with no explanation.” An Aukure-based lawyer, Idowu Salami, stated that corruption was at fault and that soldiers “are regularly shortchanged in salary and benefits.” See Wikileaks, *Cable 08LAGOS291_a*, available at: http://www.wikileaks.org/plusd/cables/08LAGOS291_a.html, 25 July 2008, last accessed on 14 February 2014.
 88. See Mohammed J. Kuna, *The Role of Nigeria in Peace Building, Conflict Resolution and Peacekeeping in Africa since 1960*. See also South African Foreign Policy Initiative Open Society Foundation for South Africa, *How policy, funding issues clog Nigeria’s UN peace-keeping operations*, available at <http://www.safpi.org/news/article/2013/how-policy-funding-issues-clog-nigerias-un-peace-keeping-operations>, last accessed on 14 February 2014.
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troops for the Darfur Mission in Sudan and the mission in Mali.⁸⁹ Nigeria has consistently contributed high numbers of troops to UN PKOs. One hundred and forty Nigerian personnel have died while on peacekeeping operations.⁹⁰

Although Nigeria has been contributing peacekeeping troops from all the three branches of its Armed Forces (Army, Navy and Air Force), the majority of troops are from the NA.⁹¹

In recent months, Nigeria has recalled some of its peacekeepers from missions in Mali and Darfur to fight the militant Islamic group, Boko Haram, active in central and northern Nigeria.⁹² According to a letter from President Jonathan to Côte d'Ivoire president and ECOWAS chairman Alassane Ouattara, the withdrawal of the troops was "in response to the need for infantry to cope with the domestic situation in Nigeria."⁹³ Moreover a report by the Nigerian Senate on the April 2013 violence in Baga, Boko State stated "Nigeria's military had become dangerously overstretched between its campaign against Boko Haram and its international commitments."⁹⁴

89. See Appendix 1, Nigerian Participation in Peacekeeping Operations, 1960 to Present. See also Nasri El-Rufai, *Failing State, Fading Peacekeepers*, This Day, 16 March 2012, available at <http://www.thisdaylive.com/articles/failing-state-fading-peacekeepers/111562/>, last accessed on 14 February 2014.

90. Out of 3,199 peacekeepers killed during missions, Nigeria has lost 140, while India has lost 156, followed by Pakistan with 134, Ghana with 132, Canada with 121, and Bangladesh with 116. See U.N. Peacekeeping, *Fatalities, Nationality and Mission up to 30 September 2013*, available at: http://www.un.org/en/peacekeeping/fatalities/documents/stats_2.pdf, last accessed on 14 February 2014.

91. The recruitment processes for all three forces generally follow the same procedure, requiring the same minimum qualifications and many of the ranks attend the same institutions for training. See Training for Peace Operations Conducted in Nigeria - African Capabilities for Training for Peace Operations, *Appendix F*, available at <http://www.issafrica.org/Pubs/Other/AfricaCapab/AppendF.html>, last accessed on 14 February 2014.

92. See Jamestown Foundation, *Nigerian Army Abandons Peacekeeping Missions in Mali and Darfur to Combat Boko Haram*, 9 August 2013, available at <http://www.refworld.org/docid/5204fb024.html>, last accessed on 14 February 2014.

93. See Jamestown Foundation, *Nigerian Army Abandons Peacekeeping Missions in Mali and Darfur to Combat Boko Haram*, 9 August 2013, available at <http://www.refworld.org/docid/5204fb024.html>, last accessed on 14 February 2014.

94. See Jamestown Foundation, *Nigerian Army Abandons Peacekeeping Missions in Mali and Darfur to Combat Boko Haram*, 9 August 2013, available at <http://www.refworld.org/docid/5204fb024.html>, last accessed on 14 February 2014.

3. SELECTION OF HUMAN RIGHTS VIOLATORS AS PEACEKEEPERS

3.1 Selection of the Army as the UN peacekeepers

The policies on selection and deployment of peacekeepers by Bangladesh, India, Nepal and Nigeria vary.

India has formal selection and deployment policies for UN peacekeepers. The Ministry of Defence (MoD), Government of India coordinates UN peacekeeping troop selection and deployment. The peacekeepers are selected as a unit, known as a 'troop contingent'. Additionally, a small number of Personnel Below Officers Rank (PBOR) are deployed as staff in Mission/Force/Sector headquarters. These are selected from the Corps roster and nominated by the MoD (Army) based on quota rules.⁹⁵ The MoD policy states that personnel who are called for UN service, the only thing that can prevent from deployment is the disciplinary action or who does not fulfill medical or service requirements laid down by the MoD.⁹⁶ The policy sets out the selection criteria for Jawans to join a unit on a UN mission.⁹⁷ PBOR face a selection panel made up of a Colonel as Presiding Officer and two members (one Lieutenant Colonel and one Captain/Major).⁹⁸ The criteria considered by the selection panel include seniority and a proven record in counter-insurgency operations.

The Nepal Army (NA) considers seniority as the main basis for the selection of NA personnel and units to be dispatched for peacekeeping operations. Any battalion that is sent on a peacekeeping mission must be at least five years old and should get its turn by rotation on the basis of seniority. The battalion of 40 makes up the main nucleus of the contingent, while the remaining soldiers in the contingent are selected individually from other departments, divisions,

95. These rules are amended from time to time for the EME, AMC and AEC. See RTI reply No.A/810027/RTI/10827 dated 8 October 2012 received from Lt. Col. GSO-1 (RTI) for CPIO of Indian Army.

96. See 71362/Policy/General Staff Branch SD-3 (UN), 22 November 2004 provided in the judgment details of Naib Subedar K.C. Jena v. Uoi & Ors, W.P. (C) No.7994/2009 & C.M. No. 4481/2009, High Court of Delhi at New Delhi, 1 February 2010. The judgment is available at: <http://delhicourts.nic.in/Feb10/Naib%20Subedar%20K.C.%20Jena%20Vs.%20UOI.pdf>, last accessed on 12 August 2013.

97. See 71362/Policy/General Staff Branch SD-3 (UN), 22 November 2004 provided in the judgment details of Naib Subedar K.C. Jena v. Uoi & Ors, W.P. (C) No.7994/2009 & C.M. No. 4481/2009, High Court of Delhi at New Delhi, 1 February 2010. The judgment is available at: <http://delhicourts.nic.in/Feb10/Naib%20Subedar%20K.C.%20Jena%20Vs.%20UOI.pdf>, last accessed on 12 August 2013.

98. See Naib Subedar K.C. Jena v. Uoi & Ors, W.P. (C) No.7994/2009 & C.M. No. 4481/2009, High Court of Delhi at New Delhi, 1 February 2010, available at: <http://delhicourts.nic.in/Feb10/Naib%20Subedar%20K.C.%20Jena%20Vs.%20UOI.pdf>, last accessed on 14 August 2013.

brigades, battalions, depots and factories. All military personnel who serve on UN peacekeeping missions must be physically fit and must pass a medical examination.⁹⁹ Each individual soldier selected should have completed six years of service in the NA to be eligible for service on a peacekeeping mission. The selection process for these individuals is overseen by a selection board. The commander of each of the units selected to fill the quota can also recommend a soldier with an excellent performance record for a second mission, after two years have passed since their first deployment. The final decision on the acceptance of individual personnel is made on the basis of the unanimous approval of the selection board. In case a soldier is found to have been selected in breach of the Directive for Selection of Peacekeepers (2008), the candidate is sent back to his unit and the quota provided to the unit is withdrawn. This decision rests with the directorate of peacekeeping.¹⁰⁰ According to the directorate of public relations for the NA, guidelines for the selection of peacekeepers state that those with greedy, cunning attitudes, serious disciplinary violations and drunkards are prevented from serving on peacekeeping missions.¹⁰¹

The new Army Service Regulations (ASRs) introduced in Nepal in January 2013, established some new provisions regarding selection of peacekeeping contingents and commanders, staff officers and military observers, military advisors and floating appointments. These new rules are now the only guidelines for the selection of all new peacekeepers.¹⁰² Many of the selection criteria remain unchanged; however new emphasis has been placed on the responsibility of the MoD for the development of selection criteria. The MoD will also now have greater powers to monitor and evaluate the selection process and give recommendations and instructions to the NA in this regard.¹⁰³ The rule binds the Army to prepare a shortlist of personnel to be deployed in the peacekeeping mission during the following fiscal year and forward it to the Ministry of Defence by mid-August every year.¹⁰⁴

99. The Army conducts physical tests including two-mile battle order run, monkey crawl and fire man lift battle for the selected candidates. Only the candidates who pass those physical tests will be referred for medical test and those who fail will be sent back to their units.

100. Soldiers holding technical positions are eligible to go on UN missions after completing two years of service. A board headed by an officer from the logistics department is responsible for selecting candidates for the positions of drivers of heavy and light vehicles, armed personnel carriers (APCs) and multipurpose vehicles (MPVs) in the mission.

101. Interview with and hand-outs regarding guidelines for selection of peacekeepers provided by Directorate of Public Relations of NA, August 2012.

102. Interview with MoD official, February 2013.

103. See ASRs (2013), Article 51, page 22.

104. See ASRs 2013 article 48(3).

Bangladeshi troops and police personnel are deployed for UN peacekeeping missions based on a generic Memorandum of Understanding signed between the Government of Bangladesh and the UN Department of Peace Keeping Operations.¹⁰⁵ Neither the Government of Bangladesh nor the Bangladesh Armed Forces have any specific policy guidelines regarding contributions to UNPKOs. The Bangladesh Army has tended to monopolise decisions about Bangladesh's participation in UN peacekeeping missions.¹⁰⁶ It can be inferred from the Army's process for recruitment and selections that the process for recruitment and selection for UN peacekeepers is also highly politicised and officers are unlikely to be selected unless they are close to the ruling party.¹⁰⁷

The Nigerian Army does not have any formal, published guidelines concerning the contributions, recruitment or selection of UN PKOs.¹⁰⁸ The Department of Army Training and Operations is in charge of the selection of peacekeepers in the NA.¹⁰⁹ When the selection of the units has been completed, unit commanders are supposed to work in conjunction with the Department of Army Administration since it is tasked with "the administration, welfare, discipline, employment and development of all human resources in the NA"¹¹⁰ to ensure that all of those to be selected are of "good conduct." However according to internal NA sources, it is the unit commanders who select the individuals to be shortlisted. At the pre-selection stage, shortlisted personnel fill out the necessary forms and are subjected to medical examinations. The medical examination focuses on tests for significant illnesses, such as hepatitis and HIV. Those who pass the medical examination then participate in physical tests, which if successful, they are enlisted for pre-deployment training.¹¹¹

The reality is however different. In Nigeria, there is little cross-referencing between the units and the Department of Army Administration during

105. See Dr. Rashed Uzzaman and Niloy Ranjan Biswas, *Contributor Profile: Bangladesh*, University of Dhaka, available at: http://www.academia.edu/2939007/Contributor_Profile_Bangladesh, last accessed on 1 September 2013.

106. See Dr. Rashed Uzzaman and Niloy Ranjan Biswas, *Contributor Profile: Bangladesh*, University of Dhaka, available at: http://www.academia.edu/2939007/Contributor_Profile_Bangladesh, last accessed on 1 September 2013.

107. Chapters 2 and 3 will discuss the selection and recruitment policies for the Bangladesh Police and RAB and how those forces also have no formal procedures, but operate within Bangladesh's highly politically polarized culture.

108. Letter from Colonel for Chief of Army Staff RJ Alexander, *Re: Enhancing Human Rights Standards for Military and Police in Nigeria on Peacekeeping*, 13 November 2013, See Appendix 2.

109. See History Roles and Organisation of the Nigerian Army (Restricted), available at <http://www.nigerianafsc.org/DOCS/NA%20HISTORY,%20ROLES%20AND%20%20ORGANISATION%20.pdf>, last accessed on 14 February 2014.

110. Interview with NA officer (name withheld), Abuja, 22 July 2013.

111. Telephone interview with a former member of the army contingent to Darfur, Sudan (name withheld), June 2013.

selection and the cross-referencing and selection processes are influenced by socio-economic (poverty, unemployment, poor education) and political (influence of political and military leadership and quota system) factors.¹¹² As a result, it is possible for those with disciplinary cases to still be shortlisted and indeed later on to be enlisted for peacekeeping operations.

Human rights screening for deployment, even if it exists, is only on paper in all the four countries. India's troops are mainly selected for UN peacekeeping based on their performance; with the priority going to performance in counter-insurgency operations. Indian policy gives explicit "*preference to Persons Below Officer Rank (PBOR) who have proven themselves while serving in counter-insurgency operations*".¹¹³ For the Central paramilitary forces/Central Armed Police the selection criteria again emphasize "personnel, who have served for at least two years in the hard/extreme hard areas like Jammu and Kashmir, North East region or the Naxal Affected states".¹¹⁴ Outstanding performances do not only include genuinely countering terrorists but also grave human rights violations including extrajudicial executions. All Indian troops selected for the MUNOC were chosen based on their outstanding performances in counter-insurgency operations¹¹⁵ and they were found involved in serious cases of sexual abuse and misconduct while serving with the MUNOC.

The official documents of the Government of Nepal states that "soldiers involved in human rights and international humanitarian law violations" have been ineligible to serve on the UN peacekeeping missions since 15 May 2005.¹¹⁶ In contrast to this assertion, the Directive for Selection of Peacekeepers (2008) only bars the deployment of soldiers convicted for human rights violations by the Nepal Army's military court. The Army Service Regulations (ASRs) now states that in order to be eligible for serving on a UN mission, soldiers must not have been punished for human rights violations. But it does not specify

112. CISLAC interview with confidential source and information shared by participants in validation meeting with media personnel, Abuja, 11 February 2014.

113. Provided in the *Naib Subedar K.C. Jena vs Union of India & Ors.* on 1 February, 2010 [W.P.(C) No.7994/2009 & C.M. No.4481/2009] judgement available at <http://delhicourts.nic.in/Feb10/Naib%20Subedar%20K.C.%20Jena%20Vs.%20UOI.pdf>

114. See criteria for selection of officers for deployment with UN/Foreign Missions, available at <http://bsf.nic.in/doc/recruitment/r46.pdf>

115. The Press Information Bureau of the Government India stated that the following contingents were chosen based on their excellent performances in counter-insurgency operations: 1) the 5th Garhwal Rifles, 2) the 10th Assam Regiment, 3) the 19th R&O Flight, 4) the 6th Battalion of the Sikh Regiment, 5) the 5th Bihar Regiment and 6) the 18th Grenadiers. See <http://pib.nic.in/newsite/erelease.aspx?relid=36810>, last accessed on 12 August 2013

116. Three Year Human Rights National Action Plan 2010-2013, Efforts of the Nepal Army for protection and promotion of human rights and international human rights law, page 84. Available in Nepali at: <http://www.opmcm.gov.np/np/resources/index.php?c=7>

which authorities have the power to find a person guilty of such violations and exclude them accordingly. While the Nepal Police maintains that all personnel who pass the selection examination for peacekeeping deployment must obtain clearance from its Human Rights Unit and Legal Unit before being sent on a peacekeeping mission to be vetted in order to confirm that they are not facing any departmental action.¹¹⁷ However, the Nepal Police maintains that it does not bar the deployment of any individual in the UN mission just because of human rights allegations from human rights watchdogs.¹¹⁸ Similarly, the Armed Police Force (APF) selects personnel for peacekeeping operations based on the 'General Principles of Selection in UN missions' endorsed by the Home Ministry on 28 November 2008, which as part of the policy bars personnel against whom departmental action has been initiated from participation on UN missions.¹¹⁹ However, the selection principles endorsed by the APF do not mention human rights vetting. In Nigeria and Bangladesh, there is no known or published documentation on human rights screening of its Army and Police personnel for peacekeeping duty.

Further, the process of recruitment and selection for UN peacekeepers in particular in Bangladesh and Nigeria is subject to high level of corruption and patronage.

3.2 Selection of the police and paramilitary forces as UN Civilian Police

Police personnel are deployed on UN missions under a Memorandum of Understanding between the UN and each Police Contributing Country and the typical deployment ranges from six months to one year.¹²⁰

In India, the Ministry of Home Affairs (MHA), Government of India is responsible for the deployment of police personnel for UN assignments. The peacekeepers deployed as police in these missions come from various state police and central police forces. The MHA notifies the State governments/UTs/CPOs/other organisations requesting them to nominate police officers to constitute a panel of officers to be nominated for deployment with various

117. Interview with Ramesh Kharel, the then Head of the UN Division of the NP, December 2012.

118. Interview with Keshab Adhikari, NP spokesperson, April 2013.

119. Preamble of the General Principles of the Selection of APF in the UN Mission, (2008). A copy of this was obtained from the Ministry of Home Affairs in October 2012. General Principles on Selection in the UN Mission, APF headquarters 2008, Article 3 (C) regarding disqualification of candidates in selection tests.

120. Their deployment can be extended up to 24 months. See U.N. Department of Peacekeeping Operations, *Formed Police Units in United Nations Peacekeeping Operations*, Department of Field Support, Ref. 2009. 32, 1 March 2013, available at: http://www.un.org/en/peacekeeping/sites/policy/documents/formed_police_unit_policy_032010.pdf, last accessed on 4 October 2013.

UN peacekeeping missions. The nominated officers have to fulfill various eligibility conditions. These include completion of 8 years of active police service/experience; above 25 years of age as on date of calling nominations; disciplinary/vigilance clearance; among others.¹²¹ The sponsoring organizations have the responsibility to ensure that the nominated officers fulfill these eligibility conditions. Failure to meet the eligibility conditions may result in the cancellation of the candidature and even repatriation of the officer at his own cost. No one can apply without nomination from a police force. Nominated officers are further short-listed. These shortlisted officers are then called to undergo a week long English training, left hand driving, shooting skills and finally to appear before the UN Selection Assistance and Assessment Team (SAAT) for the UN SAAT Test. The nominated candidate has to bring UN Personal History Profile (P-11) personal history form. The form includes declarations about prior criminal conviction.

The Central Armed Police Forces (CAPFs) of India are selected by the Departmental Screening Committee based on various criteria. The criteria state that, "Preference shall be given to such personnel, who have served for at least two years in the hard/extreme hard areas like Jammu and Kashmir, North East region or Naxal Affected states".¹²²

Nepal deploys its police officers in Formed Police Units (FPU) and as Individual Police Officers for UN missions. In 2007, the Ministry of Home Affairs introduced new selection norms and directives for the FPUs, which were revised by police headquarters in 2012.¹²³ The new directives contain very specific requirements and aim of the changes was to introduce transparency by setting criteria for the selection process, introduce competitive exams on the basis of seniority, capability, resources and equal opportunities. Candidates aspiring for selection into a FPU must have completed a minimum of seven years of service, should be at least 25 years of age and should be physically and mentally fit to qualify for the examination. There are restrictions for candidates who have faced departmental action to attend examinations.¹²⁴

121. See Government of India, Ministry of Home Affairs (Police Division - II) PMA Cell, *Nomination of Police Officers for deployment with UN Peacekeeping Missions (UN SAT 2012-2013)*, No.21023/21/2012-PMA, 24 April 2012, available at: <http://www.police.mizoram.gov.in/uploads/attachments/UNSAT-240412.pdf>, last accessed on 14 August 2013.

122. See criteria for selection of officers for deployment with UN/Foreign Missions, available at <http://bsf.nic.in/doc/recruitment/r46.pdf>.

123. The UN FPU Selection policy was revised and introduced by the NP headquarters on 18 August 2012. A copy is available at http://www.nepalpolice.gov.np/images/documents/un/fpu_nirdeshika_2069.pdf, last accessed on 21 May 2013.

124. There is a one year period of ineligibility for the examination from the date of the disciplinary decision. Officers whose promotion has been withheld should have come to the end of that period and demoted personnel should have completed two years of their punishment. Candidates facing grade reduction and grade suspension should complete one year after serving the punishment and

The selection of individual police for the UNPOL is carried out on the basis of examinations conducted as per the UN SAAT Guidelines. The aspiring candidates should complete at least six years of police service before attending the Pre-SAAT examination, should be medically fit, should possess at least a School Leaving Certificate (passed grade 10) and have a two year old driving license. The aspiring candidate should not have faced any departmental action for at least a year up to the date of attending the examination.

Both the Bangladesh Police and Nigeria Police Force (NPF) have no published formal selection criteria for the selection for UN peacekeepers. However, the Nigeria Police Force officers requires a minimum of five years of police service to participate in either UN or African Union (AU) operations¹²⁵ and they are not permitted to participate in peacekeeping operations if there is any pending disciplinary inquiry against them.¹²⁶

Despite the rigorous procedures for selection through the UN SAAT Test, those accused of serious human rights violations have been selected by India. The Merit List of the UN SAAT held in UN CIVPOL Centre from 23 to 30 May 2013 includes those who have been charged for rash driving against requirement of driving skill, custodial torture, carrying of unauthorized cartridges, rape and custodial death as detailed below.

Case 1: Case of rash driving against Inspector Ajay Khajuria, CISF

On 3 April 2010, a case of rash driving was registered against Inspector Ajay Khajuria of the Central Industrial Security Force (CISF) at Seemapuri police station in Northeast Delhi. Inspector Khajuria had allegedly hit a scooter driven by a 70-year-old man at Dilshad Garden under Seemapuri Police Station with his car. Following the incident, Inspector Khajuria denied the charge and alleged that he was beaten up and stabbed by two youths called up by the senior citizen. However, according to Deputy Commissioner of

personnel who have been reinstated following an action should complete three years from the date of reappointment to qualify to attend the examination for FPU contingent.

125. See also Harry Ford, *Evaluating the Operational Effectiveness of West African Female Police Officers' Participation in Peace Support Operations: The Case of Ghana and Nigeria*, KAIPTC Occasional Paper No. 23, September 2008, available at http://www.operationspaix.net/DATA/DOCUMENT/5313-v-Evaluating_the_Operational_Effectiveness_of_West_African_Female_Police_Officers_Participation_in_Peace_Support_Operations__The_Case_of_Ghana_and_Ni.pdf, last accessed on 14 February 2014.
126. See Harry Ford, *Evaluating the Operational Effectiveness of West African Female Police Officers' Participation in Peace Support Operations: The Case of Ghana and Nigeria*, KAIPTC Occasional Paper No. 23, September 2008, available at http://www.operationspaix.net/DATA/DOCUMENT/5313-v-Evaluating_the_Operational_Effectiveness_of_West_African_Female_Police_Officers_Participation_in_Peace_Support_Operations__The_Case_of_Ghana_and_Ni.pdf, last accessed on 14 February 2014.

Police, SS Yadav, a police investigation found that prima facie it was Inspector Khajuria who hit the scooter.¹²⁷

Inspector Ajay Khajuria was selected after the UNSAAT test held at UN CIVPOL Centre in New Delhi from 23 to 30 May 2013. Inspector Ajay Khajuria with ID No. 104517 passed the test and was put on the merit list.¹²⁸ Driving skill is one of the requirements for deployment in UN peacekeeping mission.

Case 2: Case of custodial torture against ASI (LR) Sanjeev Kumar of Punjab Police

In February 2005, a case was registered by police against Sanjeev Kumar, Assistant Sub Inspector (ASI) of Punjab Police for custodial torture of three persons at Division No. 2 Police Station, Pathankot, Punjab. ASI Kumar while he was posted in the police station allegedly took out three detainees identified as Subhash Chander, Raj Kumar and Gurmail Singh in an inebriated condition and forced them to strip and dance in the nude before subjecting them to physical torture.¹²⁹

ASI (LR) Sanjeev Kumar of Punjab Police was selected for the UN SAAT test held at UN CIVPOL Centre in New Delhi from 23 to 30 May 2013. ASI Kumar with ID No. 26/FIU passed the test and was put in the merit list.¹³⁰

Case 3: Arrest of Inspector Atul Soni of Punjab Police for carrying unauthorized live cartridges

On 12 June 2012, Inspector Atul Soni of Punjab Police was arrested and a case under Section 25 of the Arms Act was registered against him for carrying 52 live cartridges of different calibers at the Indira Gandhi International Airport in New Delhi. The CISF officials upon physically checking Soni's bag seized 46 live 9mm rounds, three live 7.65 mm rounds, three live .32 mm rounds, four empty 8mm cartridges and one magazine of a 9mm pistol. Soni was to board a Philippines Airlines flight to Manila along with his family members. He was granted bail by a city court on 13 June 2012, but was directed not to leave the country and his passport was seized. A police officer is authorised

127. CISF inspector beaten up, but FIR not lodged, The Times of India, 9 April 2010 http://articles.timesofindia.indiatimes.com/2010-04-09/delhi/28133906_1_senior-citizen-police-station-cisf-inspector

128. Merit List of UN SAAT (UN Selection and Assistance and Assessment Team) held in UN CIVPOL Centre from 23 to 30 May 2013

129. ASI booked for making inmates dance in nude, The Tribune, 7 February 2005 <http://www.tribuneindia.com/2005/20050207/punjab1.htm#32>

130. Merit List of UN SAAT (UN Selection and Assistance and Assessment Team) held in UN CIVPOL Centre from 23 to 30 May 2013

only to carry cartridges of a single bore and that too while on duty. Inspector Soni did not have any authorization for carrying the seized ammunition.¹³¹

Inspector Atul Soni of Punjab Police was selected for the UN SAAT test held at UN CIVPOL Centre in New Delhi from 23 to 30 May 2013. Inspector Soni with ID No. 921712963 cleared the UN SAAT test.¹³²

Case 4: Gallantry awards to SP Altaf Ahmad Khan of Jammu & Kashmir Police accused of rape and custodial death

On 15 August 2012, Superintendent of Police Altaf Ahmad Khan of Jammu and Kashmir Police was awarded the President's Police Medal for Gallantry. This is despite the fact that the police officer, then Deputy Superintendent of Police, Handwara, was accused of raping a minor girl in custody at Handwara police station on 3 July 2004. The victim was hospitalised for nearly 50 days and her uterus had to be removed. The State Human Rights Commission, which intervened in the case, indicted the officer. The officer was also accused in the custodial death of a youth identified as Nazim Rashid Shalla in Sopore in North Kashmir in 2011.¹³³ Earlier in January 2012, SP Altaf Ahmad Khan was also conferred gallantry award by the Army.¹³⁴

SP Altaf Ahmad Khan was selected for the UN SAAT test held at UN CIVPOL Centre in New Delhi from 23 to 30 May 2013. SP Khan with ID No. KPS 993595 cleared the UN SAAT test.¹³⁵

Case 5: Kidnapping and extortion charges against Head Constable Shiv Charan of Chandigarh Police

In February 2006, Head Constable Shiv Charan of Chandigarh Police was arrested by police on the charge of kidnapping and extortion. He was produced before court on 26 February 2006, which remanded him to 14 days judicial custody. Head Constable Shiv Charan kidnapped a person identified as Partap Singh and demanded a ransom of Rs. 70,000 for his release.¹³⁶

131. Held with live ammo, Punjab cop gets bail, The Tribune, 14 June 2012, available at: <http://www.tribuneindia.com/2012/20120614/punjab.htm#12>

132. Merit List of UN SAAT (UN Selection and Assistance and Assessment Team) held in UN CIVPOL Centre from 23 to 30 May 2013

133. Lesson in irony: Gallantry award goes to rape accused, Tehelka, 17 August 2012, available at: http://archive.tehelka.com/story_main53.asp?filename=Ws170812JK.asp

134. 2 controversial J&K policemen on army honour list, The Hindustan Times, 25 January 2012, available at: <http://www.hindustantimes.com/India-news/Srinagar/2-controversial-J-amp-K-policemen-on-army-honour-list/Article1-802190.aspx>

135. Merit List of UN SAAT (UN Selection and Assistance and Assessment Team) held in UN CIVPOL Centre from 23 to 30 May 2013

136. Head Constable held for kidnapping, extortion, The Tribune, 27 February 2006

Head Constable Shiv Charan was nominated for the 6th Batch of Pre SAT Training from 18 October 2010 to 22 October 2010.¹³⁷

3.3. National level recruitment of the Army

The Indian Army has strict recruitment procedure. It has established education, age, height, chest measurement, weight and physical standards for both Jawan and officer recruitment.¹³⁸ Officers are selected on the basis of written examination conducted by the UPSC¹³⁹ and prior to being commissioned they are required to complete courses and a medical examination. They are subject to a character and background investigation and interview or training required by their academy.¹⁴⁰ While *jawans* are recruited through open recruitment rallies held across the country. Document checking, physical fitness tests, physical measurements, and a medical test follow this initial process.¹⁴¹ Candidates who pass these initial tests sit for a written examination. Successful candidates are then sent for basic training.¹⁴² Candidates are required to sign a declaration stating, among others, that they have not been arrested nor convicted by a criminal court nor involved in a case registered by police.¹⁴³

137. HC orders transfer of 7 cops for assaulting girl, The Indian Express, 19 March 2013, available at: <http://m.indianexpress.com/news/hc-orders-transfer-of-7-cops-for-assaulting-girl/1090083/>

138. See Join Indian Army, JCO & Other Ranks, Eligibility Criteria for Recruitment of JCOs and Other Ranks, available at: http://joinindianarmy.nic.in/inner.aspx?status=1&menu_id=299&id=2, last accessed on 12 August 2013.

