

**Analysis of an internal OIOS review of Investigations
into allegations of
RAPE and OTHER SEXUAL OFFENCES
in
Dekoa, Central African Republic
April to September 2016**

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25 October 2019**

The source document, entitled 'DEKOA REPORT (FIRST DRAFT)' is incorporated herein at **Annex A**. This is understood to have been completed and delivered to the OIOS Investigations Director at the end of April 2017 and no later version is believed to have been produced.

Foreword

I joined OIOS in 2011. It was generally accepted at that time that while there had been a serious problems of 'sexual exploitation and abuse' ("SEA") in the UN *in the past*, this had been addressed and it was no longer as significant as it had been previously.

As time went on, I came to suspect this was not the case.

Informal discussions with a number of individuals - both inside and outside the Organization - indicated to me that there were large numbers of children in Haiti, described locally as "MINUSTAH babies" that the UN chose not to recognise existed.

By comparison, when the press showed an interest in the subject of sexual abuses in UN mission environments, they seemed to have little difficulty in finding women who were not only prepared to admit that they had been violently raped by UN personnel, they were prepared to do so in front of television cameras.

I also found the UN to be curiously blind to the reality that only a minority of sexual offences would ever be reported, but as time progressed, it became increasingly obvious to me that the Organization's strategy was to actively *filter* these complaints, and that this was being done in order to manipulate the statistics so that the obligatory annual reports on the subject to the General Assembly would misrepresent the scale of the problem.¹

In contrast to the rhetoric, the Organization's attitude towards sexual offences was revealed publicly in March 2015. At that time the High Commissioner for Human Rights – the architect of the Organization's strategy² for the elimination of SEA – exhibited an astonishing lack of judgement. Unconcerned with the ongoing sexual abuse of children in the Central African Republic, instead he showed himself to be obsessed with taking punitive action against the official who took action to stop it; accusing him – improperly – of "leaking confidential information" by so doing.

The High Commissioner's perverse priorities were not an anomaly. None of the other members of Ban Ki Moon's Senior Management Group showed any concern for the victims either. None recognised that they might have a moral obligation to stop the abuse. On the contrary, the Under-Secretary-General for Peacekeeping, the Ethics Director, the Under-Secretary-General for Oversight and Ban's his Chief of Staff were all complicit in persecuting the one official who took the only action available to the UN to stop the abuse.³

The UN's mishandling of the sex abuse in the Central African Republic gave rise to a considerable amount of press attention, which resulted in numerous allegations being reported throughout 2015.

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- 1 The Secretary-General is required "*to maintain data on investigations into sexual exploitation and related offences*" but if a sex crime complaint can be dismissed at the assessment stage, there will be no investigation and the allegation will not be added to the number reported to the General Assembly. (See A/Res/57/306. Para 10. Online at: <http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/57/306>)
 - 2 'A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations.' UN document #A/59/710 dated 24 March 2005 . Online at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/59/710&Lang=E>
 - 3 Code Blue Campaign; "The UN'S Dirty Secret: The untold story of Anders Kompass and Peacekeeper Sex Abuse in the Central African Republic." Online at: <http://www.codebluecampaign.com/carstatement/>

In March 2016 – a year after the initial scandal – another NGO reported allegations of what were an initial 98 rape cases – the majority of which involved children - to UNICEF, thus triggering yet another child sex abuse scandal in the MINUSCA mission.

Although the perpetrators were all military peacekeepers who were subject to the jurisdiction of their respective armed forces; OIOS was involved in the investigations.

Rumours that an internal review of the Dekoa investigations had been conducted by one of my former colleagues in OIOS/ID had been circulating for some time, but the report itself “the review document” was never known to have been circulated. It was clearly being guarded very closely, for reasons that are now obvious. Despite being told the review had been ordered to identify lessons to be learned, it was even withheld from OIOS/ID supervisors who had had management roles in the investigation.

Existence of the review document was confirmed in an article by 'New Humanitarian' journalist Philip Kleinfeld in July 2018 when OIOS Investigations Director Ben Swanson alluded to its critical content when describing it as '*dirty laundry*' that he wished (now quite understandably) to keep confidential.⁴

It is not known if the review document had earlier been provided to the Heidi Mendoza, the Under-Secretary-General, OIOS, but if it had not, it would have been negligent of her – or in her absence, Assistant-Secretary-General David Kanja – to have demanded sight of it immediately after publication of the 'New Humanitarian' article.

After having mentioned the existence of the review when testifying before a Congressional Committee in April 2019, I was able to acquire a copy from a confidential source in September 2019 whose reliability I was established by reference to other matters.

The investigations resulted in two OIOS 'Contingent Reports', on OIOS Investigations Division case numbers 0203/16 and 0204/16. These will have been delivered to the Permanent Missions of Burundi and Gabon. I have not seen either.