139. After passing the examination, cadets are trained at the Indian Military Academy, Dehradun, in all aspects of combat, tactics using computers and other modern tools and technologies. Upon successful completion of the Indian Military Academy, Dehradun, a cadet is commissioned as a "Lieutenant" in the Indian Army. See Join Indian Army, Officers, Type of Commission, Permanent Commission, available at: http://joinindianarmy.nic.in/inner.aspx?status=2&menu_id=98&id=1, last accessed on 12 August 2013.

See also Join Indian Army, Entry Schemes Men, Graduate UPSC, IME (DE), available at: http://joinindianarmy.nic.in/inner.aspx?status=3&menu_id=60&id=1, last accessed on 13 August 2013.

140. See Join Indian Army, Officers, Type of Commission, Permanent Commission, available at: http://joinindianarmy.nic.in/inner.aspx?status=2&menu_id=98&id=1, last accessed on 12 August 2013. See also Verification of Potential Enrollee for Indian Army, Ministry of Defence (Army), available at: http://odisha.edespatch.com/PDF_DEST/L00261/2012/6/25403_1.pdf, last accessed on 13 August 2013.

141. See also Recruitment and Training, Pages 142-143, 2013 Annual Report, Ministry of Defence, Government of India, available at: https://mod.gov.in/writereaddata/AR_2013/Eng/ch10.pdf, last accessed 12 August 2013. The documents include birth certificate, educational qualification certificate, passport photographs, etc. See also Join India Army, Common Instructions for Interview at all SSBs, available at: http://joinindianarmy.nic.in/inner.aspx?status=1&menu_id=269&id=1, last accessed on 12 August 2013.

142. See Recruitment and Training, Pages 142-143, 2013 Annual Report, Ministry of Defence, Government of India, available at: https://mod.gov.in/writereaddata/AR_2013/Eng/ch10.pdf, last accessed 12 August 2013.

143. See Verification of Potential Enrollee for Indian Army, Ministry of Defence (Army), available at: http://odisha.edespatch.com/PDF_DEST/L00261/2012/6/25403_1.pdf, last accessed on 13 August 2013.

In Nepal, all candidates for the Nepal Army must pass a physical fitness test, an IQ test, a detailed medical examination and a board interview as part of the recruitment process. A recruitment board of Nepal Army conducts recruitment of officers, junior rank soldiers and non-combatant employees. The entry point for officer level appointments is the rank of second lieutenant. Of the total vacant posts for second lieutenants, 70% are filled through open competition and 30% through internal promotions. The Army Act (2006) prohibits the recruitment of individuals convicted of a criminal offence that shows his/her moral turpitude. Individuals disqualified from joining government services and individuals convicted of human rights violations are also excluded. The aspiring candidate is required to submit a certificate from a government officer in the rank of a section officer or above stating that he/she is not involved in human rights violations or any activities that shows moral turpitude. Despite this requirement being an integral part of the recruitment process, a joint secretary who has certified a number of NA and NP applications has stated that he has done so without proper verification and simply at the requests of friends and relatives.¹⁴⁴

There are four broad categories for service in the Bangladesh Army: Soldiers (Sainiks), Non-Commissioned Officers, Junior Commissioned Officers (including Warrant Officers) and Commissioned Officers.¹⁴⁵ The Army has established education and physical qualifications and standards for recruits.¹⁴⁶ Typically the Headquarters Recruitment Unit, Branch Recruitment Unit or Area Recruitment Team and Training Centers carry out recruitment for soldiers on a quarterly basis.¹⁴⁷ Officer candidates can be recruited through: commission through the Bangladesh Military Academy (BMA) Long Course, BMA Special Course and Direct Short Service Commission.¹⁴⁸ However, the

144. Interview with MoD official, April 2013.

145. See Join Bangladesh Army, *Service Options*, available at: <http://www.joinbangladesharmy.mil.bd/about-army/service-options>, last accessed on 29 September 2013. See also Join Bangladesh Army, *Personnel*, available at: <http://www.joinbangladesharmy.mil.bd/about-army/personnel>, last accessed on 29 September 2013.

146. For example, a person wanting to become an officer must be between the ages of 17 and 21, a Bangladeshi citizen, single, passed SSC and HSC with a minimum GPA of 4, in addition to meeting particular height and weight measurements. See Join Bangladesh Army, *Become an Officer*, available at: <http://www.joinbangladesharmy.mil.bd/career-jobs/become-officer>, last accessed on 29 September 2013. The specific requirements for enlisting as a soldier can be found at: Join Bangladesh Army, *Become a Soldier*, available at: <http://www.joinbangladesharmy.mil.bd/career-jobs/become-soldier>, last accessed on 29 September 2013.

147. See Bangladesh Army, *Soldiers*, available at: <http://www.army.mil.bd/node/124>, last accessed on 4 October 2013.

148. The BMA Long Course is a direct commission (recruitment) into the Army. When opportunities for the BMA Long Course arise, the Army posts the dates and times of when applications are accepted, the selection procedure and when the training/commission will occur. The BMA Special Course is available to the officers of the Army Education Corps and the Direct Short Service Commission is available to officers of the Army Medical Corps, Army Dental Corps, Remount Veterinary & Farm Corps and Army Education Corps (Jag Dept/Psychologist). See Bangladesh Army, *Officers*, available

formal recruitment process for the Army should be placed within Bangladesh's highly patronage and politically polarised culture.¹⁴⁹ The Bangladesh Army leadership has developed a patronage system where children of serving soldiers are given preference at the time of recruitment at national level "if they fulfill laid down standard".¹⁵⁰

The Nigeria Army sets forth clear policies concerning recruitment and selection. To join the NA, one must be of Nigerian origin by birth; attend a zonal screening exercise at the designated zonal centres for his/her respective states; must be between the ages of 18-22 at the time of application; must be medically, physically and psychologically fit and must not be less than 1.65 meters tall for men and 1.56 meters for women; must be free of any criminal conviction; and must submit all duly completed forms at the exam venue on the date of the exam and required educational qualification.¹⁵¹ However these policies are often abused.¹⁵²

3.3. National level recruitment of the police and para-military forces

Police

India by far has strict recruitment standards at national level among the four troop contributing countries. India has four entry levels for joining the Police Force as Constables and Officers. Police Officers are recruited

at: <http://www.army.mil.bd/node/123>, last accessed on 4 October 2013.

149. "Serving and retired military officers occupy key positions in the administration and some will remain even under a new government... One prominent writer asked, 'Why would the military want to run the country, in the traditional sense - through martial law - when it has officers in almost every branch of the government, running private businesses and heading up civil society organisations?' See Crisis Group interview, serving army general, Dhaka, 2 November 2008 and "Bangladesh: Military must not dominate civil administration", Asian Human Rights Commission, 29 August 2008, available at: www.ahrchk.net/statements/mainfile.php/2008statements/1671/as_cited_by_International_Crisis_Group,_Bangladesh:_Elections_and_Beyond11December_2008,_Asia_Briefing_N°84, available at: http://www.crisisgroup.org/-/media/Files/asia/south-asia/bangladesh/b84_bangladesh___elections_and_beyond.pdf, last accessed on 29 September 2013.
150. See Join Bangladesh Army, *Become a Soldier*, available at: <http://www.joinbangladesharmy.mil.bd/career-jobs/become-soldier>, last accessed on 1 September 2013.
151. See The Nigerian Army E-Application Portal, available at <http://www.narecruitment.org/>, last accessed on 14 February 2014. See also Armed Forces Act, available at [http://www.icrc.org/ihl-nat.nsf/0/049ea0330082bc31c12576ea005be4a3/\\$FILE/ARMED%20FORCES%20ACT.pdf](http://www.icrc.org/ihl-nat.nsf/0/049ea0330082bc31c12576ea005be4a3/$FILE/ARMED%20FORCES%20ACT.pdf), last accessed on 14 February 2014
152. For example, each potential recruit must obtain a series of signatures on the form, and each signature requires a bribe. The total amount of money necessary for all of the signatures can be significant and many recruits do not have that type of money so they are forced to find other methods of obtaining the bribery amounts. One account given by a British Defence Advisory and Training Team (DATT) was that a "potential recruit will find a serving soldier and 'rent' his weapon. The recruit will then use the weapon to commit enough armed robberies to collect the funds necessary to pay all of the necessary bribes and the rental fee for the weapon. Once the soldier is in the Army, he will then rent his weapon out to future recruits, and the system lives on." See Wikileaks, *Cable: 05ABUJA970_a*, 3 June 2005, available at http://www.wikileaks.org/plusd/cables/05ABUJA970_a.html, last accessed on 14 February 2014.

by Union Public Service Commission (UPSC) and respective State Public Service Commission. Each level of recruitment has varying qualifications such as age limit, physical standards and education qualifications. The method of selection involves physical measurement, efficiency test, written examination, interview, medical examination and police background checks.¹⁵³ Written tests for constables are conducted by Police Headquarters, while the State Public Service Commission and UPSC conduct it for officer level. In Nepal, constables, assistant sub-inspectors and inspectors are appointed through an open recruitment process, while all other ranks are filled through promotion. Age limits, educational qualification are some of the eligibility requirement.¹⁵⁴ Like India, the Nepal Police has strict background check. It requires aspirants to not have been convicted of a criminal offense involving moral turpitude, not having been involved in politics and not having obtained membership of an organization with a destructive objective. However, unlike India the major problem with Nepal Police lies in the fact that the entire recruitment and promotion process lie with the police headquarters as instructed by the Ministry of Home Affairs. The Public Service Commission has no role in any part of the process. Hence, corrupt examiners are able to solicit bribes.¹⁵⁵

Bangladesh Police conducts recruitment for only four out of the 18 ranks. These include Assistant Superintendent of Police (ASP), Sub-Inspector, Sergeant and Constable.¹⁵⁶ For each of these positions, the Bangladesh Police sets forth specific qualifications for the position, including education, age and height requirements.¹⁵⁷ The direct recruitment procedure for ASPs is conducted by the Bangladesh Public Service Commission.¹⁵⁸ Despite having formal recruitment guidelines, some officers have been able to buy their way

153. See Commonwealth Human Rights Initiative, *Police Reforms: India - Police Structure and Organisation*, available at <http://www.humanrightsinitiative.org/programs/aj/police/india/history/default.htm>, last accessed on 14 August 2013, and *Report of the Review Committee on the Recommendations of National Police Commission & Other Commissions/Committees on Police Reform* (March 2005), p. ii, as cited in Ebba Marlénsson, *The Indian Police System - a reform proposal*, Foundation for Democratic Reforms, available at: http://www.fdrindia.org/publications/IndianPoliceSystem_PR.pdf, last accessed on 14 August 2013.

154. A candidate aspiring for the post of inspector must be between 20 years and 25 years of age and have a bachelor's degree. Candidates aspiring for the post of sub inspector must be between 18 and 24 and for the post of constables between 18 and 23.

155. See <http://cprnepal.org/wp-content/uploads/2011/08/Addressing-Corruption-in-Police-Reform.pdf>

156. See Bangladesh Police, *Recruitment*, available at: http://www.police.gov.bd/career_child.php?id=247, last accessed on 4 October 2013. See also International Crisis Group (ICG), *Bangladesh: Getting Police Reform on Track*, 11 December 2009, Asia Report N° 182, available at: <http://www.refworld.org/docid/4b22758b2.html>, last accessed on 8 October 2013.

157. See Bangladesh Police, *Constable*, at: <http://www.police.gov.bd/constable.php>, last accessed on 4 October 2013

158. See Bangladesh Police, Assistant Superintendent of Police, available at: http://www.police.gov.bd/asp_child.php, last accessed on 4 October 2013.

into the Bangladesh Police as “nepotism and political affiliations are common factors influencing recruitment in the police”.¹⁵⁹ Moreover, bribery “is widely used to recruit, transfer and promote police officers”.¹⁶⁰

Recruitment into the Nigeria Police Force (NPF) is conducted for three ranks: constable, cadet inspectors and cadet assistant superintendent of police. For each of these positions, the NPF sets forth specific qualifications for the position, including education, age, and height requirements.¹⁶¹ In all cases, candidates will undergo a series of screening and interviews from the local area recruitment committee to national level before an offer is made. Promotion from the lower to higher ranks is earned due to a combination of service, course attendance, additional academic qualifications and job performance, among other attributes.¹⁶² The Police Service Commission, which has responsibility for the recruitment into the police, has published Guidelines for Recruitment into the Nigerian Police, which prescribe the minimum requirement for each of the position in the police.¹⁶³ The Guidelines

159. “Observers note that ‘admission bribes’ for constables and SIs range between Tk 60,000 and 100,000 (\$870-\$1,450). Bribes...are often paid to the local recruiter who is usually a police superintendent of the local Member of Parliament (MP).” See Crisis Group interviews, Dhaka, March 2009, and Crisis Group interviews, former Directorate General of Forces Intelligence official, Dhaka, January 2009, as cited in, International Crisis Group (ICG), *Bangladesh: Getting Police Reform on Track*, 11 December 2009, Asia Report N° 182, available at: <http://www.refworld.org/docid/4b22758b2.html>, last accessed on 8 October 2013. See also Sofia Wickberg, *Overview of corruption and anti-corruption in Bangladesh*, Transparency International, 7 November 2012, available at: <http://goo.gl/zWP3qJ>, last accessed on 4 October 2013.

160. See Sofia Wickberg, *Overview of corruption and anti-corruption in Bangladesh*, Transparency International, 7 November 2012, available at: <http://goo.gl/zWP3qJ>, last accessed on 4 October 2013.

161. For example, for the rank of cadet an application must: Present two verifiable references from any of the following: community leaders/local government chairpersons/heads of educational institutions attended/present or past employers; Be between 18 and 25 years of age at the time of recruitment; Have an ‘O Level’ certificate or its equivalent with at least five papers passed at credit level including English Language in not more than two sittings; and Be certified mentally and physically fit by a Police Medical Doctor/Government medical practitioner; and Must not have any previous criminal record. For the rank of cadet inspectors the minimum requires are: Be a citizen of Nigeria; Be between 18 and 28 years of age at the time appointment; Have a minimum educational requirement of Ordinary National Diploma (OND), National Certificate of Education (NCE) or their equivalent; Candidates must show capacity and willingness for further academic and professional training; Be certified mentally and physically fit by Police Medical Doctor/Government medical practitioner; Must not have any previous criminal record; and Present two verifiable references from any of the following: community leaders/local government chairpersons/heads of educational institutions attended/present or past employers. For the rank of cadet assistant superintendents of police, the academic qualification is either a first degree or Higher National Diploma (HND). See CLEEN Organization, *Police Service Commission, Guidelines: For Appointment in the Nigeria Police Force*, Police Service Commission, 2006, available at <http://www.cleen.org/guidelines%20for%20appointment.pdf>, last accessed on 14 February 2014.

162. See CLEEN Organization, *Police Service Commission, Guidelines: For Appointment in the Nigeria Police Force*, Police Service Commission, 2006, available at <http://www.cleen.org/guidelines%20for%20appointment.pdf>, last accessed on 14 February 2014.

163. Among the key principles in the Guidelines are: Advertisement of all recruitments into the Nigeria Police in the national and regional print and electronic media; No job applicant will be treated less favorably than another on the grounds of sex, marital status, race, colour, ethnic origin, religion, politics, age, social position, or is disadvantaged by conditions or requirements which

are an attempt at consistency and due process in the recruitment of police, but in practice, these principles have been largely ignored.

While the Nepal Police maintains that all personnel who pass the selection examination for peacekeeping deployment must obtain clearance from its Human Rights Unit and Legal Unit before being sent on a peacekeeping mission to be vetted in order to confirm that they are not facing any departmental action.¹⁶⁴ However, the Nepal Police maintains that it does not bar the deployment of any individual in the UN mission just because of human rights allegations from human rights watchdogs.¹⁶⁵ Similarly, the APF selects personnel for peacekeeping operations based on the ‘General Principles of Selection in UN missions’ endorsed by the Home Ministry on 28 November 2008, which as part of the policy bars personnel against whom departmental action has been initiated from participation on UN missions.¹⁶⁶ However, the selection principles endorsed by the APF do not mention human rights vetting. In Nigeria and Bangladesh, there is no known or published documentation on human rights screening of its Army and Police personnel for peacekeeping duty.

Further, the process of recruitment and selection for UN peacekeepers in particular in Bangladesh and Nigeria is subject to high level of corruption and patronage.

Paramilitary forces

India contributes substantial number of paramilitary forces to the UN missions. Officers and constables (jawans) are recruited by the Union Public Service Commission (UPSC), Staff Selection Commission (SSC) and the

cannot be shown to be justified; In the search for the best applicants the police shall endeavour to reach all sections of a community. This includes people from minority ethnic communities and women, all of whom will be given the opportunity to compete equally based on their abilities; Ensuring that complaints in respect of the procedure are heard and acted upon, and to ensure that people who feel aggrieved have enough confidence in the system to make a complaint; and The Police Service Commission shall be the sole issuing authority of recruitment forms and other recruitment materials. It shall also supervise the issue of service numerals (police numbers) for all serving police personnel in Nigeria. In the implementation of these guidelines Merit shall be 85% and shall be based on Federal Character Principles as established by the Federal Character Commission; Special quota for women shall be 10 percent. Discretion shall constitute 5 percent. See CLEEN Organization, *Police Service Commission, Guidelines: For Appointment in the Nigeria Police Force, Police Service Commission, 2006*, available at <http://www.cleen.org/guidelines%20for%20appointment.pdf>, last accessed on 14 February 2014.

164. Interview with Ramesh Kharel, the then Head of the UN Division of the NP, December 2012.

165. Interview with Keshab Adhikari, NP spokesperson, April 2013.

166. Preamble of the General Principles of the Selection of APF in the UN Mission, (2008). A copy of this was obtained from the Ministry of Home Affairs in October 2012. General Principles on Selection in the UN Mission, APF headquarters 2008, Article 3 (C) regarding disqualification of candidates in selection tests.

Force Recruitment Boards through written examinations. The candidates have to go through eligibility requirement such as age limit, Physical Standards Test (PST), a Physical Efficiency Test (PET) and a Medical Standards Test and the Personality Test/Interview. The final selection is based on the merit list, which is drawn up on the basis of marks obtained by the candidates in the Written Examination and Interview/Personality Test. The selection is completed following satisfactory background checks by the police. There are reservations for weaker section of the society such as Scheduled Tribes, Scheduled Castes and Other Backward Classes.

Nepal's Armed Police Force (APF) posts are filled through a mix of open competition and promotion.¹⁶⁷ Like India, there are reservations for Adivasi/Janajati, Madhesi, Dalit and disadvantaged areas.¹⁶⁸ Candidates, who are convicted by a court of law for any criminal offence involving moral turpitude, if involved in politics and member of an organization with a “destructive objective” are not allowed. However, there are instances of political intervention,¹⁶⁹ bribery, etc during recruitment, promotion and transfers of APF personnel.

The Government of Bangladesh has so far not included paramilitary forces for the UN peacekeeping missions. In fact, the denial of opportunities to serve with the UN missions was one of the reasons for the revolt at the BDR Headquarters at Pilkhana, Dhaka on 25 February 2009 in which a total of 74 persons including 57 Army Officers deputed to the BDR from the army were massacred. The 10-member Investigation Committee¹⁷⁰ formed by the Government of Bangladesh in its conclusion stated that the aims of the revolt by the BDR were, among others, “*proving Bangladesh to be unfit for working in UN missions*” and “*reducing Bangladesh's foreign currency earning by reducing its presence in UN missions*”. The Investigation Committee, instead of resolving

167. APF Rules, 2060 (2003) brought by the government as per section 36 of the Armed Police Force Act 2001, available at: [http://www.lawcommission.gov.np/en/documents/Prevailing-Laws/Rules-and-Regulations/English/Armed-Police-Force-Rules-2060-\(2002\)](http://www.lawcommission.gov.np/en/documents/Prevailing-Laws/Rules-and-Regulations/English/Armed-Police-Force-Rules-2060-(2002)), last accessed on 24 February 2012.

168. See Chapter 3, Article 6 fulfillment of the vacant posts in the Armed Police, APF Rules 2003, available at: [http://www.lawcommission.gov.np/en/documents/Prevailing-Laws/Rules-and-Regulations/English/Armed-Police-Force-Rules-2060-\(2002\)](http://www.lawcommission.gov.np/en/documents/Prevailing-Laws/Rules-and-Regulations/English/Armed-Police-Force-Rules-2060-(2002)), last accessed on 24 February 2012.

169. Interview with DIG of the APF, April 2013.

170. The members of Investigating Committee were former Secretary Mr. Anis-Uz-Zaman Khan as its Chairman and the additional Secretary of Home Ministry as a Member Secretary and other members of the Investigation Committee were Secretary, Law, Justice and Parliamentary Affairs Ministry; Director General, Bangladesh Rifles; Representative of the Prime Minister's Office, Representative of the Cabinet; 3 Representatives of the Armed Force; Additional Police Inspector (Administration) and Judge Advocate General, Military Headquarters. “Revolt at the BDR Headquarters situated at Peelkhana: Report of the Investigating Committee created for Investigation of the Heinous Massacre, 21st May 2009 available at http://www.hrw.org/sites/default/files/related_material/Investigation%20Report%20-%20Government%20Inquiry_0.pdf

the grudge of the BDR personnel, appears to have misled the country by stating that the “*United Nations has objected to the proposal of BDR members being taken to foreign missions. Bangladesh Government has no jurisdiction in this matter*”.¹⁷¹

This is a blatant lie as neighbouring India has been sending its paramilitary forces including the Border Security Forces on UN missions.¹⁷² The issue still remains unresolved as the Director General of the Border Guard Bangladesh (BGB, the new BDR) Major General Aziz Ahmed told *The New Age* on 25 February 2013 that “a decision on sending BGB soldiers to UN peacekeeping missions was under process”.¹⁷³

171. Revolt at the BDR Headquarters situated at Peelkhana: Report of the Investigating Committee created for Investigation of the Heinous Massacre, 21 May 2009 available at http://www.hrw.org/sites/default/files/related_material/Investigation%20Report%20-%20Government%20Inquiry_0.pdf

172. Please visit <http://crpf.nic.in/un.HTM> which shows that India's Central Reserve Police Force personnel have been deployed on UN Missions in Haiti, Kosovo and Liberia.

173. 4 YEARS AFTER BDR MUTINY, Families of victims, accused still await justice, *The New Age*, 25 February 2013 available at <http://newagebd.com/detail.php?date=2013-02-25&nid=41095>

4. CONDUCT OF THE PEACEKEEPERS AND CIVPOL WHILE ON DUTY AND RESPONSE OF THE UN AND NATIONAL AUTHORITIES

There are serious allegations of misconduct of the peacekeepers from India, Bangladesh Nigeria and Nepal while on UN duty.

4.1 Involvement of Bangladeshi troops

In 2007 a U.K. newspaper reported that four Bangladeshi peacekeepers deployed to the UN Mission in Sudan (UNMIS) had been repatriated following allegations of sexual exploitation and abuse of children as a result of investigations by a UN team that began in February 2006.¹⁷⁴ The news report also stated “the Sudanese government in Khartoum had video footage of Bangladeshi UN personnel having sex with three young girls.”¹⁷⁵ The UN later confirmed that the four Bangladeshi peacekeepers had been repatriated over the allegations and that their cases would be pursued in Bangladesh.

The UN announced its intention to follow up with the Government of Bangladesh with regard to allegations.¹⁷⁶ On his second day as UN Secretary General, Ban Ki-moon issued a statement reiterating the UN’s “zero-tolerance” policy towards sexual abuse stating “zero tolerance, meaning zero complacency and zero impunity.”¹⁷⁷ The Government of Bangladesh has failed to indicate publicly as to whether any action has been taken against the accused.

Five years later in October 2012 at the Plenary of the Sixth Committee of the 67th UNGA on “Criminal accountability of United Nations officials and experts on mission”, Dr. A K Abdul Momen, Ambassador and Permanent

174. See Wikileaks, *Cable No. 07KHAROU31_a*, 8 January 2007, available at: http://www.wikileaks.org/plusd/cables/07KHAROU31_a.html, last accessed on 4 October 2013. See also UN News Centre, *Four peacekeepers accused of sex abuse already repatriated - UN mission in Sudan*, available at: <http://www.un.org/apps/news/story.asp?NewsID=21160>, last accessed on 1 September 2013.

175. See Wikileaks, *Cable No. 07KHAROU31_a*, 8 January 2007, available at: http://www.wikileaks.org/plusd/cables/07KHAROU31_a.html, last accessed on 4 October 2013.

176. See UN News Centre, *Four peacekeepers accused of sex abuse already repatriated - UN mission in Sudan*, available at: <http://www.un.org/apps/news/story.asp?NewsID=21160>, last accessed on 1 September 2013

177. See Secretary-General Office of the Spokesperson, *Statement Attributable to the Spokesperson for the Secretary-General on Allegations of Sexual Exploitation and Abuse by UN Personnel in Sudan*, 3 January 2007, available at: <http://www.un.org/apps/sg/sgstats.asp?nid=2388>, last accessed on 4 October 2013.

Representative of Bangladesh to the United Nations stated:

Being one of the top troop contributors to UN Peacekeeping operations, the government of Bangladesh always maintains a ‘zero tolerance’ policy in addressing all cases of abuse and sexual exploitation committed by peacekeeping personnel. This is in line with her general commitment to ensure a better universe for the mankind. We firmly believe that all UN peacekeeping personnel should perform their duties in a manner that preserves the integrity, the image, the trust and credibility of the United Nations.

According to domestic law of Bangladesh, where Bangladesh Defence Force and Police personnel serve as United Nations officials or experts on mission, they are subject to a system of military or Police discipline, thereby ensuring accountability at all times. In fact, the members of defence force in Bangladesh are governed by two sets of law, one is ‘the Code of Criminal Procedure, 1898’ and the other is, ‘Manual of Bangladesh Military Law (MBML)’. Apart from the above, all crimes under Bangladesh law committed by Bangladesh civil servants and Bangladesh Police Force in foreign countries are also punishable. Therefore, all military or civilian UN peacekeeping personnel involved in suspected sexual exploitation and abuse cases are to be reported to the competent authorities and investigated in accordance with Bangladesh law.

Finally, Bangladesh is committed to take all appropriate measures to ensure that crimes by United Nations officials and experts on mission do not go unpunished and that the perpetrators of such crimes are brought to justice, without prejudice to the privileges and immunities of such persons and the United Nations under international law, and in accordance with international human rights standards, including due process.¹⁷⁸

Despite the Government of Bangladesh’s pledge to a “zero tolerance” policy towards human rights abuses concerning persons deployed on UN peacekeeping missions, there is currently no human rights screening process for deployment on UNPKOs.¹⁷⁹ As demonstrated above, the need for proper

178. See Dr. A K Abdul Momen, Ambassador and Permanent Representative of Bangladesh to the UN at the Plenary of the Sixth Committee of the 67th UNGA on “Criminal accountability of United Nations officials and experts on mission”, 15 October 2012, available at: <http://goo.gl/F908WL>, last accessed on 4 October 2013.

179. National level recruitment in the Army requires persons to meet combat requirements. Every male citizen, irrespective of caste, class or religion is eligible for recruitment in the army

vetting is evident as the Army has been involved in widespread and systematic violations of human rights throughout its deployment in Bangladesh.

4.2 Involvement of the Indian troops

There have been many and consistent reports of misconduct, sexual abuses and exploitation by the Indian troops. In at least two cases the UN Office of Internal Oversight Services had to order inquiries.

i. Cooperation with the Enemy: Report of the Office of Internal Oversight Services

A confidential report dated 7 February 2008 accessed by Asian Centre for Human Rights into allegations of misconduct by Indian peacekeepers deployed with the U.N in the Democratic Republic of Congo (MONUC) by the UN Office of Internal Oversight Services (ID Case No. 0648/06)” shows that on 4 July 2006, OIOS was notified of allegations of misconduct of the Indian military contingent (INDBATT) deployed with MONUC in North Kivu province. Between July and November 2007, OIOS conducted field-based investigations. The OIOS received a total of 44 allegations.

The OIOS broadly grouped the 44 allegations under five themes:

- Allegations of misconduct against INDBATT forces and the *Forces Democratiques de Liberation du Rwanda* (FDLR);
- Allegations of misconduct between INDBATT forces and the rebel faction led by Laurent Nkunda;
- Allegations of misconduct by General Satyanarayan, the then commander of the North Kivu Brigade;
- Allegations of illicit gold transactions by INDBATT personnel not related to negative forces; and

provided he meets the laid down age educational, physical and medical requirement. Recruitment is carried out on quarterly basis by Headquarters Recruitment Unit/Branch Recruitment Unit/Area Recruitment Team and Training Centers. Soldiers are recruited at the age between 17 to 19 years and Secondary School Certificate (SSC) Examination/ Equivalent with minimum GPA-2/2nd Division is the minimum educational qualification in addition to physical requirements. Children of serving/retired Armed Forces personnel and serving civilian of Armed Forces are preferred “if they fulfill laid down standard”. Initial screening includes checking of documents and preliminary medical test following which written examination of the candidates qualified in the initial screening is conducted. Candidates qualified in written examination will appear before final medical examination. Final selection will be made by the Recruiting Officer. The same procedure is followed with respect to the officers. See Join Bangladesh Army, *Become a Soldier*, available at: <http://www.joinbangladesharmy.mil.bd/career-jobs/become-soldier>, last accessed on 1 September 2013.

- Allegations of misconduct in the handling of UN rations, fuel and other miscellaneous.

Out of the 44 allegations, OIOS found five allegations unfounded, 17 were based on hearsay statements and were not pursued; 12 allegations did have sufficient evidence of INDBATT misconduct, but were not pursued due to time and resource constraints; four were partially supported by circumstantial evidence obtained by OIOS; and six allegations were supported by corroborative evidence.

The six supported allegations included i) the purchase of counterfeit gold and unlawful detention; ii) the sale of UN rations to members of FDLR; iii) the purchase of cannabis by INDBATT from FDLR; iv) the failure to support the Disarmament, Demobilization, Repatriation, Reintegration and Resettlement of armed groups (DDRRR process; v) the exchange of ammunition by INDBATT to FDLR for ivory; and vi) INDBATT's fraternization with armed members of FDLR. No action is known to have been taken by the Government of India and DPKO on these findings.

OIOS concluded that members of INDBATT had paid an undetermined amount of money to an individual (with FDLR connections) in exchange for unwrought gold, which was later determined to be counterfeit. This incident led to the seller being illegally detained by members of INDBATT until he repaid the money.

OIOS interviewed a number of people who stated that the Indian contingent deployed in the latter part of 2005 was involved in the sale of rations to local people, including members of the FDLR. These statements were corroborated by a number of witnesses. One witness claimed that he entered into a commercial relationship with a peacekeeper and purchased quantities of UN rations several times a week and sold them at a profit to members of the local community. This witness provided OIOS with a notebook in which he had recorded the details of some of the transactions relating to rations sales. Lastly a former lieutenant colonel in the FDLR claimed that Indian peacekeepers deployed in the latter part of 2005 were either selling UN rations to buy gold or were bartering UN rations for gold.

A former major in the FDLR told OIOS that he had heard reports that a junior FDLR officer in the area of North Kivu had provided cannabis to an Indian officer in exchange for UN rations. OIOS interviewed one witness who claimed to have provided a small quantity of cannabis to an Indian peacekeeper on three occasions in late 2005 or early 2006. A MONUC

interpreter who facilitated conversations between the two men corroborated the supply of cannabis by this witness to the peacekeepers.

OIOS received a number of complaints alleging that INDBATT had not supported, and in some cases had deliberately undermined the Disarmament, Demobilization, Repatriation, Reintegration and Resettlement (DDRRR) process in North Kivu. The allegations included handing over of FDLR combatants surrendered to an Indian military facility to their commanders; discouraging FDLR from entering the DDRRR process and advance warning of planned FARDC/MONUC military action given to FDLR officers; among others. During the OIOS investigation, allegations were corroborated through witness statements.

OIOS investigations with witnesses revealed that INDBATT and FDLR exchanged ammunition for ivory in the Rutshuru area of North Kivu. One of the witnesses told OIOS that one of the FDLR soldiers later provided him with a sample of the same ivory that was allegedly traded for the ammunition brought by INDBATT. OIOS took possession of the sample, which was then examined by the Provincial Director of the Congolese Institute for the Conservation of Nature, who verified that the sample was ivory and estimated it to have come, from a two-year-old elephant.

OIOS received allegations that members of INDBATT habitually fraternized with armed members of the FDLR and failed to disarm them, despite the latter's categorization as negative forces. OIOS received further information and complaints stating that the FDLR comfortably resided, congregated and patrolled in areas that were under INDBATT control without hindrance or restraint from INDBATT. OIOS investigators personally observed many armed FDLR members openly walking around town, in close proximity to and even in front of the INDBATT camp, seemingly unconcerned about being stopped or disarmed by members of INDBATT.

OIOS found that there was direct corroborative evidence to suggest that INDBATT was complacent to the presence of armed FDLR elements in its area of responsibility.

ii. Sexual Exploitation and Abuse: Indictment by OIOS and India's Court of Inquiry

The OIOS inquiry

In May 2008, following further complaints, OIOS began a second investigation this time relating to allegations of sexual abuse and exploitation

by the INDBATT. On 12 August 2008, UN Secretary-General Ban Ki-moon issued a press statement saying that he was “deeply troubled” by the outcome of the OIOS investigation. The report revealed evidence suggesting Indian contingent involvement in sexual exploitation and abuse.¹⁸⁰ Ban Ki-moon called on the Indian authorities to investigate and where necessary take appropriate legal action.¹⁸¹ DNA testing commissioned by the UN in the DRC showed that the children had “distinctive Indian features” confirming the allegations of sexual abuse and exploitation by the INDBATT.¹⁸²

In August 2008, India’s Defence Minister A.K. Antony promised a thorough and time-bound probe.¹⁸³ The Government of India repeatedly assured the UN that the allegations if proven, would lead to strict and exemplary action.¹⁸⁴

The Indian Army, prior to the U.N statement, ordered an internal inquiry. Brigadier Inderjeet Narayan, commander of the North Kivu brigade of Indian peacekeepers, headed the inquiry. The investigation followed a visit to the DRC by the Vice-Chief of Army Staff, Lieutenant-General M L Naidu in May 2008.¹⁸⁵ Given the timing of the investigation it is clear that the Indian authorities were aware of the issues prior to the public statement issued by the UN Secretary General. ACHR is unaware of any action resulting from this inquiry.

The allegations impacted India’s standing at the UN. On 19 November 2008, the UN Security Council voted to send 3,000 reinforcements to the DRC. On 21 November 2008, the DRC’s Foreign Minister Alexis Tamba Mwamba diplomatically requested that no further Indian troops be part of the reinforcements. He stated in a letter to the UN that, “In view of the

180. See UN Secretary-General Department of Public Information, *Secretary-General Concerned by Probe Outcome Indicating Peacekeepers Previously in Democratic Republic of Congo May Have Committed Sexual Exploitation*, 12 August 2008, available at: <http://www.un.org/News/Press/docs//2008/sgsm11741.doc.htm>, last accessed on 14 August 2013.

181. See *Id.* n

182. See Varinder Bhatia, *Indian Army probes reports of its UN peacekeepers fathering kids in Congo*, The Indian Express, 07 June 2011, available at: <http://www.indianexpress.com/news/indian-army-probes-reports-of-its-un-peacekeepers-fathering-kids-in-congo/800244/>, last accessed on 14 August 2013.

183. See Agency, *Antony orders swift probe into Congo charge*, The Times of India, 14 August 2008, available at: http://articles.timesofindia.indiatimes.com/2008-08-14/india/27925519_1_indian-soldiers-monuc-congolese, last accessed on 14 August 2013.

184. See UN Secretary-General Department of Public Information, *Secretary-General Concerned by Probe Outcome Indicating Peacekeepers Previously in Democratic Republic of Congo May Have Committed Sexual Exploitation*, 12 August 2008, available at: <http://www.un.org/News/Press/docs//2008/sgsm11741.doc.htm>, last accessed on 14 August 2013.

185. See Agency, *Antony orders swift probe into Congo charge*, The Times of India, 14 August 2008, available at: http://articles.timesofindia.indiatimes.com/2008-08-14/india/27925519_1_indian-soldiers-monuc-congolese, last accessed on 14 August 2013.

numerous abuses of power carried out by certain troops within MONUC, the (Congolese) people would not understand if soldiers from the same country would be used to boost numbers within MONUC".¹⁸⁶

In March 2009 after the Sikh Regiment's withdrawal, the UN asked India to send no replacements. India was forced to cancel the deployment of some 200 Indian Air Force personnel.¹⁸⁷ In response, India reportedly threatened to withdraw all its troops, potentially collapsing the UN peacekeeping mission in the DRC. DRC President Joseph Kabila responded with a letter to the Indian Prime Minister expressing gratitude for the Indian contribution to peacekeeping in the DRC.¹⁸⁸ In June 2009, 285 Indian Air Force officers were dispatched to join the UN peacekeeping mission in the DRC.¹⁸⁹

The response of Indian Army

India initially only recalled the 6th Sikh Battalion from the peacekeeping mission in the DRC. But no investigation was carried out on their return to India. In August 2010 the UN communicated with India reminding the Government of India of its public commitment to investigate. In January 2011, the Army Headquarters wrote to the Western Command to conduct an inquiry.¹⁹⁰

In May 2011, the Army ordered a Court of Inquiry (CoI) into the conduct of the 6th Sikh Battalion. The investigation focused on 12 officers and 39 soldiers allegedly involved in cases of sexual abuse and fathering children while in the DRC.¹⁹¹

186. See AFP, *No more Indian troops please - Congo tells UN chief*, The Daily Star, Dhaka, Bangladesh, 27 November 2008, available at: <http://archive.thedailystar.net/newDesign/news-details.php?nid=65073>, last accessed on 14 August 2013.

187. See China View, *India cancels new UN peacekeeping mission in Congo over scandal*, 9 March 2009, Xinhua, available at http://news.xinhuanet.com/english/2009-03/09/content_10975745.htm, last accessed on 14 August 2013.

188. See Varun Vira, *India and UN Peacekeeping: Declining Interest with Grave Implications*, Small War Journal, 13 July 2012 available at: <http://smallwarsjournal.com/node/12949>, last accessed on 14 August 2013.

189. See Press Information Bureau, Government of India, *IAF contingent for UN peacekeeping mission at Congo flagged off*, 18 June 2009, available at: <http://pib.nic.in/newsite/erelease.aspx?relid=49236>, last accessed on 14 August 2013.

190. See Varinder Bhatia, *Indian Army probes reports of its UN peacekeepers fathering kids in Congo*, The Indian Express, 07 June 2011, available at: <http://www.indianexpress.com/news/indian-army-probes-reports-of-its-un-peacekeepers-fathering-kids-in-congo/800244/>, last accessed on 14 August 2013.

191. The Col was presided over by Brig. M M Masur, Cdr, 9th Artillery Brigade, and includes Col. Sunil, Deputy Commander, 32nd Infantry Brigade and Col. P V Ramakrishnan, Commanding Officer, 299th Fd Regt. See Varinder Bhatia, *Indian Army probes reports of its UN peacekeepers fathering kids in Congo*, The Indian Express, 07 June 2011, available at: <http://www.indianexpress.com/news/indian-army-probes-reports-of-its-un-peacekeepers-fathering-kids-in-congo/800244/>, last accessed on 14 August 2013. It was reported that Major R.S. Ghumman, who was part of the UN

There are serious concerns over the way the CoI conducted its investigation. ACHR consistently maintained that the CoI constituted by the Indian Army was biased and did not intend to establish culpability. *First*, the CoI was being conducted only in India and not at the place of offence, i.e. DRC, where the victims were allegedly sexually abused. *Second*, the victims who were allegedly sexually abused and gave birth to the children in DRC were not given any opportunity to testify before the CoI. ACHR filed a complaint with the National Human Rights Commission of India (NHRC) on 24 August 2011 to address these shortcomings. The NHRC took no action and merely passed the complaint onto the Ministry of Defence.¹⁹²

In November 2012, Chief of the Army Staff (CoAS) General Bikram Singh claimed that the CoI had concluded its investigation. He stated that the DNA sample of one Jawan had matched with one of the children allegedly fathered by Indian troops in the DRC. The CoI found three other personnel responsible for a Command and Control failure.¹⁹³ One of the officials includes a Major, while other two are a JCO and a Havildar (equivalent to the rank of sergeant). According to the CoI, three personnel would face administrative action for Command and Control failure and the jawan would face disciplinary action.¹⁹⁴

However, Major General Anil Mehta of the Army Headquarters contradicted the CoAS on 1 April 2013. On 27 December 2012, ACHR had filed an application under the Right to Information Act with the Army Headquarters seeking a copy of the CoI report. In a reply of 1 April 2013, Major General Anil Mehta stated that the “investigation on the subject incident is still not completed and disclosure of information at this stage is likely to impede the process of investigation”.¹⁹⁵

peacekeeping force in Congo, slashed his wrists in an attempt to commit suicide after the probe against him was ordered. He has been accused of hiring sex workers in Congo and violating curfew rules. See Gautam Datt, *Indian army's shame: Indictment of 4 Indian peacekeepers for 'sexual misconduct' on a UN posting in Congo dents the army's honour*, Indian Military News, 25 November 2012, available at: <http://indianmilitarynews.wordpress.com/tag/congo-sex-abuse-case/>, last accessed on 14 August 2013.

192. Please refer to <http://nhrc.nic.in/display.asp?fno=219/99/4/2011-AF>

193. <http://www.thesundayindian.com/en/story/congo-sex-scandal-four-army-men-indicted/254/43787/>

194. See Gautam Datt, *Indian army's shame: Indictment of 4 Indian peacekeepers for 'sexual misconduct' on a UN posting in Congo dents the army's honour*, India Today, 25 November 2012, available at: <http://indiatoday.intoday.in/story/indian-army-shamed-action-against-jawan-for-fathering-child-congo-india-today/1/234613.html>, last accessed on 14 August 2013.

195. See RTI Reply to Mr Suhas Chakma by Major General Anil Mehta Vide No.B/87008/AG/PM/RTI2356 dated 1 April 2013.

iii. Other abuses by Indian troops

As per the OIOS, media reports in early 2004 indicated the recurrence of acts of sexual exploitation and abuse of DRC women and girls by UN peacekeepers serving with MONUC in Bunia. Between May and September 2004, the OIOS carried out an investigation at the request of MONUC and DPKO.¹⁹⁶

Interviews with Congolese women and girls confirmed that sexual relations with peacekeepers were a regular occurrence, usually in exchange for food or small sums of money. The allegations involved girls under the age of 18, with some as young as 13.¹⁹⁷

The OIOS report submitted to the UN General Assembly stated, “Many of the 72 allegations originally reported to MONUC could not be substantiated or even fully investigated because of their non-specific nature.”¹⁹⁸

Nevertheless, OIOS was able to compile 20 case reports. One substantiated case involved an international civilian post. The remaining 19 cases involved peacekeepers from 3 contingents. Of those, six cases were fully substantiated. In another two cases, the identification of the perpetrators was not fully corroborated. In the remaining 11 cases, the victims and witnesses were unable to clearly identify the perpetrators.¹⁹⁹

However, dozens of interviews with the girls themselves and with the young Congolese men who facilitated the encounters, as well as with aid workers, revealed a pattern of sexual exploitation by peacekeepers contrary to the standards set by the DPKO’s “Ten Rules: Code of Personal Conduct for Blue Helmets and the Mission’s own code of conduct”.²⁰⁰

It is not clear whether “19 cases involved peacekeepers from 3 contingents” included peacekeepers from India. The MUNOC in a press release of 11

196. Investigation by the Office of Internal Oversight Services into allegations of sexual exploitation and abuse in the United Nations Organization Mission in the Democratic Republic of the Congo, UN General Assembly Document No. A/59/661 dated 5 January 2005.

197. Investigation by the Office of Internal Oversight Services into allegations of sexual exploitation and abuse in the United Nations Organization Mission in the Democratic Republic of the Congo, UN General Assembly Document No. A/59/661 dated 5 January 2005.

198. Investigation by the Office of Internal Oversight Services into allegations of sexual exploitation and abuse in the United Nations Organization Mission in the Democratic Republic of the Congo, UN General Assembly Document No. A/59/661 dated 5 January 2005.

199. Investigation by the Office of Internal Oversight Services into allegations of sexual exploitation and abuse in the United Nations Organization Mission in the Democratic Republic of the Congo, UN General Assembly Document No. A/59/661 dated 5 January 2005.

200. Investigation by the Office of Internal Oversight Services into allegations of sexual exploitation and abuse in the United Nations Organization Mission in the Democratic Republic of the Congo, UN General Assembly Document No. A/59/661 dated 5 January 2005.

September 2003 reported that “so far, over 2,500 troops from Bangladesh, Uruguay, Indonesia and India have been deployed in Bunia” in addition to 280 Pakistanis troops.²⁰¹

However, what is clear is that the OIOS made eight specific recommendations including that senior MONUC managers must become more involved and demand accountability from both civilian administrators and contingent commanders in the Mission and that MONUC must take steps to ensure that administrators and officers demonstrate implementation of all existing regulations and policies aimed at preventing sexual abuse and exploitation (Recommendation 3). It also recommended that DPKOs and MONUC should undertake a programme to provide regular briefings for troops on their responsibilities to the local population and on prohibited behaviours and to ensure that all troops and civilians on UN missions were fully conversant with UN policies on the subject of sexual exploitation and abuse (Recommendation 4); and that the MONUC Force Commander, in conjunction with contingent commanders, should enforce strict discipline over the personnel under their command (Recommendation 5).²⁰²

However, the inquiry or recommendations by the OIOS had little impact on the Indian troops as the OIOS in the following years had to order further investigation into sexual exploitation and misconduct by Indian troops.

On 12 March 2008, South African Police detained three Indian officers serving with MONUC after a woman was allegedly raped. The accused, a Lieutenant Colonel and two Majors of the Indian Army posted with the North Kivu brigade of the Mission had gone on a holiday to Pretoria. The accused were released following intervention of the Indian Embassy in Johannesburg. Rather than seeking action against allegations of sexual abuse India’s Defence Minister Mr A K Antony reportedly asked the UN to report on why officers had been able to go to an unsecured location.²⁰³ UN Secretary General Ban Ki-moon publicly demanded “disciplinary action” against them.²⁰⁴

201. DR of Congo: UN continues to boost troop strength in Bunia, UN News Centre, 11 September 2003, available at <http://www.un.org/apps/news/story.asp?NewsID=8220&Cr=democratic&Cr1=congo>

202. DR of Congo: UN continues to boost troop strength in Bunia, UN News Centre, 11 September 2003, available at <http://www.un.org/apps/news/story.asp?NewsID=8220&Cr=democratic&Cr1=congo>

203. 3 Army officers on UN Congo mission accused of rape, The Indian Express, 18 March 2008, available at: <http://www.indianexpress.com/news/3-army-officers-on-un-congo-mission-accused-of-rape/285654/#sthash.BtJbPNkV.dpuf>

204. UN sex glare on major, The Telegraph, 16 July 2010 available at http://www.telegraphindia.com/1100716/jsp/nation/story_12690103.jsp

In July 2010, an inquiry was launched by the Conduct and Discipline Unit of the UN against Major R.S. Ghumman of the Jammu and Kashmir Rifles on charges of sexual exploitation and abuse after he was allegedly found in the company of sex workers in the DRC. Major Ghumman was reportedly found accompanying sex workers on 6 July 2010 while leaving a pub in North Kivu province. Peacekeeping rules expressly forbid visiting sex workers. The Indian CoAS and the Adjutant General's Branch were informed of the investigations.²⁰⁵

4.4 Involvement of the Nepalese troops

In July 2005, six Nepali soldiers were jailed for sexual abuse in Democratic Republic of Congo where they were serving as United Nations peacekeepers. A General Court Martial found them guilty of sexual abuses and each of the six soldiers was sentenced to three months in jail. These soldiers were recalled in May 2005 to face investigation into the allegations of abuse committed in 2003.²⁰⁶

4.4 Involvement of the Nigerian troops

Beginning in mid-2004, allegations concerning sexual exploitation and abuse perpetrated by UN peacekeepers and other UN personnel began to surface.²⁰⁷ In response to the mounting allegations, the UN conducted investigations, which resulted in changes to existing UN policies concerning personnel.²⁰⁸ A “zero-tolerance” towards any sexual exploitation and abuse was adopted and was to be implemented in “the most transparent manner” according to Secretary-General Kofi Annan.²⁰⁹

205. UN sex glare on major, *The Telegraph*, 16 July 2010 available at http://www.telegraphindia.com/1100716/jsp/nation/story_12690103.jsp

206. Nepal jails six peacekeepers for sex abuse in Congo, *Gulf News*, 24 July 2005, at: <http://gulfnews.com/nepal-jails-six-peacekeepers-for-sex-abuse-in-congo-1.295124>

207. Allegations of sexual abuse and exploitation of girls and women, including trading sex for money, food or jobs; rape; in addition to victims of abuse being left to care for children without any family to help them care for the children. See United Nations Press Release, Secretary-General Kofi Annan, *Secretary-General 'Absolutely Outrage' by Gross Misconduct by Peacekeeping Personnel in Democratic Republic of Congo*, U.N. Doc. SG/SM/9605 (19 November 2994), available at <http://www.un.org/News/Press/docs/2004/sgsm9605.doc.htm>, last accessed on 14 February 2014. See also Elizabeth F. Defeis, *UN Peacekeepers and Sexual Abuse and Exploitation: An End to Impunity*, Washington University Global Studies Law Review, 2008, available at http://law.wustl.edu/WUGSLR/Issues/Volume7_2/Defeis.pdf, last accessed on 14 February 2014.

208. See Elizabeth F. Defeis, *UN Peacekeepers and Sexual Abuse and Exploitation: An End to Impunity*, Washington University Global Studies Law Review, 2008, available at http://law.wustl.edu/WUGSLR/Issues/Volume7_2/Defeis.pdf, last accessed on 14 February 2014.

209. See Elizabeth F. Defeis, *UN Peacekeepers and Sexual Abuse and Exploitation: An End to Impunity*, Washington University Global Studies Law Review, 2008, available at http://law.wustl.edu/WUGSLR/Issues/Volume7_2/Defeis.pdf, last accessed on 14 February 2014.

Nigeria expressed its commitment to the principle of accountability concerning sexual abuse and other criminal acts by its peacekeepers, but is yet to make any documented effort to address the issue.²¹⁰ Furthermore, the NA does not have a published policy either on sexual exploitation and abuse or human rights violations.

As illustrated by the cases discussed below, there is clear evidence on the need for a clear policy concerning sexual exploitation and abuse and human rights violations by members of the NA, in addition to a comprehensive and transparent vetting system to prevent those who have committed these types of abuses from serving as UN peacekeepers.

The history of the NA and peacekeeping has been plagued by allegations of corruption and violations of human rights. For example during their peacekeeping mission in Liberia, “some Nigerian officers acted in the manner of warlords by trading diamonds and looting. The peacekeeping group, the Economic Community of West African States Monitoring Group, earned itself the nickname ECOMOG: Every Car or Moving Object Gone.”²¹¹

Case 1: Massive sexual abuses in Liberia

Between 1990 and 1998, West African soldiers from Nigeria and some other members of Economic Community of West African States (ECOWAS) reportedly fathered some 25,000 children during peacekeeping missions in Liberia. The Nigerian contingent accounted for 50 percent of the cases. All the fathers abandoned the children.²¹² Some of these children are being sheltered in an orphanage, known as ECOMOG Children’s Home, as the children’s mothers could no longer take care of them.²¹³ About ninety-five women impregnated by the UN peacekeepers had asked the Orphanage to assist them in finding the fathers of the abandoned children.²¹⁴

210 See UNGA, *Summary record of the 9th meeting, A/C.6/67/SR.9*, 20 December 2012, as cited by Carla Ferstman, *Criminalizing Sexual Exploitation and Abuse by Peacekeepers*, United States Institute of Peace Special Report, available at <http://www.usip.org/sites/default/files/SR335-Criminalizing%20Sexual%20Exploitation%20and%20Abuse%20by%20Peacekeepers.pdf>, last accessed on 14 February 2014.

211. See Chris Suellentrop, *Nigeria’s Peacekeeping Problem*, Slate available at http://www.slate.com/articles/news_and_politics/assessment/2003/08/nigeria.html, last accessed on 14 February 2014.

212. See CNN, ‘Time for a blunt message to Africa’, By George B.N. Ayttey, available at: <http://edition.cnn.com/fyi/backgrounders/aids.africa/stories/war.africa.aids/>

213. See <http://www.soschildreenvillages.ca/peacekeepers-implicated-child-abandonment>

214. See ‘Liberia’s peacekeeping legacy’, BBC News, 24 January 2005, at: <http://news.bbc.co.uk/2/hi/africa/4195459.stm>

Case 2: Issues of corruption in Sierra Leone

During the peacekeeping mission in Sierra Leone, General Vijay Kumar Jetley complained about the corruption of the Nigerian peacekeeping forces in a confidential report sent to the UN headquarters.²¹⁵ According to Jetley's report, the NA "has obstructed peace moves in Sierra Leone because its officers and men are getting rich through illegally trading diamonds."²¹⁶

The document is supported by complaints from a wide range of sources who claim that the NA "was heavily involved in diamonds, false passports, drug smuggling and other illegal activities...A by-product of this was that the Nigerian Army supplied drugs to the Revolutionary United Front rebels, whose ill-disciplined troops have heavy drug habits."²¹⁷

Some of the claims could not be substantiated since they came from the RUE, but other reports came from sources such as a pilot working out of Freetown's Lungi airport "who claimed to have knowledge of heavy drug trafficking."²¹⁸

Some of the key allegations made by Major-General Jetley in his report are as follows:

1. "The Nigerian Army was interested in staying in Sierra Leone due to the massive benefits they were getting from illegal diamond mining."²¹⁹
2. "Brigadier-General Maxwell Khobe was commonly known as the "Ten Million man": it is alleged that he received up to \$10m to

215. See EwenMacAskill, *UN gets warning shot peacekeeping, Huge corruption in Sierra Leone shows the need for rapid reform*, available at <http://www.theguardian.com/world/2000/sep/09/sierraleone2>, last accessed on 14 February 2014. See also The Sierra Web, *Report on the Crisis in Sierra Leone*, available at <http://www.sierra-leone.org/Other-Conflict/jetley-0500.html>, last accessed on 14 February 2014.

216. See EwenMacAskill, *UN gets warning shot peacekeeping, Huge corruption in Sierra Leone shows the need for rapid reform*, available at <http://www.theguardian.com/world/2000/sep/09/sierraleone2>, last accessed on 14 February 2014. See also The Sierra Web, *Report on the Crisis in Sierra Leone*, available at <http://www.sierra-leone.org/Other-Conflict/jetley-0500.html>, last accessed on 14 February 2014.

217. See EwenMacAskill, *UN gets warning shot peacekeeping, Huge corruption in Sierra Leone shows the need for rapid reform*, available at <http://www.theguardian.com/world/2000/sep/09/sierraleone2>, last accessed on 14 February 2014. See also The Sierra Web, *Report on the Crisis in Sierra Leone*, available at <http://www.sierra-leone.org/Other-Conflict/jetley-0500.html>, last accessed on 14 February 2014.

218. See EwenMacAskill, *UN gets warning shot peacekeeping, Huge corruption in Sierra Leone shows the need for rapid reform*, available at <http://www.theguardian.com/world/2000/sep/09/sierraleone2>, last accessed on 14 February 2014. See also The Sierra Web, *Report on the Crisis in Sierra Leone*, available at <http://www.sierra-leone.org/Other-Conflict/jetley-0500.html>, last accessed on 14 February 2014.

219. According to General Victor Malu, "No Nigerian officer or soldier was ever caught in illegal mining activities or found with diamonds." See BBC, *Nigeria: Sack UN force commander*, available at <http://news.bbc.co.uk/2/hi/africa/917962.stm>, last accessed on 14 February 2014.

permit the activities of RUF. The [West African intervention] force commander Major-General Kpamber was also involved.”

3. “It is understood that a tacit understanding was reached between the RUF and [the Nigerians] of non-interference in each other’s activities. Protecting Nigerian interests was paramount even if it meant scuttling the peace process.
4. “To this end the special representative [of the UN in Sierra Leone, OluyemiAdeniji] and the deputy force commander cultivated the RUF leadership, especially FodaySankoh, behind my back.”
5. “The Mission Directive given to me... directly conflicted with the interests of not only the warring factions but also of the major players in the diamond racket like Liberia and Nigeria. As an Indian, and having no hidden agenda to promote, I became a victim of the machinations of these countries.”²²⁰

In response to Major-General Jetley’s allegations, the Nigerian chief of army staff, General Victor Malu, stated that the NA would not continue to serve under Jetley and demanded his dismissal.²²¹ The disagreements between Nigeria and the other countries deployed for peacekeeping date back to the early days of the mission when Nigeria had requested command of the mission, but was turned down due to its “patchy record in previous attempts to restore peace.”²²²

Case No. 3: Sexual abuses in the DRC

As previously discussed, in mid-2004, widespread allegations surfaced concerning sexual exploitation and abuse by Nigerian forces on peacekeeping mission in the DRC.²²³ Due to the numerous allegations, UN officials

220. See The Sierra Web, *Report on the Crisis in Sierra Leone*, available at <http://www.sierra-leone.org/Other-Conflict/jetley-0500.html>, last accessed on 14 February 2014. See also EwenMacAskill, *UN gets warning shot peacekeeping, Huge corruption in Sierra Leone shows the need for rapid reform*, available at <http://www.theguardian.com/world/2000/sep/09/sierraleone2>, last accessed on 14 February 2014.

221. See BBC, *Nigeria: Sack UN force commander*, available at <http://news.bbc.co.uk/2/hi/africa/917962.stm>, last accessed on 14 February 2014.

222. Major-General Jetley was replaced, although varying reasons were given for his replacement, such as the expansion of the mission and the need for a three star general (he was only a two star general). See BBC, *Nigeria: Sack UN force commander*, available at <http://news.bbc.co.uk/2/hi/africa/917962.stm>, last accessed on 14 February 2014. See also BBC, *UN announces Sierra Leone shake-up*, 23 September 2000, available at <http://news.bbc.co.uk/2/hi/africa/938281.stm>, last accessed on 14 February 2014.

223. Allegations of sexual abuse and exploitation of girls and women, including trading sex for money, food or jobs; rape; in addition to victims of abuse being left to care for children without any family to help them care for the children. See United Nations Press Release, Secretary-General Kofi Annan, *Secretary-General ‘Absolutely Outrage’ by Gross Misconduct by Peacekeeping Personnel in*

responded to the charges through investigations and subsequent changes in UN policies. Secretary-General Kofi Annan stated that a zero tolerance policy towards sexual exploitation and abuse would be implemented in the most transparent manner and appointed Prince Zeid to investigate and report on possible abuse.²²⁴ More than a year after his appointment in 2004, Prince Zeid stated in a confidential report that “[t]he situation appears to be one of ‘zero-compliance with zero tolerance’ throughout the mission.”²²⁵

As a result of the findings of the investigations concerning the UN’s peacekeeping mission in the DRC (MONUC), the Government of Nigeria repatriated an entire 120 FPU from peacekeeping duties in 2005 following sexual abuse allegations.²²⁶ The investigation uncovered allegations of sexual abuse against local girls and women.²²⁷

In a speech given to the entire unit, the Nigerian Police Chief, Sunday Ehindero, stated, “Investigations so far conducted have established corroborated cases against 11 officers, including your commander, who breached the UN Code of Conduct. You all have brought shame to this country.”²²⁸ HazIwendi, the NPF spokesman, further explained the

Democratic Republic of Congo, U.N. Doc. SG/SM/9605 (19 November 2994), available at <http://www.un.org/News/Press/docs/2004/sgsm9605.doc.htm>, last accessed on 14 February 2014. See also Elizabeth F. Defeis, *UN Peacekeepers and Sexual Abuse and Exploitation: An End to Impunity*, Washington University Global Studies Law Review, 2008, available at http://law.wustl.edu/WUGSLR/Issues/Volume7_2/Defeis.pdf, last accessed on 14 February 2014.

224. See Elizabeth F. Defeis, *UN Peacekeepers and Sexual Abuse and Exploitation: An End to Impunity*, Washington University Global Studies Law Review, 2008, available at http://law.wustl.edu/WUGSLR/Issues/Volume7_2/Defeis.pdf, last accessed on 14 February 2014.

225. See Elizabeth F. Defeis, *UN Peacekeepers and Sexual Abuse and Exploitation: An End to Impunity*, Washington University Global Studies Law Review, 2008, available at http://law.wustl.edu/WUGSLR/Issues/Volume7_2/Defeis.pdf, last accessed on 14 February 2014.

226. Upon substantiation of the preliminary allegations of sexual misconduct, the entire unit was confined to its barracks until they were repatriated. See BBC, *Nigeria acts on police sex abuse*, 27 September 2005, available at <http://news.bbc.co.uk/2/hi/africa/4285650.stm>, last accessed on 14 February 2014. See also United Nations Secretary-General Ban Ki-moon, *Statement attributable to the Spokesman for the Secretary-General on the recall of a Nigerian unit from MONUC*, available at <http://www.un.org/sg/statements/?nid=1677>, last accessed on 14 February 2014. See also Wikileaks, *Cable 05KINSHASA1501_a*, 16 September 2005, available at http://www.wikileaks.org/plusd/cables/05KINSHASA1501_a.html, last accessed on 14 February 2014. See also Wikileaks, *Cable 05KINSHASA1484_a*, 14 September 2005, available at http://www.wikileaks.org/plusd/cables/05KINSHASA1484_a.html, last accessed on 14 February 2014.

227. Upon substantiation of the preliminary allegations of sexual misconduct, the entire unit was confined to its barracks until they were repatriated. See BBC, *Nigeria acts on police sex abuse*, 27 September 2005, available at <http://news.bbc.co.uk/2/hi/africa/4285650.stm>, last accessed on 14 February 2014. See also United Nations Secretary-General Ban Ki-moon, *Statement attributable to the Spokesman for the Secretary-General on the recall of a Nigerian unit from MONUC*, available at <http://www.un.org/sg/statements/?nid=1677>, last accessed on 14 February 2014. See also Wikileaks, *Cable 05KINSHASA1501_a*, 16 September 2005, available at http://www.wikileaks.org/plusd/cables/05KINSHASA1501_a.html, last accessed on 14 February 2014. See also Wikileaks, *Cable 05KINSHASA1484_a*, 14 September 2005, available at http://www.wikileaks.org/plusd/cables/05KINSHASA1484_a.html, last accessed on 14 February 2014.

228. See BBC, *Nigeria acts on police sex abuse*, 27 September 2005, available at <http://news.bbc>.

reasoning behind the repatriation of the entire contingent: “When one is contaminated, the whole bunch is contaminated.”²²⁹ According to the report, the 11 implicated members of the unit were suspended upon their return as a result of the accusations.²³⁰ However it is unclear what, if any, further actions were taken.

co.uk/2/hi/africa/4285650.stm, last accessed on 14 February 2014.

229. See BBC, *Nigeria acts on police sex abuse*, 27 September 2005, available at <http://news.bbc.co.uk/2/hi/africa/4285650.stm>, last accessed on 14 February 2014.
230. It is unclear what other measures were taken against these officers, including, but not limited to, length of suspension, further inquiry into the allegations or court proceedings. See BBC, *Nigeria acts on police sex abuse*, 27 September 2005, available at <http://news.bbc.co.uk/2/hi/africa/4285650.stm>, last accessed on 14 February 2014. See also United Nations Secretary-General Ban Ki-moon, *Statement attributable to the Spokesman for the Secretary-General on the recall of a Nigerian unit from MONUC*, available at <http://www.un.org/sg/statements/?nid=1677>, last accessed on 14 February 2014. See also Wikileaks, *Cable 05KINSHASA1501_a*, 16 September 2005, available at http://www.wikileaks.org/plusd/cables/05KINSHASA1501_a.html, last accessed on 14 February 2014. See also Wikileaks, *Cable 05KINSHASA1484_a*, 14 September 2005, available at http://www.wikileaks.org/plusd/cables/05KINSHASA1484_a.html, last accessed on 14 February 2014.

5. MIRROR REFLECTION: THE NATIONAL CONTEXT FOR ABUSES WHILE ON UN DUTY

There is little doubt that human rights violations committed by the army and police is mirror reflection of their involvement in human rights violations at national level.

5.1 Bangladesh

Accurate reporting of human rights violations by the Bangladesh Army is difficult at best, mainly due to the control the Army can exert over the areas in which it operates, i.e. the CHTs. The human rights violations committed by the Army personnel while deployed with the Rapid Action Battalion (RAB) are also difficult to disaggregate.

i. Human rights violations in the Chittagong Hill Tracts

In southeastern Bangladesh, the Chittagong Hill Tracts is home to 11 indigenous groups, commonly known as Jummas, “who differ markedly from the Bengali majority in language, culture, physical appearance, religion, dress, eating habits, architecture and farming methods.”²³¹ From 1976 until the signing of the CHTs Accord on 2 December 1997, the Parbatya Chattagram Jana Samhati Samiti (PCJSS) and its armed wing, Shanti Bahini led an armed insurgency against the Government of Bangladesh.²³² The insurgency was in response to the loss of the Jummas’ autonomy, “the denial of constitutional recognition and their political, economic and social marginalization”.²³³ In

231. The indigenous communities such as Chakmas, Marmas, Tripuras, Khyangs, Lushais, Khumis, Chaks, Murungs, Bowms and Pankos of the Chittagong Hill Tracts are collectively known as Jumma, a pejorative term used by the Chittagonian Bangalees, for their shifting or Jum cultivation. See Unrepresented Nations and Peoples Organization, *Chittagong Hill Tracts*, available at: <http://www.unpo.org/members/7867>, last accessed on 1 September 2013. See also Intercontinental Cry, *Jumma*, available at: <http://intercontinentalcry.org/peoples/jumma/>, last accessed on 1 September 2013. See UN Economic and Social Council, *Study on the status of implementation of the Chittagong Hill Tracts Accord of 1997*, available at: <http://www.chtcommission.org/wp-content/uploads/2011/03/CHT-Accord-Study-Final.pdf>, last accessed on 1 September 2013. See also IWGIA, *Militarization of the Chittagong Hill Tracts, Bangladesh, The Slow Demise of the Region's Indigenous Peoples*, Report 14, May 2012, available at: http://www.iwgia.org/iwgia_files_publications_files/0577_lgia_report_14_optimized.pdf, last accessed on 14 October 2013.

232. The Shanti Bahini was the armed wing of the Parbatya Chattagram Jana Samhati Samiti (PCJSS), the indigenous peoples’ party. See UN Economic and Social Council, *Study on the status of implementation of the Chittagong Hill Tracts Accord of 1997*, available at: <http://www.chtcommission.org/wp-content/uploads/2011/03/CHT-Accord-Study-Final.pdf>, last accessed on 1 September 2013.

233. See UN Economic and Social Council, *Study on the status of implementation of the Chittagong Hill Tracts Accord of 1997*, available at: <http://www.chtcommission.org/wp-content/uploads/2011/03/CHT-Accord-Study-Final.pdf>, last accessed on 1 September 2013.

response, the Government of Bangladesh deployed large numbers of troops in the region.²³⁴

Additionally, the Government of Bangladesh carried out a “transmigration programme” under which approximately 400,000 Bengali speaking people belonging to the mainstream Muslim majority (herein after referred to as “illegal plain settlers”²³⁵) were settled in the CHTs.²³⁶ This resettlement program changed the demographics in the area and reduced the indigenous peoples into a minority in their own lands.²³⁷

The Bangladesh Army personnel and the illegal settlers belonging to Muslim majority have perpetrated frequent human rights violations and attacked indigenous peoples in order to grab their lands. There is well-documented evidence that the security forces have participated and led these attacks. The Bangladesh Army personnel, paramilitary forces, the police and the plain settlers jointly perpetrated 15 major massacres on the indigenous Jumma peoples between 1979 and 1997.²³⁸ Over 70,000 indigenous peoples were forced to seek refuge in India between 1986 and 1989.²³⁹ The CHTs Peace Accord signed on 2 December 1997 by the Government of Bangladesh and the PCJSS failed to establish any accountability for these grave violations.

234. See IWGIA, *Militarization of the Chittagong Hill Tracts, Bangladesh, The Slow Demise of the Region's Indigenous Peoples*, Report 14, May 2012, available at: http://www.iwgia.org/iwgia_files_publications_files/0577_lgia_report_14_optimized.pdf, last accessed on 14 October 2013.

235. The Bengali speaking plain settlers who are transplanted into the CHTs are termed as “illegal” as they were brought in clear violation of the Chittagong Hill Tracts 1900 Regulation which restricts the entry of non-hill people into the CHTs. Moreover, article 49 of the Fourth Geneva Convention prohibits such population transfer.

236. See Norwegian Refugee Council/Internal Displacement Monitoring Centre, *Bangladesh: Indigenous people and religious minorities still affected by displacement*, 16 July 2009, available at: [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/5E9692B6E4E0A918C12575F5004F95C3/\\$file/Bangladesh_Overview_Jul09.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/5E9692B6E4E0A918C12575F5004F95C3/$file/Bangladesh_Overview_Jul09.pdf), last accessed on 14 October 2013. See also IWGIA, *Militarization of the Chittagong Hill Tracts, Bangladesh, The Slow Demise of the Region's Indigenous Peoples*, Report 14, May 2012, available at: http://www.iwgia.org/iwgia_files_publications_files/0577_lgia_report_14_optimized.pdf, last accessed on 14 October 2013.

237. See Asian Centre for Human Rights, *Who funds the acts of racism and racial discrimination in the Chittagong Hill Tracts?*, 15 June 2005, available at: <http://www.achrweb.org/reports/bangla/BD-BP-0105.pdf>, last accessed on 1 September 2013. See also Norwegian Refugee Council/Internal Displacement Monitoring Centre, *Bangladesh: Indigenous people and religious minorities still affected by displacement*, 16 July 2009, available at: [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/5E9692B6E4E0A918C12575F5004F95C3/\\$file/Bangladesh_Overview_Jul09.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/5E9692B6E4E0A918C12575F5004F95C3/$file/Bangladesh_Overview_Jul09.pdf), last accessed on 14 October 2013. See also IWGIA, *Militarization of the Chittagong Hill Tracts, Bangladesh, The Slow Demise of the Region's Indigenous Peoples*, Report 14, May 2012, available at: http://www.iwgia.org/iwgia_files_publications_files/0577_lgia_report_14_optimized.pdf, last accessed on 14 October 2013.

238. See IWGIA, *Militarization in the Chittagong Hill Tracts, Bangladesh*, ORGANISING COMMITTEE CHT CAMPAIGN and SHIMIN GAIKOU CENTRE, 2012, available at: http://www.iwgia.org/iwgia_files_publications_files/0577_lgia_report_14_optimized.pdf, last accessed on 1 September 2013.

239. See Reuters, *Bangladesh orders troops out of hill region*, 29 July 2009, available at: <http://in.reuters.com/article/2009/07/29/idINIndia-41403520090729>, last accessed on 1 September 2013.

Even after signing of the CHTs Peace Accord, the military continue to occupy the CHTs in violation of the Accord. Clause 17(a) of the CHTs Peace Accord provides:

After the signing and execution of the Accord between the Government and the Jana Samhati Samiti and immediately after return of the members of Jana Samhati Samiti to normal life, all the temporary camps of the army, the Ansars and the Village Defence Party (VDP), excepting the Border Security Force (BDR) and permanent army establishment (being those three at the three district headquarters and those at Alikadam, Ruma and Dighinala), shall be taken back by phases from Chittagong Hill Tracts to permanent cantonments and the time-limit shall be fixed for its purpose. (emphasis ours) In case of deterioration of the law and order situation, in time of normal calamities and for similar other purposes, Army Forces may be deployed under the authority of the civil administration in adherence to Law and Rules as are applicable to all the other parts of the country. In this respect, the Regional Council may, in order to get the required or timely help make requests to the appropriate authority.

The time limit for withdrawal of the Army camps has not been fixed until today. In July 2009 the Government of Bangladesh announced that 35 camps of the Bangladesh Army would be withdrawn.²⁴⁰ However, the PCJSS in a report in January 2013 stated that at least five camps out of 35 camps withdrawn have been re-established and there are currently over 470 military camps in the CHTs,²⁴¹ in addition to the four cantonments.²⁴²

After the signing of the Peace Accord, the Bangladesh Army personnel launched ‘Operation Uttaron’ (Operation Upliftment) and ‘Operation Dabano’ (Operation Wildfire) in 2001 in order to justify their presence in the region.²⁴³ These military operations continue until today.

240. Bangladesh to pull out soldiers, BBC, 20 July 2009 available at <http://news.bbc.co.uk/2/hi/8175768.stm>

241. See Parbatya Chattagram Jana Samhati Samiti, *Report on the Implementation of the CHT Accord*, CHT Commission, January 2013, available at: <http://www.chtcommission.org/wp-content/uploads/2013/01/Report-on-Impln-of-CHT-Accord-January-2013-Final.pdf>, last accessed on 1 September 2013.

242. See Join Bangladesh Army, *Cantonment Locations*, available at: http://www.joinbangladesharmy.mil.bd/about-army/cantonment-locations_ last accessed on 1 September 2013.

243. See Parbatya Chattagram Jana Samhati Samiti, *Report on the Implementation of the CHT Accord*, CHT Commission, January 2013, available at: <http://www.chtcommission.org/wp-content/uploads/2013/01/Report-on-Impln-of-CHT-Accord-January-2013-Final.pdf>, last accessed on 1 September 2013.

The Bangladesh Army has been responsible for serious human rights violations.²⁴⁴ Between 2004 and 2011, the Bangladesh Army working in support of illegal plains settlers was allegedly responsible for 15 cases of extrajudicial killings, 464 cases of arbitrary arrest, 374 cases of torture and 285 cases of forcible evictions in addition to burning down 1,070 houses of indigenous Jumma peoples. Further, the Government of Bangladesh has forcibly acquired significant amount of land for the expansion of cantonments, camps, Artillery Training Centers and Air Force Training Centers.²⁴⁵ However, documenting human rights violations in the CHTs is at best difficult. The CHTs remains under *de facto* military rule and occupation.

The abuses in the CHTs prompted the then Special Rapporteur of the UN Permanent Forum on Indigenous Issues in May 2011 to recommend that the UN DPKO “develop a mechanism to strictly monitor and screen the human rights records of national army personnel prior to allowing them to participate in peacekeeping operations under the auspices of the United Nations” and “prevent human rights violators and alleged human rights violators within the security forces of Bangladesh from participating in international peacekeeping activities under the auspices of the United Nations.”²⁴⁶

ii. Torture and extrajudicial executions of the Pilkhana mutiny accused

In the revolt at the BDR Headquarters at Pilkhana, Dhaka at 9 am on 25 February 2009, a total of 74 persons including 57 Army Officers deputed to BDR from the army, one retired Army Officer, two wives of Army Officers, nine BDR members, three innocent pedestrians, one Army Soldier and one Police Constable were killed.²⁴⁷

244. A table detailing all of the human rights violations committed by the military in CHT from 2004-2011 has been provided in Annex 5. Additionally Annex 6 provides another table listing the major attacks by Bengali settlers backed by military personnel from 2001-2011. See also IWGIA, *Militarization in the Chittagong Hill Tracts, Bangladesh*, Organising Committee CHT Campaign Shimin Gaikou Centre, 2012, available at: http://www.iwgia.org/iwgia_files_publications_files/0577_lgia_report_14_optimized.pdf, last accessed on 1 September 2013.

245. Annex 7 shows the land illegally acquired by the Government of Bangladesh in the name of military purpose in Bandarban Hill district alone. See also Parbatya Chattagram Jana Samhati Samiti, *Report on the Implementation of the CHT Accord*, CHT Commission, January 2013, available at: <http://www.chtcommission.org/wp-content/uploads/2013/01/Report-on-Impln-of-CHT-Accord-January-2013-Final.pdf>, last accessed on 1 September 2013.

246. See UN Economic and Social Council, *Study on the status of implementation of the Chittagong Hill Tracts Accord of 1997*, available at: <http://www.chtcommission.org/wp-content/uploads/2011/03/CHT-Accord-Study-Final.pdf>, last accessed on 1 September 2013.

247. See Human Rights Watch, *Revolt at the BDR Headquarters situated at Peelkhana: Report of the Investigating Committee created for Investigation of the Heinous Massacre*, 21 May 2009, available at: http://www.hrw.org/sites/default/files/related_material/Investigation%20Report%20-%20Government%20Inquiry_0.pdf, last accessed on 1 September 2013.

In response to the mutiny, it is publicly known that the Government of Bangladesh allowed the Bangladesh Army to take revenge on the captured/surrendered rebel BDR personnel for the killing of the Army officers in the Pilkhana mutiny. In less than three months after the mutiny, on 21 May 2009, the Government of Bangladesh was forced to order an inquiry into the deaths of 21 BDR personnel who were held in custody after the mutiny on 25 February 2009.²⁴⁸ This inquiry report has not been made public until today. In the meantime, Odhikar stated that by September 2009 at least 47 BDR personnel had died in the custody of the RAB and Bangladesh Army²⁴⁹ while *The Economist* in its issue on 9 November 2013 stated, “at least 70 suspects died while in custody—almost certainly murdered”.²⁵⁰

A total of 5,926 BDR personnel have so far been sentenced to varying terms on charges of taking up arms. A total of 847 people, including 23 civilians were charged with various criminal offences including murder. Besides, the special courts led by military officers, the ‘commanding officer courts’ had taken punitive action against 2,803 personnel.²⁵¹ The trials of these personnel did not meet international standards on fair trial.²⁵² On 5 November 2013, the special court set up to prosecute the Pilkhana mutiny accused further sentenced 152 people to death and 161 people to life imprisonment. The UN High Commissioner for Human Rights Navi Pillay in a public statement on sentencing of 152 persons to death stated “*The crimes committed during the mutiny were utterly reprehensible and heinous, and my sympathies are with the grieving families, but justice will not be achieved by conducting mass trials of hundreds of individuals, torturing suspects in custody and sentencing them to death after trials that failed to meet the most fundamental standards of due process. ... The perpetrators of the crimes must be held accountable in compliance with the laws of Bangladesh and the country’s international obligations, including those pertaining to fair trial standards, as laid down in the International Covenant on Civil and Political Rights, which Bangladesh ratified in 2000. The trial of these 847 suspects has been rife with*

248. See BBC, *Bangladesh mutiny deaths probed*, 21 May 2009, available at: <http://news.bbc.co.uk/2/hi/8060954.stm>, last accessed on 1 September 2013.

249. See Odhikar, *9 Month Human Rights Monitoring Report, 01 January - 30 September 2009*, available at: <http://odhikar.org/wp-content/uploads/2009/10/human-rights-monitoring-report-Jan-Sep-2009-eng.pdf>, last accessed on 1 September 2013.

250. Bangladesh: Mutiny and revenge, *The Economist*, 9 November 2013 available at <http://www.economist.com/news/asia/21589496-mass-conviction-mutineers-comes-politically-delicate-moment-mutiny-and-revenge>

251. See Muktadir Rashid, *4 Years After BDR Mutiny, Families of victims, accused still await justice*, *The New Age*, 25 February 2013, available at: <http://newagebd.com/detail.php?date=2013-02-25&nid=41095>, last accessed on 1 September 2013.

252. See Human Rights Watch, *The Fear Never Leaves Me: Torture, Custodial Deaths, and Unfair Trials after the 2009 Mutiny of the Bangladesh Rifles*, 4 July 2012, available at: <http://hrw.org/reports/2012/07/05/fear-never-leaves-me-0>, last accessed on 1 September 2013.

*procedural irregularities, including the lack of adequate and timely access to lawyers.*²⁵³

It is suspected that many of those responsible for the torture and custodial death of the BDR personnel have since been serving on UNPKOs.

iii. Rapid Action Battalion: The death squad of Bangladesh

The RAB was formed on 26 March 2004 by then ruling Bangladesh Nationalist Party (BNP) to “address [the] unstable law and order situation as one of the impediments to development” of Bangladesh and fight organised crime.²⁵⁴ According to its website, the RAB’s current mission is to “prevent crime and apprehend criminals.”²⁵⁵

The RAB is comprised of seconded members of the Bangladesh Army, Bangladesh Navy and Bangladesh Air Force, the Bangladesh Police, and members of Bangladesh’s other law enforcement groups such as Border Guard Bangladesh and Bangladesh Ansars.²⁵⁶ The RAB is under the authority of the Ministry of Home Affairs and is commanded by a police officer not below the rank of Deputy Inspector General or someone of equivalent rank from the military.²⁵⁷

Currently out of the 208 officers in the RAB, 114 were police officers, followed by 83 Army officers and 11 Air Force officers.²⁵⁸

253. Pillay alarmed at sentencing of 152 paramilitary personnel to death in Bangladesh, Office of the High Commissioner for Human Rights, 6 November 2013 available at: <http://www.ohchr.org/EN/NewsEvents/Pages/Media.aspx?lsMediaPage=true&LangID=E>

254. See Rapid Action Battalion, *Short History*, available at: http://www.rab.gov.bd/about_us.php?page=2, last accessed on 6 September 2013. See also Human Rights Watch, *Testimony of John Sifton, Asia Advocacy Director Human Rights Watch*, Tom Lantos Human Rights Commission House Committee on Foreign Affairs, available at: http://www.hrw.org/sites/default/files/related_material/2012_Bangladesh_JohnSiftonTestimony_7-19-12.pdf, last accessed on 1 September 2013.

255. See Rapid Action Battalion, *Motto, Mission & Capabilities*, available at: http://www.rab.gov.bd/about_us.php?page=2, last accessed on 6 September 2013.

256. See Rapid Action Battalion, *Short History*, available at: http://www.rab.gov.bd/about_us.php?page=2, last accessed on 6 September 2013. See also Human Rights Watch, *Testimony of John Sifton, Asia Advocacy Director Human Rights Watch*, Tom Lantos Human Rights Commission House Committee on Foreign Affairs, available at: http://www.hrw.org/sites/default/files/related_material/2012_Bangladesh_JohnSiftonTestimony_7-19-12.pdf, last accessed on 1 September 2013.

257. See Human Rights Watch, *Crossfire - Continued Human Rights Abuses by Bangladesh’s Rapid Action Battalion*, 10 May 2011, available at: <http://www.hrw.org/node/98591/section/2>, last accessed on 1 September 2013.

258. See Rapid Action Battalion, *Telephone Directory*, available at: <http://www.rab.gov.bd/telephonedir.php>, last accessed on 1 September 2013. The details of RAB officers have been provided in Annex 1. In 2006, Human Rights Watch interviewed military officials concerning how many military personnel were currently in the RAB. They stated that 60 percent of the RAB personnel were seconded from the police, the remaining personnel came from the military and various civilian organizations. However there are widely different estimates as to the military’s

Among all the security forces in Bangladesh, the RAB has by far the highest public profile; a profile dominated by what can only be described as extraordinarily well-documented allegations of grave human rights violations including arbitrary detention, torture, other forms of ill treatment and abuse, and almost routine extrajudicial executions.²⁵⁹

Based on evidence of routine extrajudicial executions, the RAB has been variedly described a “death squad”. The label is contentious in Bangladesh but is supported not just by documentation but unusual statements by members of successive governments. These give frank confirmation that the RAB extrajudicially executes on behalf of the government. For example, in 2009 the Awami League Shipping Minister, Shahjahan Khan, speaking in a discussion organised by the BBC, said: “The government will need to continue with extrajudicial killings, commonly called crossfire, until terrorist activities and extortion are uprooted.”²⁶⁰ This is consistent with statements made by the opposition BNP officials who stated that extrajudicial killings were part of the RAB mandate.²⁶¹

The current government promised in its manifesto that it would end all extrajudicial killings, but they have continued since its election two years ago. In fact, these killings have increased under the current administration.²⁶²

There is a large number of well-documented cases in which RAB forces have “identified individuals, illegally detained them and then later claimed

contribution to the RAB. See Human Rights Watch, *Judge, Jury and Executioner: Torture and Extrajudicial Killings by Bangladesh's Elite Security Force*, December 2006, available at: <http://www.hrw.org/reports/2006/bangladesh1206/3.htm>, last accessed on 4 October 2013.

259. There are four main paramilitary/security forces in Bangladesh: the Bangladesh Rifles (BDR), the Rapid Action Battalion (RAB), the Ansars and the Village Defence Party, all of which are organized under the control of the Ministry of Home Affairs. See Country of Origin Information Report (COIS) Bangladesh 30 September 2012 Section 8, available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/bangladesh/report-0912.pdf?view=Binary> last accessed on 16 September 2013. See also Human Rights Watch, *Testimony of John Sifton, Asia Advocacy Director Human Rights Watch*, Tom Lantos Human Rights Commission House Committee on Foreign Affairs, available at: http://www.hrw.org/sites/default/files/related_material/2012_Bangladesh_JohnSiftonTestimony_7-19-12.pdf, last accessed on 1 September 2013. See also Human Rights Watch, *The Fear Never Leaves Me*, 4 July 2012, available at: <http://www.hrw.org/reports/2012/07/04/fear-never-leaves-me>, last accessed on 16 September 2013.
260. See Ian Cobain, *WikiLeaks cables: Bangladeshi 'death squad' trained by U.K. government resumes extrajudicial killing*, *The Guardian*, 26 January 2011, available at: <http://www.theguardian.com/world/2011/jan/26/bangladesh-death-squad-killings-britain>, last accessed on 6 September 2013.
261. See Human Rights Watch, *Testimony of John Sifton, Asia Advocacy Director Human Rights Watch*, Tom Lantos Human Rights Commission, House Committee on Foreign Affairs, available at: http://www.hrw.org/sites/default/files/related_material/2012_Bangladesh_JohnSiftonTestimony_7-19-12.pdf, last accessed on 1 September 2013.
262. See International Crisis Group (ICG), *Bangladesh: Getting Police Reform on Track*, 11 December 2009, Asia Report N° 182, available at: <http://www.refworld.org/docid/4b22758b2.html>, last accessed on 8 October 2013.

or staged a shootout in which the detainee is killed, [while the RAB claims] self-defense. The RAB then issues a formulaic press statement explaining how victims died in ‘crossfire’.²⁶³

In Bangladesh, “crossfire” is a widely accepted euphemism for extrajudicial killing. According to Odhikar, a total of 776 persons were killed in “crossfire” incidents by RAB forces from January 2004 to June 2013.²⁶⁴ On the other hand, as per the RAB, in the 10 years since its foundation, 18 RAB personnel died²⁶⁵ but not a single death has been the result of innumerable crossfire incidents, which supposedly involve armed exchanges with criminal gangs and terrorist groups.²⁶⁶ The 18 RAB personnel were killed in the Palkhana massacre, road accident etc.

As evidenced by public statements by government officials, the RAB enjoys wide support for its tactics. Former Law, Justice and Parliamentary Affairs Minister Moudud Ahmed, was quoted as saying, *“Although technically you may call it extrajudicial – I will not say killing – but extrajudicial deaths. But these are not killings. According to RAB, they say all those who have been killed so far have been killed or dead on encounter or whatever crossfire, whatever you call it – people are happy.”*²⁶⁷

In September 2011, the gross violations of the right to life by the RAB also led to the unusual public statement by former Prime Minister and now leader of the opposition Ms. Khaleda Zia, who had actually established the RAB, calling for all RAB personnel to be banned from UN Peacekeeping duties.²⁶⁸

263. The term “crossfire” has become almost synonymous with the RAB, and in the region is used to describe summary executions (extrajudicial executions). See “Crossfire” See Human Rights Watch, *Testimony of John Sifton, Asia Advocacy Director Human Rights Watch*, Tom Lantos Human Rights Commission House Committee on Foreign Affairs, available at: http://www.hrw.org/sites/default/files/related_material/2012_Bangladesh_JohnSiftonTestimony_7-19-12.pdf, last accessed on 1 September 2013. See also See Country of Origin Information Report (COIS) Bangladesh 30 September 2012 Section 8, available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/bangladesh/report-0912.pdf?view=Binary> last accessed on 16 September 2013. See also

264. See Annex 10, *Crossfire/Gunfight 2001-2013*. These included 706 killings by RAB, 59 by RAB-Police and 11 by RAB-Coast Guard. See Odhikar, *Crossfire/Gunfight Statistics from 2001-2013*, available at: http://odhikar.org/wp-content/uploads/2013/07/Statistics_Crossfire_Gunfight_2001-2013.pdf, last accessed on 1 September 2013.

265. See RAB, *Heroes That We Lost*, available at: http://www.rab.gov.bd/oi_wwl.php, last accessed on 4 October 2013.

266. See RAB, *Heroes That We Lost*, available at: http://www.rab.gov.bd/oi_wwl.php, last accessed on 4 October 2013.

267. See Phillip Reeves, “Anti-Terror Force Stalks Bangladesh Capital,” National Public Radio, November 21, 2006, <http://www.npr.org/templates/story/story.php?storyId=6520810> (accessed 30 November 2006), as cited in See Human Rights Watch, *Judge, Jury and Executioner: Torture and Extrajudicial Killings by Bangladesh’s Elite Security Force*, December 2006, available at: <http://www.hrw.org/reports/2006/bangladesh1206/3.htm>, last accessed on 4 October 2013.

268. See Bdnnews24.com, *Reject RAB, police as UN peacekeepers*, 28 September 2011, available at:

As previously discussed, members of the RAB are seconded from the military, including the Bangladesh Army, the Air Force and Navy, and the Bangladesh Police. As a result, members of the RAB are selected for UN peacekeeping duty as part of a military contingent, part of a FPU or as an IPO. The UN peacekeeper selection procedures (or lack thereof) for either the Bangladesh Army or the Bangladesh Police also pertain to the members of the RAB.

Pre-deployment training for members of the RAB chosen for UN peacekeeping missions is dependent on which branch of the military or area of the police force the personnel are selected.

Successive governments have promised to end the RAB's use of extrajudicial execution. Nevertheless, there is considerable tolerance for the killings, which many regard as necessary in a justice sector that fails to prosecute criminals. Bangladesh's National Human Rights Commission has recommended independent investigations into all alleged extrajudicial killings by the RAB. In December 2009, Justice Amirul Kabir Chowdhury, then commission's Chairperson, recommended that:

*Each of the incidents should be investigated by an independent inquiry committee of minimum three members comprising a government official not below the rank of deputy secretary, a police officer not below the rank of superintendent of police and a civil society personality of the choice of the family of the victim*²⁶⁹

In July 2010, the NHRC reported that it was dealing with a number of disappearances of people who had allegedly been picked up by the RAB.²⁷⁰ However the effectiveness of the NHRC has been limited. Despite numerous recommendations for investigations into alleged extrajudicial killings, the Government has largely ignored the NHRC's pleas.²⁷¹

<http://ns.bdnews24.com/details.php?id=207286&cid=3>, last accessed on 1 September 2013.

269. See Human Rights Watch, *Crossfire Continued Human Rights Abuses by Bangladesh's Rapid Action Battalion*, May 2011, available at: <http://www.hrw.org/sites/default/files/reports/bangladesh0511webwcover.pdf>, last accessed on 6 September 2013.

270. See Human Rights Watch, *Crossfire Continued Human Rights Abuses by Bangladesh's Rapid Action Battalion*, May 2011, available at: <http://www.hrw.org/sites/default/files/reports/bangladesh0511webwcover.pdf>, last accessed on 6 September 2013, citing, New Age, *HRC asks lawmen to stop extrajudicial killings*, 7 July 2010, available at: <http://www.extrajudicialkilling.info/2010/07/time-will-be-best-answer.html#more>, last accessed on 6 September 2013.

271. The NHRC chairman, Mizanur Rahman, wrote to the MoHA demanding immediate investigations stating, "I will go to the president if the Home Ministry does not form a probe committee and submit its report to the NHRC within the stipulated time. The Rapid Action Battalion has no authority to shoot a person even if that person guilty. The RAB personnel responsible for the incident have violated human rights and the law. The offenders must be detected and punished to stop such practice." See The Daily Star, *NHRC chief pushes for govt probe*, 9 April 2011, available at: <http://thedailystar.net/newDesign/news-details.php?nid=181085>, as cited in Human Rights

The judiciary has also expressed concern over the RAB but has been equally unable to hold perpetrators accountable. In November 2009, the Bangladesh High Court directed the government and the RAB to explain why action should not be taken against RAB personnel involved in the killing of the two victims, the Khalashi brothers.²⁷² The RAB enjoys the same legal immunities and de facto impunity as other branches of the security forces.

Some of the RAB officers involved in human rights violations and deployed for the UN Peacekeeping operations are given below:

Case No. 1: Director General MD Abdul Aziz Sarkar and Additional Director General MD Mahbubul Alam Mollah, RAB HQ

Md. Abdul Aziz Sarkar as the Chief of the RAB and Additional Director General Md. Mahbubul Alam Mollah have command responsibility for all gross violations that their subordinates have committed. The director general had served in UN missions in Yugoslavia and Kosovo while his deputy served in the Iraq-Kuwait mission.²⁷³

Case No. 2: Lieutenant Colonel Muhammed Badrul Ahsan, Commanding Officer of RAB-4

On 9 March 2006, Md. Masudur Rahman alias Iman Ali (37), son of the late Mr. Suruz Mondol, was killed by the RAB-4 at Savar in Dhaka. He was earlier arrested on 8 March 2006 at 11:00 am from the premises of the Session Judge's Court in Dhaka. The dead body of Md. Masudur Rahman was recovered from a field at Khagain village under Savar police station on 9 March 2006. The dead body reportedly had burn wounds, swelling around the right ear, a bruise on the right side of the face and a hole in the toe of the right foot. The family members of the deceased alleged that he was killed by the RAB in cold blood.²⁷⁴ Lieutenant Colonel Muhammed Badrul Ahsan who had served in the UN mission to Sierra Leone was the commander of the RAB-4 at the time of extrajudicial execution of Md. Masudur Rahman, alias Iman Ali.

Watch, *Crossfire Continued Human Rights Abuses by Bangladesh's Rapid Action Battalion*, May 2011, available at: <http://www.hrw.org/sites/default/files/reports/bangladesh0511webwcover.pdf>, last accessed on 6 September 2013.

272. See Human Rights Watch, *Crossfire Continued Human Rights Abuses by Bangladesh's Rapid Action Battalion*, May 2011, available at: <http://www.hrw.org/sites/default/files/reports/bangladesh0511webwcover.pdf>, last accessed on 6 September 2013.

273. See Asian Human Rights Commission, *BANGLADESH: Arbitrary arrest and extra-judicial killing by the Rapid Action Battalion in Dhaka*, 27 March 2006, available at: <http://www.humanrights.asia/news/urgent-appeals/UA-106-2006>, last accessed on 1 September 2013.

274. See Asian Human Rights Commission, *BANGLADESH: Arbitrary arrest and extra-judicial killing by the Rapid Action Battalion in Dhaka*, 27 March 2006, available at: <http://www.humanrights.asia/news/urgent-appeals/UA-106-2006>, last accessed on 1 September 2013.

Case No. 3: Lieutenant Colonel Farhad Ahmed, Commanding Officer of RAB-3

The diplomatic cables of the US Embassy states that on 1 June 2006 local media reported that in Rampura, a suburb of Dhaka, the RAB killed Abul Kalam Azad Sumon, a Jubo League (the student wing of the Awami League) member. In a press release, RAB declared that the deceased was notorious criminal Goailya Sumon, and that he was killed in late night “crossfire” when his criminal colleagues opened fire as he tried to lead police to an arms cache. Goailya Sumon, they said, was wanted on charges of murder, rape and theft.²⁷⁵

The media, however, quoting friends and family of the deceased, stated that he was in fact Abul Sumon, aged 22, and had no criminal record. They noted that, according to Abul’s father, the Sumon family lives at 259 East Goran, while police listed Goailya Sumon’s address as 435 South Goran. In addition, Sumon’s rape charge occurred nine years ago, when Abul Sumon was 13. Abul Sumon’s father said that plainclothes police picked up his son from his place of work on 30 May 2006. Awami League leader Saber Hussain Chowdhury claimed Abul Sumon was a minor Awami League activist, had no criminal record, and that his duties consisted of distributing leaflets at a local mosque protesting the construction of a public works project. Local BNP politicians said that Abul Sumon was polite and his killing was “abominable.”²⁷⁶

The US Embassy officials in the comment stated, “There appears to be no political or criminal motivation for Sumon’s textbook “crossfire” fate, which underscores one of the principal problems with extra-judicial killings as a matter of practice: when mistakes are made, they are impossible to rectify.”²⁷⁷ The Commander of the RAB-3 who killed Sumon was *Colonel Farhad Ahmed*. The commander had served as a UN military observer in Iraq.²⁷⁸

275. See Wikileaks, *Cable No. 05DHAKA2491, RAB Kills Awami League Activists, Apparently in Error*, available at: <http://wikileaks.org/cable/2006/06/060601dhaka0101.html>, last accessed on 1 September 2013.

276. See Wikileaks, *Cable No. 05DHAKA2491, RAB Kills Awami League Activists, Apparently in Error*, available at: <http://wikileaks.org/cable/2006/06/060601dhaka0101.html>, last accessed on 1 September 2013.

277. See Wikileaks, *Cable No. 05DHAKA2491, RAB Kills Awami League Activists, Apparently in Error*, available at: <http://wikileaks.org/cable/2006/06/060601dhaka0101.html>, last accessed on 1 September 2013.

278. See The Asian Human Rights Commission (AHR), *Appendix IV, List of Alleged Perpetrators Names Submitted to the UN Department of Peacekeeping Operations*, August 2006, available at: <http://www.humanrights.asia/resources/journals-magazines/article2/0504/appendix-iv-list-of-alleged-perpetrators-names-submitted-to-the-un-department-of-peacekeeping-operations>, last accessed on 1 September 2013.

5.2 India

i. The extent of human rights violations by the Army, paramilitary forces and police

India has faced a range of insurgencies almost since independence. As of March 2013, 197 out of total 640 districts are formally declared as affected by internal armed conflicts. These 197 districts include: 71 districts notified as “disturbed” under the Armed Forces Special Powers Act (AFSPA) in Assam,²⁷⁹ Arunachal Pradesh,²⁸⁰ Manipur,²⁸¹ Meghalaya,²⁸² Nagaland,²⁸³ and Tripura²⁸⁴ in north east India and 20 out of 22 districts in Jammu and Kashmir; and 106 districts declared as Left Wing Extremism affected in nine states of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa, Uttar Pradesh and West Bengal.²⁸⁵ The Ministry of Home Affairs (MHA) has banned around 35 armed opposition groups (AOGs) as terrorist organisations under the Unlawful Activities (Prevention) Act, 1967.²⁸⁶

The intensity of the conflicts can be measured by the number of fatalities suffered in the conflicts. According to the MHA, a total of 13,846 civilians and 4,807 security force personnel have been killed in Jammu and Kashmir (up to 2011) since the inception of the insurgency in the state.²⁸⁷ The Government has also claimed that as many as 8,873 terrorists were killed in Jammu and Kashmir from 2001 to 2010.²⁸⁸

279. Entire state of Assam with 27 districts is notified as disturbed

280. Three districts are notified as disturbed in Arunachal Pradesh while eight districts share border with Assam

281. Entire state of Manipur with nine districts, except Imphal Municipality area, is notified as disturbed

282. As per the notification of the Ministry of Home Affairs, ‘Disturbed Area’ under the AFSPA includes areas that fall within a 20-km belt in Arunachal Pradesh and Meghalaya along their border with Assam. Five districts of Meghalaya share border with Assam

283. Entire state of Nagaland with 11 districts is notified as disturbed

284. In Tripura, 34 out of 70 police Stations in eight districts are notified as fully disturbed and six police stations as partially disturbed

285. For details on the disturbed areas and Naxal affected areas, see “Nobody’s children Juveniles of Conflict Affected Districts of India”, Asian Centre for Human Rights, 22 March 2013 available at http://www.achrweb.org/reports/india/JJ-Nobodys_Children2013.pdf

286. See http://www.mha.nic.in/uniquepage.asp?id_Pk=292 for the list of the organizations banned by the Ministry of Home affairs.

287. Ministry of Home Affairs, Government of India, Annual Report 2011-2012, P 7, available at [http://www.mha.nic.in/pdfs/AR\(E\)1112.pdf](http://www.mha.nic.in/pdfs/AR(E)1112.pdf)

288. Annual reports of Ministry of Home Affairs from 2001 to 2010

In North East India, around 3,986 civilians and 855 security forces were killed from 2001 to 2010,²⁸⁹ while 2,870 extremists were killed according to official data available from 2001 to 2006.²⁹⁰

Further, in the Naxalite conflict, which has been described as the “single biggest internal security challenge” ever faced by the country by Prime Minister Dr. Manmohan Singh, at least 9,060 persons including 5,159 civilians, 1,676 security forces and 1,661 Naxalites have been killed from 2002 to 2010 in more than nine states namely Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Uttar Pradesh and West Bengal.²⁹¹

The claim of the Indian Army that it has a zero tolerance policy towards human rights violations is not supported by evidence. The Indian Army’s Human Rights Cell claims that out of the 1,508 allegations investigated from 1993 to December 2001, 1,454 allegations were false. Out of the 54 allegations found to have merit, a total of 129 Army personnel, including 36 officers, were found guilty of human rights violations. Most of these violations occurred in J&K involving 59 personnel and the North-East involving 70 personnel. Compensation was awarded in only 34 cases with 15 cases being from Jammu and Kashmir and 19 from the North-East.²⁹² The Indian Army however never disclosed the names of the guilty or the nature of human rights violations committed by them.

The figures of human rights violations of the Indian Army sit uneasily with the scale of allegations of human rights violations committed by them.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions voiced concerns “*on unmarked graves found in Jammu and Kashmir containing bodies of victims of extrajudicial executions from the 1990 to 2009 period...A total of 2,700 unmarked graves containing over 2,943 bodies have been discovered, some of these graves containing more than one body.*”²⁹³ Since October 2012, the Supreme Court of India has been adjudicating a PIL, which alleged that a

289. Annual Reports, 2001-2010 of the Ministry of Home Affairs, Government of India

290. 2006-2007 Annual Report of Ministry of Home Affairs, Government of India

291. Annual Reports of Ministry of Home Affairs from 2001-2010 and Naxal Management Division of Ministry of Home Affairs available at: (http://mha.nic.in/uniquepage.asp?Id_Pk=540)

292. Since its inception, the Human Rights Cell of the Indian Army has received 1,532 allegations of human rights violations against its personnel as on 31 December 2011. Investigations have been carried out in 1508 allegations, while 24 allegations were under investigation. See Indian Army, Human Rights Cell and Handling of Human Rights Violation Cases in the Army, Annexure I, available at: <http://indianarmy.nic.in/Site/FormTemplate/frmTempSimple.aspx?Mnld=nQjxBck+038W2DHiW6kG8Q=&ParentID=PopFg45UpUOGpy+a22KR9g==>, last accessed on 14 August 2014.

293. UN Human Rights Council Document No. A/HRC/23/47/Add.1 dated 26 April 2013 available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.47.Add.1_EN.pdf

total of 1,528 extrajudicial killings have been committed in Manipur alone since 1979.²⁹⁴

However, the Assam Rifles, a paramilitary force whose personnel have been deployed in the counter-insurgency operations in North East India including Manipur claimed that there was only one case of human rights violation by the force from 2002 to August 2011.²⁹⁵

In the areas where the Indian Army are deployed after declaring those areas as disturbed in North East India and Jammu and Kashmir, the Army operates alongside the central paramilitary forces like the ARs, BSE, CRPF, ITBP, SSB and the State Police. Further, the central paramilitary forces and many of State paramilitary forces like Mizoram Reserve Battalion and Nagaland Reserve Battalion have been exclusively deployed to counter the Naxals in nine Naxal affected States.

Human rights violations by the Army, paramilitary forces and the State Police have been rampant and widespread.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns noted that, “According to the NHRC, 2,560 deaths during encounters with police were reported between 1993 and 2008. Of this number, 1,224 cases were regarded by the NHRC as “fake encounters”. The police, the central armed police forces, and the armed forces have been accused of “fake encounters”. Complaints have been lodged, particularly against the Central Reserve Police Force, the Border Security Forces, and the armed forces acting under the Armed Forces (Special Powers) Act (AFSPA).....”²⁹⁶ In fact, the National Human Rights Commission of India in 2004 stated that extrajudicial executions, euphemistically called ‘encounter killings’ “have become virtually a part of unofficial State policy”.²⁹⁷ The NHRC stated that a total of 1,504 cases of deaths in police custody and 12,727 cases of deaths in judicial custody were reported from 2001 to 2010.²⁹⁸ The BSF posted along the Indo-Bangladesh borders in West Bengal alone reportedly killed

294. 1,528 victims of fake encounters in Manipur: PIL, The Times of India, 2 October 2012 available at http://articles.timesofindia.indiatimes.com/2012-10-02/india/34217532_1_fake-encounters-security-forces-killings

295. 1 Proven Rights Violation Case by Assam Rifles in 9 Yrs, The Outlook, 26 August 2011, available at: <http://news.outlookindia.com/items.aspx?artid=732651>

296. UN Human Rights Council Document No. A/HRC/23/47/Add.1 dated 26 April 2013 available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.47.Add.1_EN.pdf

297. NHRC, Report on Prevention of Atrocities Against Scheduled Castes & Scheduled Tribes, 2004, p.106.

298. Torture in India 2011, Asian Centre for Human Rights, available at <http://www.achrweb.org/reports/india/torture2011.pdf>

about 1,000 people – both Indian and Bangladeshi nationals during 2001 to 2010.²⁹⁹

The Police in India are also involved in counter-insurgency operations. The Punjab Police, for instance, was responsible for counter-insurgency operations in the State from 1985 to 1995. It committed “flagrant violation of human rights on a mass scale” according to the Supreme Court of India. India’s Central Bureau of Investigation following inquiry into illegal mass cremations of those arrested and killed by Punjab Police found that “585 fully identified bodies, 274 partially identified bodies and 1238 unidentified bodies (total 2097) had been cremated by the Punjab Police in the three crematoriums of Amritsar, Tarn Taran and Majitha.³⁰⁰

There has been no accountability for these offences. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions stated, *“The situation is aggravated by the fact that security officers who committed human rights violations are frequently promoted rather than brought to justice. The Special Rapporteur has heard of the case of Mr. Sumedh Singh Saini, accused of human rights violations committed in Punjab in the 1990s, who was promoted in March 2012 to Director General of Police in Punjab. Promoting rather than prosecuting perpetrators of human rights violations is not unique to Punjab. The Special Rapporteur heard this complaint from families of victims throughout the country”*.³⁰¹

299. Trigger Happy: Excessive Use of Force by Indian Troops at the Bangladesh Border, Human Rights Watch, See <http://www.hrw.org/sites/default/files/reports/bangladesh1210Web.pdf>

300. See orders of the National Human Rights Commission of India at <http://nhrc.nic.in/punjab.htm>. Two writ petitions were filed before the Supreme Court of India being W.P. (Crl.) No. 497/95, Paramjit Kaur Vs. State of Punjab and others; and Writ Petition (Crl.) No. 447/95, Committee for Information and Initiative on Punjab Vs. State of Punjab. Serious allegations were made in the writ petitions about large scale cremations resorted to by the Punjab Police of persons allegedly killed in what were alleged as “encounters”. The main thrust of the Writ Petitions was that there were ‘extra-judicial executions’ and hasty and ‘secret cremations’ rendering the State liable for action. The two writ petitions relied upon a Press Note issued on 16th January 1995 by the Human Rights Wing of the Shiromani Akali Dal under the caption “Disappeared” “cremation ground”. The Press Note had alleged that a large number of human bodies had been cremated by the Punjab Police after labelling them as “unidentified”. The Supreme Court was apparently disturbed by the gravity of the allegations and it ordered an inquiry by the CBI into the allegations. Accordingly, the CBI, after completing its enquiry, submitted its fifth and final report to the Supreme Court on 9th December 1996. The Supreme Court after examining the report relating to cremation of dead bodies on December 11, 1996 after examining the final report (5th) of the CBI observed: “The report indicates that 585 dead bodies were fully identified, 274 partially identified and 1238 unidentified. Needless to say that the report discloses flagrant violation of human rights on a mass scale”, and directed “the CBI to take further action into the matter and register the cases, where necessary, hold investigations and proceed in accordance with law on the basis of the material collected during investigation ... The CBI shall, after every three months, place a status report regarding the investigation in this Court.”

301. UN Human Rights Council Document No. A/HRC/23/47/Add.1 dated 26 April 2013 available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.47.Add.1_EN.pdf

ii. Impunity to the armed forces

Impunity for public servants was an integral part of colonial administration by the British in India. After independence, India embedded “good faith” clause in all the legislations to protect virtually all illegal and criminal acts by public servants through requirement of prior sanction from the concerned authorities for prosecution or institution of suit or other legal proceedings. In fact, other public servants who are tried by judges have been given the same protection as judges under Section 197 of the Criminal Procedure Code.

In the context of armed conflicts, India provides special protection to its armed forces. India has been facing insurgency almost since its independence. The first major insurgency in the post independent India was in erstwhile Assam in 1950s by the Nagas who demanded independence from India. India responded by enacting the Armed Forces Special Powers Act, 1958,³⁰² a far more draconian version of the Armed Forces Special Powers Ordinance, 1942³⁰³ introduced by the British to deal with civilian protests called by Mahatma Gandhi asking Britain to leave India.

The AFSPA, among others, empowers non-commissioned officers to “... fire upon or otherwise use force, even to the causing of death, against any

302. Section of 4 of AFSPA provided the following special powers to the armed forces: “Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area,- (a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances; (b) if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as a training camp for armed volunteers or utilized as a hide-out by armed gangs or absconders wanted for any offence; (c) arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest; (d) enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary”.

303. See the Armed Forces Special Power Ordinance at http://indianarmy.nic.in/Site/RTI/rti/MML/MML_VOLUME_3/CHAPTER_01/452.htm. Section 2 of the Ordinance provides, Power to certain officers of the armed forces to order use of force in certain circumstances.— (1) Any officer not below the rank of Captain in (the Indian) Military Forces and any officer holding equivalent rank either in (the Indian) Naval or Air Forces may, if in his opinion it is necessary for the proper performance of his duty so to do, by general or special order in writing require any personnel under his command to use such force as may be necessary, even to the causing of death, against any person who—
(a) fails to halt when challenged by a sentry, or
(b) does, attempts to do, or appears to be about to do, any such act as would endanger or damage any property of any description whatsoever which it is the duty of such officer to protect; and it shall be lawful for such personnel, when so ordered, to use such force against such person.

person who is acting in contravention of any law or order for the time being in force in the disturbed area”. Section 6 of the AFSPA guarantees immunity to the armed forces as it provided that “No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act.”

As the insurgency spread to the remaining part of the North Eastern States i.e. Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, the AFSPA was extended and imposed in all these States.

By the 1980s, insurgency by Sikh separatist groups demanding secession from India rocked Punjab. In October 1983, Punjab was put under President’s rule and the Armed Forces (Punjab and Chandigarh) Special Power Act, 1983 was enacted on 8 December 1983.³⁰⁴ As the insurgency began in Jammu and Kashmir in late 1989, the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 was enacted on 11 September 1991.³⁰⁵

As Punjab, Jammu and Kashmir and many others States were put under the President’s rule, the Government of India amended Section 197 of the Code of Criminal Procedure³⁰⁶ and took away the powers of the State Governments for providing sanction for prosecution when the State was under President’s rule. This amendment made obtaining sanction to proceed with investigations virtually impossible.

In fact, when India established the National Human Rights Commission in 1993 to address increasing international concerns, the army and the Central Armed Forces were kept out of the purview of the NHRC under Section 19

304. See <http://punjabrevenue.nic.in/armsact.htm>

305. See http://mha.nic.in/pdfs/Armed%20forces%20_J&K_%20spl.%20powers%20act,%201990.pdf

306. The following amendments were enacted on 2 May 1997

“(3A) Notwithstanding anything contained in sub-section (3), no court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.

(3B) Notwithstanding anything to the contrary contained in this Code or any other law, it is hereby declared that any sanction accorded by the State Government or any cognizance taken by a court upon such sanction, during the period commencing on the 20th day of August, 1991 and ending with the date immediately preceding the date on which the Code of Criminal Procedure (Amendment) Act, 1991, receives the assent of the President, with respect to an offence alleged to have been committed during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in the State, shall be invalid and it shall be competent for the Central Government in such matter to accord sanction and for the court to take cognizance thereon.”

of the Protection of Human Rights Act (PHRA) of 1993.³⁰⁷ The NHRC has been barred from investigating human rights violations by the armed forces while it is allowed to investigate human rights violations by the police under Section 13 of the PHRA.

The UN Human Rights Committee examined human rights violations in these conflict situations and the measures taken by the Government of India to provide impunity to the law enforcement personnel while examining India's third periodic report on 24-25 July 1997.

The UN Human Rights Committee regretted *“that some parts of India have remained subject to declaration as disturbed areas over many years - for example the Armed Forces (Special Powers) Act has been applied throughout Manipur since 1980 and in some areas of that state for much longer - and that, in these areas, the State party is in effect using emergency powers without resorting to article 4, paragraph 3, of the Covenant”*. The Committee also held the bar to commence *“criminal prosecutions or civil proceedings against members of the security and armed forces, acting under special powers, without the sanction of the central Government contributes to a climate of impunity and deprives people of remedies to which they may be entitled in accordance with article 2, paragraph 3, of the Covenant”*. It recommended that, *“the requirement of governmental sanction for civil proceedings be abolished and that it be left to the courts to decide whether proceedings are vexatious or abusive. It urges that judicial inquiries be mandatory in all cases of death at the hands of the security and armed forces and that the judges in such inquiries, including those under the Commission of Enquiry Act of 1952, be empowered to direct the prosecution of security and armed forces personnel.”* The Committee regretted that the National Human Rights Commission is prevented from investigating directly complaints of human rights violations against the armed forces and recommended that *“these restrictions be removed and that the National Human*

307. Section of 19 of the Protection of Human Rights Act provides that “19.Procedure with respect to armed forces

(1) Notwithstanding anything contained in this Act, while dealing with complaints of violation of human rights by members of the armed forces, the Commission shall adopt the following procedure, namely:-

(a) it may either on its own motion or on receipt of a petition, seek a report from the Central Government;

b) after the receipt of the report, it may, either not proceed with the complaint or, as the case may be make its recommendations to that Government.

(2) The Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow.

(3) The Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations.

(4) The Commission shall provide a copy of the report published under sub-section(3) to the petitioner or his representative.”

*Rights Commission be authorized to investigate all allegations of violations by agents of the State”.*³⁰⁸

India until today has not implemented any of these recommendations. It refused to submit any further report too. Its Fourth Periodic report to the UN Human Rights Committee has been pending since 31 December 2001.³⁰⁹

iii. India’s refusal to remove the requirement of prior sanction for sexual violence committed by the armed forces

The brutal gang rape of a young woman who was named as Nirbhaya on 16 December 2012 in Delhi³¹⁰ shocked India and the international community. The Government of India set up a Committee headed by Justice J S Verma. The Justice Verma Committee in its report submitted on 23 January 2013 recommended that in case of sexual offences by the public servants, prior sanction shall not be required and the relevant legal provision be amended.³¹¹

Thereafter, the Government of India enacted the Criminal Law Amendment Act 2013 and complied with the recommendations of the Justice Verma Committee to amend Section 197 of the Criminal Procedure Code. The Amendment states that for “the removal of doubts that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed” for various sexual offences as defined under section 166A, section 166B, section 354, section 354A, section 354B, section 354C, section 354D, section 370, section 375, section 376, section 376A, section 376C, section 376D or section 509 of the Indian Penal Code” under Section 18 of the Criminal Law (Amendment) Act, 2013.³¹²

However, the Government of India refused to implement another key recommendation of Justice Verma Committee to amend Section 6 of the Armed Forces (Special Powers) Act, 1958 which provides immunity to the security forces including in cases of sexual violence including rape.³¹³

308. Concluding observations of the Human Rights Committee: India, 08/04/1997, CCPR/C/79/Add.81 are available at [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.C.79.Add.81.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.79.Add.81.En?OpenDocument)

309. See <http://www.unhcr.ch/tbs/doc.nsf/5038ebdcb712174dc1256a2a002796da/80256404004ff315c125638c005dca9f?OpenDocument>

310. See http://en.wikipedia.org/wiki/2012_Delhi_gang_rape_case

311 .See Full Text of the Justice Verma Committee Report, 23 January 2013, available at:<http://www.prsindia.org/uploads/media/Justice%20verma%20committee/js%20verma%20committee%20report.pdf>, last accessed on 14 August 2013.

312. The Criminal Law (Amendment) Act, 2013 is available at http://egazette.nic.in/WriteReadData/2013/E_17_2013_212.pdf

313 .See Full Text of the Justice Verma Committee Report, 23 January 2013, available at:<http://www.prsindia.org/uploads/media/Justice%20verma%20committee/js%20verma%20committee%20report.pdf>

In a reply dated 8 May 2013 to a question in the Rajya Sabha, the Minister of State in the MHA stated that the recommendations of amending the Armed Forces (Special Powers) Act, 1958 have not been incorporated in the Criminal Law (Amendment) Ordinance, and subsequent Criminal Law (Amendment) Act 2013 because of multitude and divergence of opinion on the issues.³¹⁴

The Government of India has essentially legalised rape by the armed forces in conflict situations by making it mandatory to seek prior sanction of the Government of India for prosecution of the accused security personnel. A sanction that is rarely, if ever given.

iv. No need to adjudicate good faith, prior sanction is absolute: Pathribal killings and the Supreme Court of India

In Chittising Pora village, District Anantnag, Jammu and Kashmir (J&K), 36 Sikhs were killed by terrorists on 20 March 2000. Immediately thereafter, a search for the terrorists started in the entire area and 5 persons, purported to be terrorists, were killed at village Pathribal Panchalthan under Anantnag district by personnel of the 7th Rashtriya Rifles (RR) on 25 March 2000 in an alleged encounter.

The 7th RR on 25 March 2000 claimed the 5 persons to be responsible for massacre of the Sikhs at Chittising Pora and Major Amit Saxena, the then Adjutant, 7th RR sent a complaint bearing No. 241/GS(Ops.) dated 25 March 2000 to Police Station Achhabal, District Anantnag for lodging FIR stating that during a special cordon and search operation in the forests of Panchalthan from 0515 hr. to 1500 hrs. on 25.3.2000, an encounter took place between terrorists and troops of that unit and that 5 unidentified terrorists were killed in the said operation. On the receipt of the complaint, FIR No. 15/2000 under Section 307 of Ranbir Penal Code (RPC) and Sections 7/25 of the Arms Act, 1959 was registered against unknown persons. A seizure memo was prepared by Major Amit Saxena on 25 March 2000 showing seizure of arms and ammunition from all the 5 unidentified terrorists killed in the aforesaid operation which included AK-47 rifles (5), AK-47 Magazine rifles (12), radio sets (2), AK-48 ammunition (44 rounds), hand grenades (2) detonators (4) and detonator time devices (2). The said seizure memo was signed by witnesses, Farooq Ahmad Gujjar and Mohammed Ayub Gujjar, residents of Wuzukhan, Panchalthan, J&K.

pdf, last accessed on 14 August 2013.

314. Rajya Sabha Unstarred Question No. 4590 dated 8 May 2013 asked by Member of Parliament Smt. Jharna Das and answered by Shri R.P.N. Singh, Minister of State in the Ministry of Home Affairs, available at: <http://mha.nic.in/par2013/par2013-pdfs/rs-080513/4590.pdf>

The 7th RR deposited these recovered weapons and ammunition with 2 Field Ordnance Depot. However, the local police insisted that the Army failed to hand over the arms and ammunition allegedly recovered from the terrorists killed in the encounter, which tantamount to causing the disappearance of evidence, constituting an offence under Section 201 of the RPC. In this regard, there had been correspondence and a Special Situation Report dated 25.3.2000 was sent by Major Amit Saxena, the then Adjutant, to Head Quarter-I, Sector RR stating that, based on police inputs, a joint operation with STF was launched in the forest of Pathribal valley on 25 March 2000, as a consequence, the said incident occurred. However, it was added that ammunition allegedly recovered from the killed militants had been taken away by the STF.

There had been a series of processions in Kashmir to protest against the killing of these 5 persons alleging that they were civilians and had been killed by the RR personnel in a fake encounter. The local population treated it to be a barbaric act of violence and there had been a demand for independent inquiry into the whole incident. On the request of the Government of J&K, a Notification dated 19.12.2000 under Section 6 of Delhi Police Special Establishment Act, 1946 (hereinafter called as “Act 1946”) was issued. In pursuance thereof, Ministry of Personnel, Government of India, also issued Notification dated 22.1.2003 under Section 5 of the Act 1946 asking the Central Bureau of Investigation (CBI) to investigate four cases including the alleged encounter at Pathribal resulting in the death of 5 persons on 25.3.2000.

The CBI conducted the investigation into the Pathribal incident and filed a chargesheet in the court of Chief Judicial Magistrate-cum- Special Magistrate, CBI, (hereinafter called the ‘CJM’) Srinagar, on 9.5.2006, alleging that it was a fake encounter, an outcome of criminal conspiracy hatched by Colonel Ajay Saxena, Major Brajendra Pratap Singh, Major Sourabh Sharma, Subedar Idrees Khan and some members of the troops of 7th RR who were responsible for killing of innocent persons. Major Amit Saxena prepared a false seizure memo showing recovery of arms and ammunition in the said incident, and also gave a false complaint to the police station for registration of the case against the said five civilians showing some of them as foreign militants and passed false information to the senior officers to create an impression that the encounter was genuine and, therefore, caused disappearance of the evidence of commission of the offence under Section 120-B read with Sections 342, 304, 302, 201 RPC and substantive offences thereof. Major Amit Saxena was further alleged to have committed offence punishable under Section 120-B read with Section

201 RPC and substantive offence under Section 201 RPC with regard to the aforesaid offences.

The CJM on consideration of the matter found that veracity of the allegations made in the chargesheet and the analysis of the evidence cannot be gone into as it would be tantamount to assuming jurisdiction not vested in him in view of the provisions of Armed Forces J&K (Special Powers) Act, 1990, which offer protection to persons acting under the said Act.³¹⁵

The CJM, Srinagar, granted opportunity to the Army to exercise the option as to whether the competent military authority would prefer to try the case by way of court-martial by taking over the case under the provisions of Section 125 of the Army Act, 1950. On 24 May 2006, the Army officers filed an application before the court pointing out that no prosecution could be instituted except with the previous sanction of the Central Government in view of the provisions of Section 7 of the Act 1990 and, therefore, the proceedings should be closed by returning the chargesheet to the CBI.

The CJM in his order of 24 August 2006 dismissed the application holding that it had no jurisdiction to go into the documents filed by the investigating agency and it was for the trial court to find out whether the action complained of falls within the ambit of the discharge of official duty or not. The CJM himself could not analyse the evidence and other material produced with the chargesheet for considering the fact, as to whether the officials had committed the act in good faith in discharge of their official duty; otherwise the act of such officials was illegal or unlawful in view of the nature of the offence.

Aggrieved by the order of CJM, the General Officer Commanding of the 7th RR filed a revision petition before the Sessions Court, Srinagar and the Sessions Court directed the CJM to give one more opportunity to the Army officials for exercise of option under Section 125 of the Army Act.

The General Officer Commanding of the 7th RR approached the High Court against the order of the Sessions Court. The High Court vide impugned order dated 10.7.2007 affirmed the orders of the courts below and held that the very objective of sanctions is to enable the Army officers to perform their duties fearlessly by protecting them from vexatious, malafide and false prosecution for the act done in performance of their duties. However, it is

315. Section 7 of the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, "7. *Protection of persons acting in good faith under this Act. No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act*".

subject to examination as to whether their action falls under the Act 1990. The CJM does not have the power to examine such an issue at the committal proceedings. At this stage, the Committal Court has to examine only as to whether any case is made out and, if so, the offence is triable.

Thereafter an appeal was filed before the Supreme Court of India by the GOC of the 7th RR, among others, claiming immunity under Section 7 of the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990.

Though the CBI contented that “killing innocent persons in a fake encounter in execution of a conspiracy cannot be a part of official duty and thus, in view of the facts of the case no sanction is required”, the Supreme Court in May 2012 held that it has “no hesitation to hold that sanction of the Central Government is required in the facts and circumstances of the case and the court concerned lacks jurisdiction to take cognizance unless sanction is granted by the Central Government.”³¹⁶

ACHR is of the opinion that the Supreme Court had failed to appreciate that “protection” is provided to “persons acting in good faith”. How extrajudicial executions of innocent persons after entering into criminal conspiracy become an act of good faith has not been explained by the Supreme Court in its judgement on the Pathribal killings.

5.3 Nepal

The decade-long conflict in Nepal has resulted in serious human rights violations and infringement of international humanitarian law. The security forces committed hundreds of extrajudicial killings and widespread torture, while the Maoists abducted, tortured and killed civilians. According to the Special Task Force of the government, at least 17,265 persons were killed and 1,302 were disappeared during the conflict.³¹⁷ The Ministry of Peace and Reconstruction stated in March 2011 that the number of internally displaced people was 78,675 due to the conflict.³¹⁸

According to the Nepal Army Human Rights Journal published in 2010, a total of 169 military personnel were punished for human rights violations

316. Judgement of the Supreme Court of India dated 1 May 2012 in CRIMINAL APPEAL NO. 257 of 2011 General Officer Commanding ...Appellant Versus CBI & Anr. With CRIMINAL APPEAL NO.55 of 2006 available at <http://www.indiankanoon.org/doc/69000120/>

317. NEPAL: Families of the disappeared in a legal and emotional limbo, Asian Human Rights Commission, 15 February 2012, available at: <http://www.humanrights.asia/news/alrc-news/human-rights-council/hrc19/ALRC-CWS-19-01-2012>

318. http://www.nepalmonitor.com/2011/07/recording_nepal_conf.html

as of 1 January 2010. Among these 169 cases, 30 officers and 139 other ranks were convicted; 115 personnel were given more than one punishment; 116 soldiers were punished with prison sentences ranging from one month to seven years; 58 were discharged from service, 40 were demoted to a lower rank, 23 forfeited their grades, 29 forfeited promotion, 9 were issued warnings and 8 were ordered to pay compensation to the victims' family.³¹⁹

The Nepal Army maintains that the majority of these cases were related to the excessive use of force committed by soldiers during the Maoist insurgency.³²⁰ Other cases include punishment for petty criminal activities like quarrelling with locals, breaching discipline and violating the human rights of other people to live in peace and tranquility.³²¹ The NA has so far not publicized a detailed list of names of its personnel punished for human rights violations. The National Human Rights Commission (NHRC) has requested the details from the Government but is yet to receive them.³²²

According to its own figures, the NA reports that it has punished 51 officers and 115 other ranks for human rights violations and breaches of discipline while on peacekeeping operation, with four repatriated from mission areas.³²³ The NA maintains that most of the violations on missions are related to gender and sexual abuse, indiscipline during quarrels between two or more soldiers and careless driving resulting in accidents, among others.³²⁴

According to the NA, the battalion conducts an investigation in the mission area itself when it receives complaints of abuses committed during peacekeeping. Upon return to the home country, the NA then forms a court of inquiry and if required can request the chief of army staff to form a court martial for further action. The investigation of the court of inquiry will recommend punishment and has the power to recommend whether the alleged soldier should be permanently disqualified from UN peacekeeping or not. When asked for a detailed breakdown on the nature of cases in which soldiers were punished for human rights violations at home and abroad, the NA did not make available the information. It also did not provide the details of soldiers who are barred from peacekeeping duties for their involvement in human rights violations.

319. Human Rights Journal, 2010, Human Rights Directorate NA. Interview with official at the Law and Human Rights Division of the Office of the Prime Minister and Council of Ministers, 15 April 2013.

320. Interview with NA officer of the Human Rights Directorate, April 2013.

321. Interview with NA officer, April 2013.

322. Interview with Gauri Pradhan, member of the NHRC November 2012.

323. A letter sent by the MoD to the Prime Minister's Office on 4 January 2010 states that 51 officers and 115 junior ranks were punished for violation of human rights and humanitarian laws for the violations they committed while serving in the UN mission and of them four were repatriated.

324. Interview with NA Directorate of Human Rights, April 2013.

Despite measures designed to prohibit the involvement of soldiers guilty of human rights violations from serving on UN peacekeeping missions, Nepal has a worrisome history of allowing military personnel responsible for such violations to participate in peacekeeping missions.

During the years of insurgency, the then RNA adopted a tacit policy of rewarding units and soldiers who successfully executed Maoists, with peacekeeping jobs. For example, the Bhairabnath Battalion was allegedly responsible for the detention, torture and disappearance of 49 suspected Maoists in 2003, but was still sent on peacekeeping duty to Burundi from 5 August 2004 to 19 February 2005.³²⁵ The 850-member contingent was under the command of Lt. Col. Raju Basnet, who according to a report by the Office of United Nations High Commissioner for Human Rights (OHCHR) in 2006 played a key role in the Bhairabnath battalion operations, including the torture of detainees.³²⁶

The RNA has also sent soldiers allegedly involved in the killing of unarmed Maoist activists at Doramba, Ramechhap district in August 2003, on peacekeeping duties. Army officials told Amnesty International that the delay in the court martial of soldiers allegedly involved in these killings had been due to the suspects being on UN peacekeeping duties.³²⁷ Eventually, one commanding major was sacked from service and given a two-year prison sentence, while all other soldiers were acquitted.

According to recent figures, the NP has taken departmental action against 4,866 personnel for breaches of the discipline. Of this total, only 203 were sacked or removed, and 104 were suspended. The vast majority (4,370) received only a warning. Another issue that is worth noting is that the majority of NP personnel who face departmental action for their conduct are

325. The international community currently has no consistent policy on the vetting of military personnel, or on the granting of visas to military personnel who are sent abroad for training from Nepal. However, the US Embassy in Kathmandu and Washington both conduct vetting for security personnel nominated by the Nepali authorities for training in the US, in line with their own policies. Furthermore, in 2006 the US government terminated Captain Indibar Rana from US-based training due to concerns that he served at the Bhairabnath Battalion, Maharajgunj, Kathmandu during September-December 2003. See leaked diplomatic cables of the U.S. Embassy, Kathmandu by whistleblower website Wikileaks, available at: <http://wikileaks.org/cable/2006/06/06KATHMANDU1426.html>, last accessed on 11 May 2013.

326. OHCHR-Nepal, "Report of investigation into arbitrary arrest, torture and disappearance at Maharajgunj army barracks, Kathmandu", May 2006, available at: http://nepal.ohchr.org/en/resources/Documents/English/reports/IR/Year2006/Pages%20from%202006_05_26_OHCHR-Nepal.Report%20on%20Disappearances%20linked%20to%20Maharajgunj%20Barracks.Eng.pdf last accessed on 11 May 2013.

327. Amnesty International, "Nepal Military Aid Contributing to Grave Human Rights Violations", April, 2005, available at: <http://www.amnesty.org/en/library/asset/ASA31/047/2005/en/a8666cb9-d4e4-11dd-8a23-d58a49c0d652/asa310472005en.html>, last accessed on 11 May 2013.

from the lower ranks of the institution. 4510 of those punished holding the lowest position of constable, while only a handful of higher ranks are held to account.³²⁸

The NP set up its Human Rights Unit on 16 January 2003 to ensure better protection and promotion of human rights. The mandate of the unit is to investigate alleged human rights abuses and recommend appropriate action against police personnel found responsible for human rights violations. The unit also maintains a human rights database that contains information on cases of human rights violations. Since its establishment, the unit has punished 586 personnel for various human rights violations. Though the police have not publicized the details, it says it has punished 295 police constables, 84 head constables, 73 assistant sub inspectors, 44 sub inspectors, 55 inspectors, 15 deputy superintendents of police and 8 superintendents for various rights violations.³²⁹

During the armed conflict, police were involved in arbitrary arrests, torture, extrajudicial killings, disappearances, and other grave violations of human rights. Many of those alleged perpetrators continue to serve in the NP and are yet to be held accountable for their actions.

A large number of police personnel against whom action was recommended after the suppression of the People's Movement of 2006, are still serving in the NP. The Rayamajhi Commission was formed on 5 May 2006 under the chairmanship of former Supreme Court judge Krishna Jung Rayamajhi with a mandate to "investigate, recommend, advice or suggest the government to take actions or punishment against anyone responsible for the killings and suppression of the agitators during the pro-democracy activities, involved in abuse of power, misappropriation of state funds since the February 2005 take-over by the King.³³⁰ It produced a 1,184 page report that was submitted to Prime Minister Girija Prasad Koirala in November 2006. The Commission investigated the conduct of 296 persons and recommended action against 202 for causing damage to life and property during this period.³³¹ The NP

328. See Annex 2 of this report. Also see: Republica, "Police brass let off easy but lower ranks face music", 5 April 2013, available at: http://www.myrepublica.com/portal/index.php?action=news_details&news_id=52617, last accessed on 21 May 2013.

329. Interview with Kesab Prasad Adhikari, NP spokesperson DIG, December 2012.

330. Nepallaw, "Rayamajhi commission gets wide mandate", 10 May 2006, available at <http://nepallaw.blogspot.co.uk/2006/05/rayamajhi-commission-gets-wide-mandate.html>.

331. The Commission also recommended corruption charges against three ministers (Kamal Thapa, the then Home Minister; Shrishha Shumshere Rana, the then Minister of State for Information and Communications and Tanka Dhakal, the then Minister for Local Development), and the then Chief of the RNA Pyar Jung Thapa.

says that it has punished 68 of its personnel implicated for suppressing the 2006 movement as per the commission's report.³³²

The case of Kuber Singh Rana provides clear evidence that personnel under investigation for human rights abuses are not only allowed to continue to serve in the NP, but are in some cases even promoted to senior positions. Despite being the subject of ongoing criminal investigations into the enforced disappearance and extrajudicial killings of five students in Dhanusha district in October 2003, Kuber Singh Rana was promoted from his previous post of AIG to the rank of Inspector General of Police (IGP) on 13 September 2012.³³³

This promotion clearly violates both national and international standards, which require the removal or suspension of those suspected of gross human rights violations and crimes under international law, until the completion of full investigations, with full respect for the due process rights of the suspects. This is particularly important in cases where the accused may occupy a position from which they could influence the investigation or the decision to prosecute.³³⁴ In November 2012, there were reports that the British Embassy in Kathmandu had informed Kuber Singh Rana that he would not be granted a visa, though the embassy did not officially confirm this.³³⁵

The NP maintains that all personnel who pass the selection examination for peacekeeping deployment must obtain clearance from its human rights unit and legal department before being sent on a peacekeeping mission.³³⁶ Candidates should not have faced any departmental action for a year before the date of attending an examination and any candidate who has faced action more than twice while serving in the same post will not be eligible to serve on mission. However, NP officials have confirmed that candidates who face more minor punishments, such as warnings, will not necessarily be deprived

332. Interview with Kesab Prasad Adhikari, NP Spokesperson DIG, December 2012

333. Advocacy Forum and Human Rights Watch, "Waiting for Justice. Unpunished Crimes from Nepal's Armed Conflict", September 2008, page 77-9, available at http://www.hrw.org/sites/default/files/reports/nepal0908web_0.pdf.

334. See Human Rights Watch, "Nepal Suspends Promotion of New Police Chief", 19 September 2012, available at: <http://www.hrw.org/news/2012/09/18/nepal-suspend-promotion-new-police-chief>, last accessed on 21 May 2013.

335. Kathmandu Post, "UK denies visa to IGP", 7 November 2012, available at: www.ekantipur.com/the-kathmandu-post/2012/11/07/top-story/uk-denies-visa-to-igp/241506.html, last accessed on 21 May 2013. Earlier, in 2007, the UK had been criticized for awarding a prestigious Chevening scholarship to Maj. Ajit Thapa, an alleged perpetrator of torture and disappearances in Bardiya District. See International Crisis Group, "Nepal Peace and Justice", Asia Report No. 184, 14 January 2010, available at: <http://www.crisisgroup.org/-/media/Files/asia/south-asia/nepal/184%20nepal%20peace%20and%20justice.aspx>, last accessed on 11 May 2013.

336. Interview with Ramesh Kharel, the then Head of the UN Division of the NP, December 2012.

of participating on missions.³³⁷ Furthermore, the NP maintains that it does not bar the deployment of any individual in the UN mission just because of human rights allegations from human rights watchdogs.³³⁸

Despite these safeguards, Nepal was forced to repatriate a senior police official from its peacekeeping mission in Liberia in September 2011, after the UN was informed that DSP Basanta Kunwar was facing a claim for damages filed by a victim of torture who had been held in police custody on suspicion of theft in September 2009.

Despite having this case proceeding against him before the Kathmandu District Court, the Nepali authorities selected him to serve on the UN Mission to Liberia in July 2011. UN DPKO spokesperson, Kieran Dwyer, informed the media stating that “A Nepalese police officer was repatriated following information that he had a case to answer in the national courts for alleged torture in his home country. The UN acted as soon as it received informal information about this police officer”.³³⁹ In July 2012, the Kathmandu District Court directed Basanta Kunwar to pay torture survivor Arjun Gurung compensation of NRs. 30,000 (US\$ 337) but did not order any departmental action against him. Unsatisfied with the verdict, the victim has filed an appeal with the appellate court.³⁴⁰ DSP Kunwar is currently serving as the head of police in Gorkha District.

Nepal Police and Sexual Abuse and Exploitation

Documentation of sexual violence by state authorities remains scarce in Nepal. Many cases of gender-based violence are not reported to police due to social stigma and cases that are reported are often unsuccessful because they were filed after the expiry of the very short (35-day) statute of limitations for the lodging of complaints.

It is widely acknowledged that Nepali state security forces are alleged to have committed sexual violence against women and girls while searching for and interrogating Maoist suspects during the armed conflict between 1996 and 2006. According to the OHCHR, there is not enough evidence to establish

337. Interview with DSP, NP, March 2013.

338. Interview with Keshab Adhikari, NP spokesperson, April 2013.

339. Column Lynch, “Is Nepal Sending Accused Criminals to Serve in U.N. Peacekeeping Missions?”, Turtle Bay blog, 11 November 2011, available at: http://turtlebay.foreignpolicy.com/posts/2011/11/11/is_nepal_sending_accused_criminals_to_serve_in_un_peacekeeping_missions, last accessed on 21 May 2013.

340. Interview with an officer at the Advocacy Forum, a NGO based in Kathmandu that is assisting the victim to file the case under the Torture Compensation Act (1996), March 2013.

that sexual violence was institutionalized or systematized; however it does “appear that implicit consent was given at higher ranks which served to encourage a culture of impunity for opportunistic sexual violence”.³⁴¹ Of the more than 100 cases documented, most violations involved rape, gang rape, attempted rape, and forced nudity.³⁴²

The gang rape of Police Constable Suntali Dhami from Achham district police office, by six male colleagues on 27 September 2009 demonstrates that sexual assault by NP personnel is not a thing of the past. After she filed a complaint pinpointing six persons who allegedly mixed intoxicating drugs in her meal and collectively raped her at the district police office, all six were suspended. However, cases were only filed against three of them following pressure from senior police officers to safeguard the others, according to a probe report prepared by the parliamentary Women, Children and Social Welfare Committee in 2009. On 11 December 2009, Suntali Dhami complained to the parliamentary panel that none of her senior officers apart from DIG Parbati Thapa (a senior woman police official) helped her to obtain justice. The parliamentary probe that included a field visit to the district concluded that senior officers used their powers to cover up the case and protect the culprits. In December 2011, Achham District Court sentenced one of the accused to six years imprisonment and two others to two years.³⁴³

On 1 July 2012, the NP introduced a new gender policy aimed at creating a more gender-sensitive and women-friendly working environment within the institution.³⁴⁴ The policy adopts a zero-tolerance position against any forms of violence against women either inside or outside of the institution of the NP.³⁴⁵ It also commits to give high priority to any women seeking justice making either a verbal or written complaints, and aid them with swift investigative measures and necessary police services.³⁴⁶

Despite the announcement of this new zero tolerance gender policy, violence against Nepali women by NP personnel clearly continues to be a problem. In December 2012, preliminary investigations found that police

341. OHCHR, “Nepal Conflict Report, October 2012, page 23, available at http://www.ohchr.org/Documents/Countries/NP/OHCHR_Nepal_Conflict_Report2012.pdf.

342. OHCHR, “Nepal Conflict Report. Executive Summary”, October 2012, available at: http://www.ohchr.org/Documents/Countries/NP/OHCHR_ExecSumm_Nepal_Conflict_report2012.pdf, last accessed on 30 January 2013.

343. INSEC, “Three jailed in Suntali Dhami’s rape case”, Nepal Monitor, 8 December 2011, available at: <https://nepalmonitor.org/index.php/reports/view/84>, last accessed on 21 May 2013.

344. See NP Gender Policy 2069, available at: http://www.nepalpolice.gov.np/images/documents/general_documents/en_gender_policy_2069.pdf, last accessed on 1 February 2013.

345. NP Gender Policy 2069, Section 4.1, page 7.

346. NP Gender Policy 2069, Section 4.7.2, page 12.

and immigration officials were involved in sexual harassment and robbing of a Nepali woman who was returning home from abroad.³⁴⁷ The Home Ministry suspended them and formed a probe panel to look into the issue. Police Constable Parshu Ram Basnet was sentenced to five and a half years in prison by the Kathmandu District Court on 22 April 2013.³⁴⁸

The Gender Policy introduced in 2012 also commits to prioritize the training of women police to prepare them for UN peacekeeping missions, along with English language proficiency, driving and firearms skills. It aims to gradually increase the number of women police staff participation in national and international training programs including for UN Peacekeeping missions.³⁴⁹ The NP peacekeeping selection policy does not explicitly address sexual abuse and exploitation of women; however it does state that anyone who faces suspension or departmental action will not be eligible to apply for peacekeeping.³⁵⁰

5.4 Nigeria

Following independence in 1960, the Nigerian Army (NA) was officially formed. As of 2013, the Nigerian Armed Forces has approximately 130,000 personnel, with approximately 67,000 personnel serving in the NA as soldiers/other ranks or officers.³⁵¹ The NA began recruiting women in 1986.³⁵²

347. The Kathmandu Post, "Woman robbed: Probe points to dozen airport officials' hand", available at: http://www.ekantipur.com/the-kathmandu-post/2012/12/20/related_articles/woman-robbed-probe-points-to-dozen-airport-officials-hand/243109.html, last accessed on 1 February 2013. See also, 'Stop Gender Violence Movement to Stop Gender Violence in Nepal, Sita Rai - TIA, Kathmandu,' available at: <http://stopgenderviolence.org/sita-rai-tia-kathmandu/>, last accessed on 1 February 2013.

348. Ibid.

349. NP Gender Policy 2012, available at: http://www.nepalpolice.gov.np/images/documents/general_documents/en_gender_policy_2069.pdf, last accessed on 23 May 2013.

350. UN FPU Chhanaut Nirdeshika 2069 (UN FPU Selection Directive 2012) Can be accessed at http://nepalpolice.gov.np/images/documents/un/fpu_nirdeshika_2069.pdf

351. The exact number of the armed forces in unknown as Nigeria maintains that the figures are a part of national security. Soldiers/Other Ranks include Recruit, Private, Lance Corporal, Corporal, Sergeant, Staff Sergeant, Warrant Officer (Class I and II) and Army Warrant Officer. Officers include the ranks of Second Lieutenant, Lieutenant, Captain, Major, Lieutenant Colonel, Colonel, Brigadier, Major General, Lieutenant General, General and Field Marshal. See Tajudeen Suleiman, *The World of Female Soldiers*, TELL Magazine, available at <http://tellng.com/nation/world-female-soldiers>, last accessed on 14 February 2014. See also Armed Forces Act, 2004, available at [http://www.icrc.org/ihtl-nat.nsf/0/049ea0330082bc31c12576ea005be4a3/\\$FILE/ARMED%20FORCES%20ACT.pdf](http://www.icrc.org/ihtl-nat.nsf/0/049ea0330082bc31c12576ea005be4a3/$FILE/ARMED%20FORCES%20ACT.pdf), last accessed on 14 February 2014. See also Global Security, *Nigeria*, available at <http://www.globalsecurity.org/military/world/nigeria/army.htm>, last accessed on 14 February 2014.

352. Approximately 39 women were recruited in 1986, and nearly 1,000 women have been recruited each year since. However the Nigerian Army does not release exact figures of the number of female members of the Armed Forces. See Tajudeen Suleiman, *The World of Female Soldiers*, TELL Magazine, available at <http://tellng.com/nation/world-female-soldiers>, last accessed on 14 February 2014.

The NA has directly influenced civilian governance and politics through over 30 years of military rule as a result of six coups and counter-coups.³⁵³ The military's dominance in the political sphere was noted in former United States' Ambassador John Campbell observations about former President Obasanjo:

[He] is always introduced as the President of the Federal Republic and Commander in Chief of the Armed Forces, and seems to take the latter designation very seriously. He even appears at some military events in camouflage uniform (without rank). His past military service has left him very comfortable dealing with the military, and most members of the government seem to accept the prerogative of the President freely to manage the affairs of the uniformed services. The President selects service chiefs without confirmation by the legislature and the Presidency seems to control the military budget, which is anything but transparent.³⁵⁴

Given the levels of mistrust that grew within the military due to the practice of coup and counter-coup, command positions came to be seen and regarded as rewards for political support within the military rather than an award for excellent military conduct.³⁵⁵ The sustained military rule has resulted in

353. For example in 1966 the then-Prime Minister, Sir Abubakar Tafawa Balewa, was killed in a coup and replaced by Major-General Johnson Aguiyi-Ironsi. Ironsi was then killed six months later in a counter-coup and replaced by Lieutenant-Colonel Yakubu Gowon. Gowon was overthrown and replaced by Brigadier Murtala Ramat Mohammed in 1975. Mohammed was assassinated in a failed coup attempt and replaced by his deputy, Lieutenant-General Olusegun Obasanjo in 1976. After elections are held in 1979, Major-General Muhammad Buhari seizes power in a bloodless coup in 1983. Ibrahim Babangida seized power in a bloodless coup in 1985, and in 1993 power was transferred to an Interim National Government after the military annuls the elections. Two months later General Sani Abacha seized power. When Abacha died in 1998, Major-General Abdulsalami succeeded him. Parliamentary and presidential elections were held in 1999 and Obasanjo is elected as president. The first civilian-run presidential elections were held on 19 April 2003 and Obasanjo is re-elected as president. See BBC, *Nigeria Profile*, 27 November 2013, available at <http://www.bbc.co.uk/news/world-africa-13951696>, last accessed 14 February 2014. See also Washington Post, *Nigeria's History of Turmoil*, available at: <http://www.washingtonpost.com/wp-srv/inatl/longterm/nigeria/timeline.htm>, last accessed 14 February 2014.

354. See Wikileaks, *Cable: 05ABUJA970_a*, 3 June 2005, available at http://www.wikileaks.org/plusd/cables/05ABUJA970_a.html, last accessed on 14 February 2014.

355. For example General Abacha, who apparently followed the example set by General Babangida but on a much greater scale, "repeatedly resorted to detention, dismissals and transfers on questionable grounds; or to forced retirements and filing trumped up charges against those members of the armed forces whom he perceives as a threat." According to a Human Rights Watch report approximately 200 senior officers were "sacked for various reasons between 1995 and 1996," including Major General Chris Ali, the Chief of Army Staff and Rear Admiral Alison Maduek, the Chief of the Naval Staff. Additionally a source who has dealt with the Nigerian military for more than 30 years... and has known the Chief of Defense Staff (CDS) for many years (Ogomudia) said that Obasanjo promoted Ogomudia "to the position of CDS as a political reward for 'taking care' of the situation in Zaki-Biam in 2001, at the direction of the President, while Ogomudia was the Chief of Army Staff." See Human Rights Watch, *Nigeria Transition or Travesty? Nigeria's Endless Process of Return to Civilian Rule*, October 1997, available at http://www.hrw.org/legacy/reports/1997/nigeria/Nigeria-06.htm#P482_118236, last accessed on 14 February 2014. See also

corruption³⁵⁶ and patronage.³⁵⁷

Moreover frequent purges and executions of coup plotters as a result of the methods the military adopted to remain in power have left many gaping holes in the military leadership.³⁵⁸ Dr. Pita Ogaba Agbese noted that:

[The] imperative for instituting measures to permanently bar the military from political intervention stems from the recognition that military rule poses a serious threat to the armed forces as an institution. The naked quest for political power among the military officers has decimated the ranks of the military. Coups, coup attempts and even “rumors” of coups

Wikileaks, *Cable: 05ABUJA970_a*, 3 June 2005, available at http://www.wikileaks.org/plusd/cables/05ABUJA970_a.html, last accessed on 14 February 2014.

356 “Nigeria also remains one of the two or three most corrupt countries in the world: A few years ago, Obasanjo’s aides used sacks of cash to secure votes for leadership positions in the legislature. (Though that’s an improvement over his predecessor, the military dictator Sani Abacha, who embezzled \$4 billion from the state during his half-decade in power.) Just as important, Nigeria’s culture of corruption ‘seems to affect every transaction in life’ in Nigeria, says Princeton professor Jeffrey Herbst. ‘It’s not just the big guys ripping off the state.’ The proliferation of e-mailed Nigerian “419 scams” is the latest manifestation of the country’s many cons. See Brendan Koerner, *The Nigerian Nightmare. Who’s sending you all those scam e-mails?*, 22 October 2002, available at http://www.slate.com/articles/arts/tangled_web/2002/10/the_nigerian_nightmare.html, last accessed on 14 March 2014. Nigeria’s reputation in such matters wasn’t helped by its last peacekeeping outing in Liberia, during which some Nigerian officers acted in the manner of warlords by trading diamonds and looting. The peacekeeping monitoring group, the Economic Community of West African States Monitoring Group, earned itself the nickname ECOMOG: Every Car or Moving Object Gone. (These acronym jokes seem to be popular: Nigeria’s electric utility, the National Power Authority, is dubbed “Never Expect Power Anytime.”) See Chris Suelentrop, *Nigeria’s Peacekeeping Problem*, Slate available at http://www.slate.com/articles/news_and_politics/assessment/2003/08/nigeria.html, last accessed on 14 February 2014.

“Military corruption is heavily ingrained...The military reflects society at large, so a reduction in military-specific corruption can only reasonably be expected within the framework of larger governmental and societal changes.” See Wikileaks, *Cable: 04ABUJA2106_a*, 21 December 2004, available at http://www.wikileaks.org/plusd/cables/04ABUJA2106_a.html, last accessed on 14 February 2014. “‘Not corrupt’ may better understood as ‘not as corrupt’ as the others, given the endemic nature of corruption among Nigerian leaders,” according to a contact from the Nigerian Defence Intelligence Agency. See Wikileaks, *Cable: 05ABUJA970_a*, 3 June 2005, available at http://www.wikileaks.org/plusd/cables/05ABUJA970_a.html, last accessed on 14 February 2014. “Much of the nation’s wealth is concentrated in the hands of tiny military, political, and commercial elites through corruption and non-transparent government contracting practices.” See Wikileaks, *Cable: 07ABUJA2108_a*, available at http://www.wikileaks.org/plusd/cables/07ABUJA2108_a.html, last accessed on 14 February 2014.

357. The late Supreme Court Justice, Udo Udoma, was quoted as saying, “Now they [the military] have lost the [will] and skill of fighting as soldiers in the field. They are now being trained as politicians. That is a very dangerous situation; ...and, we must retrace our steps [and] get rid of the military. Let the military do its own assignment - protect the country [and] maintain their skills as [Nigerian] warriors ... They must respect the government of the day and be loyal to it. That is very important[.]”

See Emmanuel Ike Udugu, *Nigeria in the Twenty-first Century: Strategies for Political Stability and Peaceful Coexistence*, Chapter 2 - Taming of the Shrew: Civil-Military Politics in the Fourth Republic, 1 June 2005.

358 For example the coup by Colonel BukaDimka was foiled in 1976, Dimka and 38 of his co-conspirators were executed. Additionally, General Mamman Vatsa and nine other officers were executed in 1986 as a result of an alleged coup attempt. In 1990, Major Gideon Orkar and 67 soldiers were executed after an unsuccessful attempt to overthrow General Ibrahim Babangida. See also *Ibid*.

have led to many military officers being executed. In addition, coups have destroyed the hierarchical chain of command in the Nigerian armed forces. Junior officers who succeeded in staging coups automatically promoted themselves over and above their erstwhile superior officers. This practice not only damaged the chain of command, [but also] created a climate of mutual suspicion and crimation detrimental to professionalism and military discipline.³⁵⁹

As a result, the NA has devolved into what Brigadier General David Mark has described as a “group of disorganized cowboys,” in which “military officers are more or less organized into a variety of factions around the power and authority of retired and serving generals” such as Sani Abacha, Oladipo Diya, Yar’ Adua, Babangida, Akinrinade, Obasanjo, Ukiwe, Bali, Idiagbon, Gowon, Buhari, Danjuma, Dogon-yaro.³⁶⁰ This has further allowed the culture of violence and corruption to permeate within the NA,³⁶¹ resulting in the destruction of discipline and professionalism.³⁶²

Even domestically, the NA maintains a reputation for human rights violations and corruption. In addition to the many abuses during past military rule, many of the abuses now stem from the NA’s involvement in its effort to combat Boko Haram.³⁶³ The NA has been accused of extrajudicial killings,

359 See Pita OgabaAgbese, *The politics of stable civil-military relations*, available at <http://www.india-seminar.com/2000/490/490%20agbese.htm>, last accessed on 14 February 2014. See also Emmanuel Ike Udogu, *Nigeria in the Twenty-first Century: Strategies for Political Stability and Peaceful Coexistence*, Chapter 2 - Taming of the Shrew: Civil-Military Politics in the Fourth Republic, 1 June 2005.

360 Whether currently active or retired, these general continue to have their “boys” within the NA who protect their interests and take directions from them, including by reporting back to them concerning the actions or intentions of other officers. See Pita OgabaAgbese, *The politics of stable civil-military relations*, available at <http://www.india-seminar.com/2000/490/490%20agbese.htm>, last accessed on 14 February 2014.

361 For example the allegations of General Abacha stealing billions of dollars during his five year rule, in addition to the allegations of military personnel engaging in illicit activities, such as selling their guns, committing armed robbery and setting up illegal toll-booths to extort money from motorists. See Pita OgabaAgbese, *The politics of stable civil-military relations*, available at <http://www.india-seminar.com/2000/490/490%20agbese.htm>, last accessed on 14 February 2014.

362 For example soldiers arrived in Akure on 30 June 2008 to receive the pay for peacekeeping duties, but after waiting five days without shelter or food being provided, an official finally arrived on 4 July 2008 to inform them that they would receive only half of their salary. No reasons were given to the soldiers for the withholding of their wages. As a result, hundreds of soldiers staged a violent riot to protest the withholding of their peacekeeping salaries after their return to Nigeria. Soldiers reported that the violent reaction was in response to fear “that their situation would mirror that of past missions, which were often denied a significant portion of their salaries with no explanation.” An Akure-based lawyer, Idowu Salami, stated that corruption was at fault and that soldiers “are regularly shortchanged in salary and benefits.” See Wikileaks, *Cable 08LAGOS291_a*, available at: http://www.wikileaks.org/plusd/cables/08LAGOS291_a.html, 25 July 2008, last accessed on 14 February 2014.

363 Since 2009, the NA has been increasingly involved in the fight against Boko Haram. The group’s aim is to “rid the country of its corrupt and abusive government and institute what it describes

torture, arson, arbitrary arrests and detention, and extortion.³⁶⁴ Furthermore the NA has been accused of massive destruction of civilian property during raids carried out in search of Boko Haram members. For example on 16 and 17 April 2013, according to satellite images obtained by Human Rights Watch 2,275 buildings were burned down and another 125 were severely damaged by the NA in a raid in Baga.³⁶⁵ Additionally Nigeria's National Human Rights Commission released a report in 2013 stating that it had received credible allegations that the Joint Task Force (JTF), which is part of the NA, has carried out "summary executions, torture, arbitrary detention amounting to internment."³⁶⁶ According to the report, "[i]n particular, [the National Human Rights Commission has] received persistent and credibly attested allegations of indiscriminate disposal of dead remains" by Joint Task Force personnel.³⁶⁷

There is documented evidence that widespread and systematic abuse by police, including torture,³⁶⁸ occurs regardless of the government in power.³⁶⁹

as religious purity." It has carried out numerous attacks against police, government targets, Christians, schools, and other groups who it accuses of having cooperated with the government. See Human Rights Watch, *Spiraling Violence, Boko Haram Attacks and Security Force Abuses in Nigeria*, 11 October 2012, available at <https://www.hrw.org/reports/2012/10/11/spiraling-violence-0>, last accessed 14 February 2014.

364 See Human Rights Watch, *Spiraling Violence, Boko Haram Attacks and Security Force Abuses in Nigeria*, 11 October 2012, available at <https://www.hrw.org/reports/2012/10/11/spiraling-violence-0>, last accessed 14 February 2014.

365 See Human Rights Watch, *Nigeria: Massive Destruction, Deaths from Military Raid*, 1 May 2013, available at <http://www.hrw.org/news/2013/05/01/nigeria-massive-destruction-deaths-military-raid>, last accessed on 14 February 2014.

366 See Nigerian National Human Rights Commission, *NHRC Baga-NE Emergency Interim RPT*, available at <http://www.nigeriarights.gov.ng/resources>, last accessed on 14 February 2014.

367 See Nigerian National Human Rights Commission, *NHRC Baga-NE Emergency Interim RPT*, available at <http://www.nigeriarights.gov.ng/resources>, last accessed on 14 February 2014.

368 "The most common types of abuses committed by the police in Nigeria...includes repeated and severe beatings with metal rods and wooden sticks or planks, as well as other implements...Other violations reported include the tying of arms and legs tight behind the body; suspension by hands and legs from the ceiling or a pole; resting concrete blocks on the arms and back while suspended; spraying of tear gas in the face and eyes; electric shocks; death threats, including holding a gun to the victim's head; shooting in the foot or leg; stoning; burning with clothes irons or cigarettes; slapping and kicking with hands and boots; abusive language or threats; and denial of food and water. There were also numerous cases of the molestation and rape of female detainees; use of pliers or electric shocks on the penis; insertion of broom bristles into the penis; beating the penis with cable wire; and spraying of tear gas on genitals." See Human Rights Watch, *Rest in Pieces*, 27 July 2005, available at <http://www.hrw.org/node/11630/section/7>, last accessed on 14 February 2014.

369 "Based on 882 respondents drawn from suspects in custody across the country: '[n]early half of the accused persons interviewed (48.7%) stated that their arrest involved insult or abuse by the police. Roughly half (51.1%) of the accused persons interviewed indicated that their arrest did not involve use of physical force by police, however, 35.9% were rough handled or slapped, 7.4% were beaten with a baton; and 3% were threatened with a gun. As to why force was used on them, 24.2% said they did nothing to warrant the use of force, 3% resisted arrest, while 1.6% returned verbal abuse, 5.2% were assaulted because they questioned police behaviour; and 22.5% were assaulted because they either refused to admit the offence or make a statement.' Police violence in the form of summary executions occurs frequently among Special Task Forces assigned to the patrol of

A presidential commission on the Nigerian Police Force (NPF) headed by former Inspector-General of Police Mohammed Dikko Yusuf concluded that “[policing in Nigeria was characterized by a pattern of] unlawful arrest and detention, extortion, torture, rape, extrajudicial killings and other forms of brutality. The negative image of the police in the eyes and minds of the public arose from the high levels of crimes in the force and its failure to carry out genuine police functions successfully.”³⁷⁰ The commission further stated, “instead of becoming a public asset therefore, the police have become a public burden.”

Although the Constitution of Nigeria guarantees the “right to life, human dignity (freedom from inhuman and degrading treatment, torture) personal liberty, and privacy,”³⁷¹ previous military regimes have suspended these provisions, enacted retroactive legislations, in addition to frequent and overt abuses such as instances of NPF officers shooting “those who refuse to pay bribes of twenty naira (US \$.015).”³⁷²

In 2005, a Human Rights Watch report confirmed the deaths of 23 men in police custody, although they received information concerning many other cases “suggesting a widespread pattern of deaths in custody across the country.”³⁷³

A NPF officer who worked at the Kano Police Headquarters until 2003, who had routinely observed suspects being shot in the leg or beaten with wooden sticks and metal rods, stated that:

highways and cities to curb armed robbery. Police torture in the form of physical assault frequently occurs at all levels of police work - crowd control, arrest, investigation, and detention.” See CLEEN Foundation, *Police Violence*, available at <http://www.w.cleen.org/police-violence.pdf>, last accessed on 14 February 2014.

370 Former Inspector-General of Police, Ibrahim Coomasie accused the NPF of “barbaric treatment of Nigerians.” See CLEEN, *Civilian Oversight and Accountability of Police in Nigeria*, 2003, available at <http://www.w.cleen.org/POLICE%20ACCOUNTABILITY%20BOOK1.pdf>, last accessed on 14 February 2014.

371 See Chapter 4 of the 1979 and 1999 Constitutions of the Federation of Nigeria.

372 See “Shot to death,” in *The Educator*, official newsletter of the Civil Liberties Organization, July-September 2004, and “Nigerian Police slay driver, triggering riot in south-west,” Associated Press, January 14, 2005, “Police Kill 9, Arrest 2,” *This Day*, October 21, 2004, “Nigerian police kill 3 over 15-cent bribe,” PANA, August 18, 2004, as cited by Human Rights Watch, *Rest In Pieces*, 27 July 2005, available at http://www.hrw.org/node/11630/section/5#_ftnref13, last accessed on 14 February 2014. See CLEEN Foundation, *Police Violence*, available at <http://www.w.cleen.org/police-violence.pdf>, last accessed on 14 February 2014.

373 Twelve of the men died while in custody at the Kano State Police Headquarters between 2003 and 2005; three died in Lagos in February 2005; and eight died between March 2002 and May 2005 in Enugu. The report also included an account of two detainees who were beaten to death while in custody November 2003. See Human Rights Watch, *Rest in Pieces*, 27 July 2005, available at <http://www.hrw.org/node/11630/section/6>, last accessed on 14 February 2014.

*“There are many cases at State Criminal Investigation Department (CID) at the police headquarters in Kano where the police intentionally shoot people. They are shooting roughly one person per week”.*³⁷⁴

Moreover the 2010 report by the Open Society Justice Initiative documented the following widespread abuses and issues concerning the NPF and its governing legislation:

- From January 2000 to March 2004, 7,198 persons were killed, meaning on average 4.6 people were killed per day, according to statistics provided to Human Rights Watch researchers in April 2004 by TafaBalogun, then Inspector-General of Police.³⁷⁵
- According to acting Inspector-General of Police Mike Okiro, during his first 100 days of office, the Nigeria Police Force (NPF) killed 785 people. One week later the late President Umaru Yar’Adua promoted him.³⁷⁶
- In 2006 police reported killing 329 robbers and injuring none, suggesting a kill-to-punish policy. Records show that in the same year, 111 police were killed and 53 injured.³⁷⁷
- While responding to violence in Borno State in northeastern Nigeria, the NPF killed hundreds of suspected Boko Haram members, including its leader in July 2009.³⁷⁸

374 See Human Rights Watch, *Rest in Pieces*, 27 July 2005, available at <http://www.hrw.org/node/11630/section/6>, last accessed on 14 February 2014.

375 See Open Society Justice Initiative, *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force*, 19 May 2010, available at <http://www.opensocietyfoundations.org/sites/default/files/criminal-force-20100519.pdf>, last accessed on 14 February 2014. See also IRIN Africa, *Nigeria: Police kill, rape torture and extort says rights group*, 21 May 2010, available at <http://www.irinnews.org/report/89220/nigeria-police-kill-rape-torture-and-extort-says-rights-group>, last accessed on 14 February 2014.

376 See Open Society Justice Initiative, *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force*, 19 May 2010, available at <http://www.opensocietyfoundations.org/sites/default/files/criminal-force-20100519.pdf>, last accessed on 14 February 2014. See also IRIN Africa, *Nigeria: Police kill, rape torture and extort says rights group*, 21 May 2010, available at <http://www.irinnews.org/report/89220/nigeria-police-kill-rape-torture-and-extort-says-rights-group>, last accessed on 14 February 2014.

377 See Open Society Justice Initiative, *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force*, 19 May 2010, available at <http://www.opensocietyfoundations.org/sites/default/files/criminal-force-20100519.pdf>, last accessed on 14 February 2014. See also IRIN Africa, *Nigeria: Police kill, rape torture and extort says rights group*, 21 May 2010, available at <http://www.irinnews.org/report/89220/nigeria-police-kill-rape-torture-and-extort-says-rights-group>, last accessed on 14 February 2014.

378 See Open Society Justice Initiative, *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force*, 19 May 2010, available at <http://www.opensocietyfoundations.org/sites/default/files/criminal-force-20100519.pdf>, last accessed on 14 February 2014. See also IRIN

- The Nigeria Legal Defence and Assistance Project found 2,987 extrajudicial executions by police in 2004, but no force member was convicted.³⁷⁹
- The UN Special Rapporteur said that [the vague language in Police Force Order 237 concerning extrajudicial killings by police] “practically provide police carte blanche to shoot and kill at will.”³⁸⁰
- Every major police station has an “Officer in charge of Torture”, according to a researcher at the Network of Police Reform in Nigeria (NOPRIN), a civil society organization.³⁸¹
- Victims reported the following slang terms being used for torture: “V.I.P. treatment” - shooting a detainee in both legs; “J5” - prolonged sleep deprivation in a standing position; “suicide” - being suspended upside down by a rope tied around the ankles and being kicked, or beaten with machetes, gun butts or electrical wires.³⁸²
- Other forms of torture include beating; forced stress positions; tear gas applied to eyes or genitals; clubbing the soles of the feet; burning with cigarettes, hot irons or a flame; sexual torture by rape or violation; psychological manipulation; sleep deprivation; water or food deprivation.³⁸³

Africa, *Nigeria: Police kill, rape torture and extort says rights group*, 21 May 2010, available at <http://www.irinnews.org/report/89220/nigeria-police-kill-rape-torture-and-extort-says-rights-group>, last accessed on 14 February 2014.

- 379 See Open Society Justice Initiative, *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force*, 19 May 2010, available at <http://www.opensocietyfoundations.org/sites/default/files/criminal-force-20100519.pdf>, last accessed on 14 February 2014. See also IRIN Africa, *Nigeria: Police kill, rape torture and extort says rights group*, 21 May 2010, available at <http://www.irinnews.org/report/89220/nigeria-police-kill-rape-torture-and-extort-says-rights-group>, last accessed on 14 February 2014.
- 380 See Open Society Justice Initiative, *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force*, 19 May 2010, available at <http://www.opensocietyfoundations.org/sites/default/files/criminal-force-20100519.pdf>, last accessed on 14 February 2014. See also IRIN Africa, *Nigeria: Police kill, rape torture and extort says rights group*, 21 May 2010, available at <http://www.irinnews.org/report/89220/nigeria-police-kill-rape-torture-and-extort-says-rights-group>, last accessed on 14 February 2014.
- 381 See Open Society Justice Initiative, *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force*, 19 May 2010, available at <http://www.opensocietyfoundations.org/sites/default/files/criminal-force-20100519.pdf>, last accessed on 14 February 2014. See also IRIN Africa, *Nigeria: Police kill, rape torture and extort says rights group*, 21 May 2010, available at <http://www.irinnews.org/report/89220/nigeria-police-kill-rape-torture-and-extort-says-rights-group>, last accessed on 14 February 2014.
- 382 See Open Society Justice Initiative, *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force*, 19 May 2010, available at <http://www.opensocietyfoundations.org/sites/default/files/criminal-force-20100519.pdf>, last accessed on 14 February 2014. See also IRIN Africa, *Nigeria: Police kill, rape torture and extort says rights group*, 21 May 2010, available at <http://www.irinnews.org/report/89220/nigeria-police-kill-rape-torture-and-extort-says-rights-group>, last accessed on 14 February 2014.
- 383 See Open Society Justice Initiative, *Criminal Force: Torture, Abuse, and Extrajudicial Killings*

- The crime of torture has not been codified in Nigerian domestic law.³⁸⁴
- Male officers in the Lagos Police Command often demand sex from female detainees as the price of bail - one NPF member said sex with sex workers was “one of the fringe benefits attached to night patrol”.³⁸⁵

In response to allegations of human rights abuses in 2010, NPF spokesperson Emmanuel Ojukwu stated:

In the past 10 years in Nigeria the police force has grown tremendously in its respect for human rights and values of decent conduct [but] there are bad eggs in the police force who are guilty of human rights violations, making the force not immune to these accusations.³⁸⁶

Impunity for human rights abuses and corruption continues to be widespread in the NPF.³⁸⁷ Currently neither the Government of Nigeria nor the NPF have taken any measurable steps to establish policies or procedures for the investigation and prosecution of police who are suspected of abusing human rights.³⁸⁸ For example, the Police Service Commission is charged with

by the Nigeria Police Force, 19 May 2010, available at <http://www.opensocietyfoundations.org/sites/default/files/criminal-force-20100519.pdf>, last accessed on 14 February 2014. See also IRIN Africa, *Nigeria: Police kill, rape torture and extort says rights group*, 21 May 2010, available at <http://www.irinnews.org/report/89220/nigeria-police-kill-rape-torture-and-extort-says-rights-group>, last accessed on 14 February 2014.

384 See Open Society Justice Initiative, *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force*, 19 May 2010, available at <http://www.opensocietyfoundations.org/sites/default/files/criminal-force-20100519.pdf>, last accessed on 14 February 2014. See also IRIN Africa, *Nigeria: Police kill, rape torture and extort says rights group*, 21 May 2010, available at <http://www.irinnews.org/report/89220/nigeria-police-kill-rape-torture-and-extort-says-rights-group>, last accessed on 14 February 2014.

385 See Open Society Justice Initiative, *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force*, 19 May 2010, available at <http://www.opensocietyfoundations.org/sites/default/files/criminal-force-20100519.pdf>, last accessed on 14 February 2014. See also IRIN Africa, *Nigeria: Police kill, rape torture and extort says rights group*, 21 May 2010, available at <http://www.irinnews.org/report/89220/nigeria-police-kill-rape-torture-and-extort-says-rights-group>, last accessed on 14 February 2014.

386 See IRIN Africa, *Nigeria: Police kill, rape torture and extort says rights group*, 21 May 2010, available at <http://www.irinnews.org/report/89220/nigeria-police-kill-rape-torture-and-extort-says-rights-group>, last accessed on 14 February 2014.

387 Two NPF departments have become notorious for their violent methods, Department B, which has a Police Mobile Force that is commonly known by Nigerians as “kill and go” due to its harsh tactics, and Department D, which routinely uses torture and abuse to illicit confessions instead of evidence-based policing. See IRIN News, *Nigeria: Urgent need for police reform*, 18 April 2012, available at <http://www.irinnews.org/report/95314/nigeria-urgent-need-for-police-reform>, last accessed on 14 February 2014.

388 In 2003, the IGP had as part of police reform proposed the “training of officers and men to appreciate and respect the concepts of constitutionalism, rule of Law and due process in line

investigating police abuses by the NPF, but they are constrained by the lack of resources and overall lack of political will.³⁸⁹ As the former chairman of the Police Service Commission stated, “One of the problems that have inhibited policing is noncompliance with extant rules and regulations, procedures and established police practices.”³⁹⁰

Additionally as has been reported by the CLEEN Foundation, “[s]uccessive chiefs of police at federal and state level[s] in Nigeria have failed to recognize discipline and disciplinary mechanism[s] as tools that could be used in a fair and consistent manner to remove those police officials who are undermining” effective policing efforts within Nigeria.³⁹¹

At present, there is no known or published documentation on human rights screening of peacekeepers.³⁹² The Police Code of Conduct bars members of

with Federal Government policy” as well as the establishment of Human Rights Desks at both Commands and Divisional levels and inclusion of human rights topics in syllabi of Police training institutions. These have not been fully implemented and have no visible impact on the conduct of security forces. See CP Marvel Akpoyibo, “Strategies for Re-Organisation and Re-Oriented of the Nigeria Police” a paper presented on behalf of Sir (Dr.) Mike M. Okirocfr, *npm, mni*, Inspector-General of Police at the Police Service Commission Retreat held in Osogbo, Osun State, 18 - 20 August 2003. According to CISELAC sources, this directive has not been implemented. See also Report of the Presidential Committee on the Reform of the Nigeria Police Force: 2006 headed by Alhaji Muhammad Dan Mandami CFR, *mni DIG (RTD)*. See also Civil Society Panel on Police Reform in Nigeria Final Report, September 2012, available at <http://www.noprin.org/CSO%20Panel%20Final%20Report.pdf>, last accessed 14 February 2014, as well as the annual report of the National Human Rights Commission of 2007 where it recommended for the establishment of human rights desk offices in the police and other security agencies (*The State of Human Rights in Nigeria, 2009*, available at <http://nigeriarights.gov.ng/resources>, last accessed on 14 February 2014).

389 The NPF Act has remained the principal law governing the operations of the police. The conduct of the men and officers of the police is regulated by the Police Regulations. The Regulations list many offences that could require taking disciplinary measures but do not list specific serious human rights violations, such as torture, enforced disappearance or extrajudicial execution. Neither do they mention sexual exploitation and abuse as offences. Additionally, any extrajudicial police killings the Police Service Commission receives are referred to the police for investigation. Moreover the Commission’s quarterly reports to the President are not published. See Open Society Justice Initiative, *Criminal Force: Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force*, 19 May 2010, available at <http://www.opensocietyfoundations.org/sites/default/files/criminal-force-20100519.pdf>, last accessed on 14 February 2014.

390 *Factors Inhibiting Police Performance in Nigeria*, a paper presented at the occasion of a Retreat with the theme: “Understanding the Mandate and Operations of the Police Service Commission in Context of the Rule of Law” by Parry B. O. Osayande, DIG (RTD), CFR, OFR, NPM, *mni*, Chairman, Police Service Commission.

391 This can be ascertained through the lack of resource allocation to disciplinary mechanisms and the absence of periodic review of the disciplinary system. None of the disciplinary mechanisms in the NPF have an annual budget for their operations. Moreover, mechanisms such as the police Public Complaints Bureaus “have no writing materials for recording complaints, working telephone lines, fax machine and computer sets for keeping tracks of the complaints.” See CLEEN Foundation, *Improving Police-Community Relations*, available at <http://www.cleen.org/Improving%20Police-Community%20Relations.pdf>, last accessed on 14 February 2014.

392 As mentioned above, the selection and training procedures for peacekeepers is not transparent. According to Transparency International, Canada is the only major UN troop contributing country with transparent selection and training procedures. See Corruption and peacekeeping: Strengthening peacekeeping and the United Nations’, Transparency International UK, 9 October 2013, available at <http://www.transparency-se.org/130925-PK-report.pdf>, last accessed on 14 February 2014.

the police from taking undue advantage of citizens by violating their human rights. Police officers contend that they strictly adhere with the UN Guidelines in this connection.³⁹³ However in the context of Nigeria, many cases of human right violations by members of the police go untried and unpunished.

In view of the demonstrated evidence of human rights abuses within the NPF,³⁹⁴ the Government of Nigeria and the NPF must make a clear commitment towards the investigation and prosecution of human rights abusers, in addition to the fulfillment of the expression of commitment Nigeria has made to a “zero-tolerance” policy towards sexual abuse and other criminal acts. In the absence of such an agreement, it is feared that those who have engaged in violations could be selected for peacekeeping missions.³⁹⁵

393 Interview with an officer, Kano, 26 June 2013.

394 The Police Reform Committee also noted that “unlawful arrest and detention are sometimes due to directives by the government and the manipulation of the Police by influential people in society.” It went on to recommend that “[t]o reduce the incidence of police brutality, unlawful arrest and detention, the government needs to demonstrate to the citizens that it does not tolerate these practices, by showing itself as an example of government under the rule of law. First, by respecting and protecting the rights of association, assembly and protest by citizens, especially those in opposition; restraining itself from directing the Police to arrest and detain those who do not agree with it and by ensuring that victims of police brutality are duly compensated.” See Report of Presidential Committees on Police Report in Nigeria, *Motions Without Movement*, 2006, CLEEN, <http://www.cleen.org/Report%20of%20Presidential%20Committee%20on%20Police%20Reform.pdf>, last accessed on 14 February 2014.

395 Nigeria has previously expressed its committed to the principle of accountability with regard to sexual abuse and other criminal acts, although it has made no direct reference to the proposed UN convention. See UNGA, *Summary record of the 9th meeting*, A/C.6/67/SR.9, 20 December 2012, as cited by Carla Ferstman, *Criminalizing Sexual Exploitation and Abuse by Peacekeepers*, United States Institute of Peace Special Report, available at <http://www.usip.org/sites/default/files/SR335-Criminalizing%20Sexual%20Exploitation%20and%20Abuse%20by%20Peacekeepers.pdf>, last accessed on 14 February 2014.

6. THE IMPACT OF THE UN PEACEKEEPING AT NATIONAL LEVEL: THE EMBLEMATIC CASE OF BANGLADESH

There is varying degree of influence of the UN peacekeeping missions at national level of the troops contributing countries. While for Nepal, it is mainly financial incentives for those deployed with the UN missions, for India and Nigeria, UN peacekeeping has geo-political and economic aspects.

However, for Bangladesh, the UN peacekeeping touches upon the national politics.

Despite a return to democracy in December 1990, the Bangladesh Army remains “the power behind the throne”³⁹⁶ in Dhaka. Its control over the security forces is absolute. A large number of senior positions in the Bangladesh Navy and Bangladesh Air Force are served by Army officers as per Section 2A of the Army Act of Bangladesh.³⁹⁷ The Bangladesh Army also commands other paramilitary forces³⁹⁸ and at the time of the Pikhana mutiny on 25 February 2009, out of the 446 officer positions in the Bangladesh Rifles (BDRs), 386 positions were occupied by deputed Army Officers.³⁹⁹ This situation remains unchanged - the Bangladesh Army officers continue to command the BDRs, now renamed as BGB. In fact, the Bangladesh Army has been engaged in civil policing since 26 March 2004 following the establishment of the RAB, a hybrid force drawn from the Bangladesh Police, Bangladesh Army, Bangladesh Navy, Bangladesh Air Force, Border

396. See International Crisis Group interview, London, November 2011, as cited in International Crisis Group (ICG), *Bangladesh: Back to the Future*, 13 December 2012, Asia Report N° 226, available at: <http://www.crisisgroup.org/-/media/Files/asia/south-asia/bangladesh/226-bangladesh-back-to-the-future.pdf>, last accessed on 8 October 2013.

397. “The Government may by order in writing direct that any person referred to in clause (a), clause (b) or clause (c) of sub-section (1) of section 2 shall, under such conditions as may be laid down by regulations, be seconded for service with the Bangladesh Navy or the Bangladesh Air Force.” See Army Act, 1950, Section 2A, available at: http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=248, last accessed on 26 August 2013.

398. Other than the RAB, “paramilitary forces include the Bangladesh Rifles ...the Bangladesh Ansars... Village Defence Parties...and a National Cadet Corps. All answer to the home ministry, although the Bangladesh Rifles is commanded by seconded army officers and all paramilitary units operate in support of the army during national crisis or war.” See ICG, *Bangladesh Today*, 23 October 2006, Report N° 121, available at: <http://www.refworld.org/docid/4565e5054.html>, last accessed on 9 October 2013.

399. See Human Rights Watch, *Revolt at the BDR Headquarters situated at Peelkhana: Report of the Investigating Committee created for Investigation of the Heinous Massacre*, 21 May 2009, available at: http://www.hrw.org/sites/default/files/related_material/Investigation%20Report%20-%20Government%20Inquiry_0.pdf, last accessed on 1 September 2013.

Guard Bangladesh and Bangladesh Ansar.⁴⁰⁰ As of 27 August 2013, out of the 208 officers in the RAB, 114 were police officers, followed by 83 Army officers and 11 Air Force officers.⁴⁰¹

The United Nations (UN) peacekeeping work is a source of considerable national pride for Bangladesh. It is the second largest contributor to UN PKOs at present. About seven percent of the Bangladesh Army has been consistently deployed on UN peacekeeping missions since 2005.⁴⁰² There is no transparency in the selection of peacekeepers from any of the forces in Bangladesh.

Serving in a UN peacekeeping operation is a significant financial opportunity and indeed a life changing opportunity for those selected. At the UN standard rate, Bangladesh Army personnel earn upwards of US \$2,200 a month for an officer and US \$1,100 for a soldier, in addition to other allowances and perks.⁴⁰³ In comparison the average monthly pay for a soldier is Taka 7,717 (about US \$100)⁴⁰⁴ and Taka 15,000 (about US \$200) for an officer.⁴⁰⁵ Bangladesh as the Chair of the UN Peace-Building Commission pressed for increase of salaries for the UN peacekeepers and in May 2013, the salaries were raised by 6.75 percent while those working in 'most dangerous' places would get further 10 percent in additional risk payment.⁴⁰⁶

Considering that posting with the UN missions is very lucrative, the Bangladesh Army has monopolised deployment in UNPKOs. About 93 percent of all UN peacekeepers from Bangladesh⁴⁰⁷ are from the Bangladesh Army with Congo and Sudan being less with the percentage of army at 88

400. See Rapid Action Battalion, *Short History*, available at: http://www.rab.gov.bd/about_us.php?page=2, last accessed on 1 September 2013.

401. See Rapid Action Battalion, *Telephone Directory*, available at: <http://www.rab.gov.bd/telephonedir.php>, last accessed on 21 October 2013. The details of RAB officers have been provided in Annex 1.

402. The Army, UN Peacekeeping Mission and Democracy in Bangladesh, Nurul Islam, Economic and Political Weekly, 17 July 2010, Vol. XLV, No 29.

403. See Omair Ahmad, *Indian Army: UN Report, Rotting Olives*, Outlook India.com, 2 June 2008, available at: <http://www.outlookindia.com/article.aspx?237577>, last accessed on 1 September 2013.

404. See Nicolas Haque, *Bangladesh troops lead global peacekeeping*, Aljazeera, 29 May 2012, available at: <http://www.aljazeera.com/indepth/features/2012/05/201252982553900996.html>, last accessed on 1 September 2013.

405. See Join Bangladesh Army, *Benefits*, available at: <http://www.joinbangladesharmy.mil.bd/benefits/money>, last accessed on 1 September 2013.

406. See Bdnews24.com, *UN increases Bangladeshi peacekeepers*, 11 May 2013, available at: <http://bdnews24.com/bangladesh/2013/05/11/un-increases-bangladeshi-peacekeepers>, last accessed on 1 September 2013.

407. See Dr. Rashed Uzzaman and Niloy Ranjan Biswas, *Contributor Profile: Bangladesh*, University of Dhaka, available at: http://www.academia.edu/2939007/Contributor_Profile_Bangladesh, last accessed on 1 September 2013.

percent while Navy and Air forces had six percent representation.⁴⁰⁸ The remaining seven percent is being made up by the police.⁴⁰⁹

Pilkhana Massacre: Continued misleading of the Border Guard Bangladesh

The denial of opportunities for peacekeeping to the paramilitary forces has been one of the reasons for the revolt at the BDR Headquarters at Pilkhana, Dhaka on 25 February 2009. In the revolt, a total of 74 persons including 57 Army Officers deputed to BDR, 1 retired Army Officer, 2 wives of Army Officers, 9 BDR members, 3 innocent pedestrians, 1 Army Soldier and 1 Police Constable were killed. Among the Army Officers killed by the BDR rebels, included 1 Major General, 1 Brigadier General, 16 Colonels, 10 Lieutenant Colonels, 23 Majors, 2 Captains and 4 Army Medical Corps (AMC) Officers. Among the survivors, there were 3 Lieutenant Colonels, 14 Majors, 15 AMC Officers, 1 newly appointed Officer, 5 Majors working on ‘*Operation Dal Bhat*’, 1 Officer Major arriving for the parade, 5 Majors who had reached the camp to distribute invitation letters, 7 Majors who had come to accept awards, 8 Rural Departmental Officers (RDO), and 14 Civil Officers.⁴¹⁰

The Government of Bangladesh formed a 10-member Investigation Committee on 2 March 2009. The Investigation Committee in its report stated that the BDR rebels had among others demanded “*withdrawal of all Army Officers from BDR and appointment of BDR’s own Officers from BDR cadre in their place*” and “*opportunity to take part in foreign (UN) missions*”.⁴¹¹

408. See Jafar Iqbal Russell, *Bangladesh UN Peacekeeping Force, strategic plans and HR initiatives*, 24 November 2010, available at: <http://www.articlesbase.com/management-articles/bangladesh-un-peacekeeping-force-strategic-plans-and-hr-initiatives-3721710.html>, last accessed on 1 September 2013.

409. See Dr. Rashed Uz Zaman and Niloy Ranjan Biswas, *Contributor Profile: Bangladesh*, University of Dhaka, available at: http://www.academia.edu/2939007/Contributor_Profile_Bangladesh, last accessed on 1 September 2013.

410. The members of Investigating Committee were former Secretary Mr. Anis-Uz-Zaman Khan as its Chairman and the additional Secretary of Home Ministry as a Member Secretary and other members of the Investigation Committee were Secretary, Law, Justice and Parliamentary Affairs Ministry; Director General, Bangladesh Rifles; Representative of the Prime Minister’s Office, Representative of the Cabinet; 3 Representatives of the Armed Force; Additional Police Inspector (Administration) and Judge Advocate General, Military Headquarters. “Revolt at the BDR Headquarters situated at Peelkhana: Report of the Investigating Committee created for Investigation of the Heinous Massacre, 21st May 2009 available at: http://www.hrw.org/sites/default/files/related_material/Investigation%20Report%20-%20Government%20Inquiry_0.pdf

411. Revolt at the BDR Headquarters situated at Peelkhana: Report of the Investigating Committee created for Investigation of the Heinous Massacre, 21st May 2009, available at: http://www.hrw.org/sites/default/files/related_material/Investigation%20Report%20-%20Government%20Inquiry_0.pdf

The Investigation Committee in its conclusion stated that the aims of the revolt by the BDR were, among others, “*proving Bangladesh to be unfit for working in UN missions*” and “*reducing Bangladesh’s foreign currency earning by reducing its presence in UN missions*”.⁴¹² The Investigation Committee, with half of its members from the Armed Forces i.e. Bangladesh Army but none from the BDR, as expected, made no recommendations with respect to deployment of the BDR personnel for UNPKOs. Rather, the Investigation Committee stated that that “*United Nations has objected to the proposal of BDR members being taken to foreign missions. Bangladesh Government has no jurisdiction in this matter*”.

This is a blatant lie as neighbouring India has been sending its paramilitary forces including the Border Security Forces on UN missions.⁴¹³ The issue still remains unresolved as the Director General of the BGB, Major General Aziz Ahmed told *The New Age* on 25 February 2013 that “a decision on sending BGB soldiers to UN peacekeeping missions was under process”.⁴¹⁴

Is UN peacekeeping increasing defence budget of Bangladesh?

Foreign currency from UNPKOs indirectly increased military expenditure. The Government of Bangladesh reportedly earned \$1.28 billion from the UN as compensation for troop contributions, contingent-owned equipment, and other forms of compensation from 2001 to 2010.⁴¹⁵ While as per the statement of the Bangladesh’s Permanent Representative to the UN Dr. AKM Abdul Momen on 25 April 2012 Bangladesh earned about US \$919 million equivalent to Taka 7,500 crore over three years from UNPKOs,⁴¹⁶ the defence budget of Bangladesh for the Financial Year in 2008-2009 was Taka 6306 crore (US\$ 935 million).⁴¹⁷ It is clear that Bangladesh earns the equivalent of one third of its defence budget from UNPKOs.

412. Revolt at the BDR Headquarters situated at Peelkhana: Report of the Investigating Committee created for Investigation of the Heinous Massacre, 21st May 2009, available at http://www.hrw.org/sites/default/files/related_material/Investigation%20Report%20-%20Government%20Inquiry_0.pdf

413 . Please visit <http://crpf.nic.in/un.HTM> which shows that India’s Central Reserve Police Force personnel have been deployed on UN Missions in Haiti, Kosovo and Liberia.

414. 4 YEARS AFTER BDR MUTINY, Families of victims, accused still await justice, *The New Age*, 25 February 2013 available at <http://newagebd.com/detail.php?date=2013-02-25&nid=41095>

415. See K. Krishnasamy, *Bangladesh and UN Peacekeeping: The Participation of a ‘Small’ State*, *Commonwealth and Comparative Politics*, 41:1 (2003): 4-47.

416. Bangladesh earns US\$ 919 million from UN peace missions in 3 Years, *Bangladesh Sangbad Sangstha* (National News Agency of Bangladesh), 26 April 2012, <http://www1.bssnews.net/newsDetails.php?cat=0&id=244656&date=2012-04-26&dateCurrent=2012-05-01>

417. Bangladesh defence budget 2008-09: An analysis by Air Cdre Ishfaq Ilahi, *ndc, psc (ret’d)*, *The Daily Star*, 5 July 2008 available at <http://archive.thedailystar.net/newDesign/news-details.php?nid=44241>

The Government of Bangladesh has been increasing its defence budget based on the need for UNPKOs. The government of Bangladesh hiked its defence budget by over 11% for the Financial Year 2011-12 (July 2011-June 2012) with a total budgetary allocation of 121.34 billion Taka for the 2011-12 fiscal. It was necessitated as in June 2011, the Government of Bangladesh decided to purchase 44 new MBTs and three ARVs for the army from China. The government also decided to buy two brand new helicopters for the army to ensure necessary logistical support for UN peacekeeping activities.⁴¹⁸

Justifying the increase, Bangladeshi Finance Minister Mr AMA Muhith told the parliament:

*We cannot but admit that by occupying the top position in the list of the countries, which send soldiers to the UN peacekeeping mission, our armed forces have not only glorified the image of Bangladesh but also made significant contribution to the economy. We believe that they will continue to leave their mark in the international arena in the similar fashion as they are doing now.*⁴¹⁹

Participation in the UN peacekeeping missions also plays a role in national politics and economic development in Bangladesh. During the political instability in Bangladesh in December 2006 and January 2007, the UN reportedly warned Bangladesh Army that any extra constitutional action or involvement in one-sided parliamentary polls could jeopardise its participation in UN peacekeeping missions. The US Embassy's cable from Dhaka released by Wikileaks stated that, "[t]he UN representative (protect) told the Ambassador that COAS Moeen had complained to her of the horrendous pressure he was under to step in, either under a State of Emergency or otherwise, and solicited a letter from the UN threatening loss of UNPKO duties should the military act extra-constitutionally. Moeen claimed that he could not "stick his neck out" and approach the President/Chief Adviser to beg off from any political role for the military without such benefit of proof of the dire consequences for the army."⁴²⁰ The Bangladesh Army finally intervened and ruled the country for about two years with a technocratic government.

This may again be repeated!

418. Army to get 44 tanks, 2 helicopters also on purchase list, *The Daily Star*, 27 June 2011. available at: <http://archive.thedailystar.net/newDesign/news-details.php?nid=191737>

419. See Xinhuanet.com, *Bangladesh plans over 11% defense budget hike*, 9 June 2011, available at: http://news.xinhuanet.com/english2010/world/2011-06/09/c_13920692.htm, last accessed on 1 September 2013.

420. <http://wikileaks.org/cable/2007/01/07DHAKA56.html>

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- providing input into international standard setting processes on human rights;
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