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4 Philip Kleinfeld “Special report on the Central African Republic, Part 3. ‘I have no power to complain’” The New Humanitarian. 25 July 2018. Online at: <https://www.thenewhumanitarian.org/special-report/2018/07/25/central-african-republic-peacekeeper-sexual-abuse-investigation>

The Allegations

1. On 30 March 2016, the Code Blue Campaign (an NGO dedicated to working to end impunity for sexual abuse by UN personnel) issued a Press Release about how **98** girls in the Dekoa region of the Central African Republic had been interviewed by UNICEF and reported that they had been sexually abused by international peacekeepers.
2. Code Blue further claimed that on Saturday 26 March 2016, the Deputy Special Representative of the Secretary-General and a delegation from MINUSCA had met with local civic leaders and victims and learned of numerous allegations of sexual abuse, including:
 - *“During that visit, three victims interviewed by a MINUSCA Human Rights Officer reported that in 2014, they and a fourth girl were tied up and undressed inside a camp by a military commander from the Sangaris force (the French military intervention in CAR) and forced to have sex with a dog. Each girl was then given 5000 Central African Francs (<USD \$9). The three girls interviewed sought basic medical treatment. The fourth girl later died of an unknown disease. One of the survivors said that she was called “the Sangaris’ dog” by people in the community.*
 - *A women’s association informed the MINUSCA delegation that many cases of sexual abuse and rape have been committed by international peacekeeping forces and CAR combatants.”¹*
3. In a Press Release the following day, the Secretary-General claimed to be ‘*shocked to the core*’ by these latest revelations, but carefully avoided describing the abuses with the word ‘sexual.’²
4. Ban Ki Moon was clearly even less willing to acknowledge that his own senior staff knew that large numbers of rapes in that mission were entirely foreseeable. The UN had (for reasons that have never been investigated) insisted on deploying poorly disciplined troops, who were *known* to have a bad record for human rights abuses in their home country, in a peacekeeping role there.³

Initial Response to the Information

5. The UN was first alerted to the allegations of sexual misconduct in **January 2016** when the NGO ‘the International Rescue Committee’⁴ informed UNICEF that they had received such allegations implicating both French troops deployed on the ‘Sangaris’ operation⁵ and UN

1 Code Blue Campaign Press release. ‘Shocking new reports of peacekeeper sexual abuse in the Central African Republic’ 30 March 2016. Online at: <http://www.codebluecampaign.com/press-releases/2016/3/30>

2 UN Press Release: ‘Shocked to the Core’ by Latest Abuse Allegations in Central African Republic, Secretary-General Pledges to Relentlessly Confront Scourge, Aid Victims. Ref SG/SM/17643-AFR/3355-PKO/569. 31 March 2016. Online at: <https://www.un.org/press/en/2016/sgsm17643.doc.htm>

3 Former ASG Anthony Banbury ‘I love the UN, but it is failing’ New York Times, Sunday Review. 18 March 2016 Online at: <http://www.nytimes.com/2016/03/20/opinion/sunday/i-love-the-un-but-it-is-failing.html>

4 <https://www.rescue.org/>

5 https://en.wikipedia.org/wiki/Operation_Sangaris

peacekeepers from Burundi.⁶

6. This was a repetition of very similar allegations that had been brought to the attention of the MINUSCA mission in May 2014⁷; the mismanagement of which had provoked a firestorm of outrage from the international press
7. This was an extraordinary time for the UN in general and the MINUSCA mission in particular. The Secretary-General taken the “unprecedented” step of removing the previous Head of Mission⁸ after further allegations of sexual misconduct by peacekeeping personnel came to light, but still more cases continued to be reported⁹ and a new SRSG had just been appointed on 7 January.¹⁰
8. These latest allegations of sexual misconduct by UN personnel in the Central African Republic came only a few weeks after the report of the '*Report of an Independent Review on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic*' had been published by the Deschamps Enquiry.¹¹ Moreover, the 'whistleblower' that the UN had tried so hard – and so improperly - to persecute for passing the information about those initial allegations to the appropriate French authorities back in May 2014 had been cleared of any wrongdoing by OIOS.¹²
9. Conscious of the serious PR implications of the slightest mis-step, the new SRSG was trying hard to be seen as a man ready to take decisive action in response to any further allegations of sexual misconduct.¹³
10. It was clearly a time of heightened awareness for all concerned, and for the UN, it was the worst possible time for a hundred new cases to be reported.
11. Nevertheless, at that point in January 2016 when the IRC informed UNICEF of the allegations

6 Confidential Dekoa Report (First Draft) attached at **Annex A**. Para 14

7 See Code Blue Campaign. 'The UN'S Dirty Secret: the untold story of Anders Kompass and peacekeeper sex abuse in the Central African Republic. 29 May 2015. Online at: <http://www.codebluecampaign.com/carstatement>

8 Carole Landry. AFP. 'UN chief sacks C.Africa mission head over peacekeeper sex abuse claims. 13 August 2015. Online at: <https://news.yahoo.com/un-chief-sacks-c-africa-mission-head-over-160032771.html>

9 MINUSCA Press Release. 'MINUSCA investigates sexual exploitation and abuse allegations. 11 November 2015. Online at: <https://minusca.unmissions.org/en/minusca-investigates-sexual-exploitation-and-abuse-allegations>

10 UN Press Release. Secretary-General Appoints Parfait Onanga-Anyanga of Gabon Special Representative for Central African Republic. Ref: G/A/1624*-BIO/4804*-PKO/554* dated 7 January 2016. Online at: <https://www.un.org/press/en/2016/sga1624.doc.htm>

11 'Taking Action on Sexual Exploitation and Abuse by Peacekeepers; Report of an Independent Review on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic.' December 2015. Online at: <http://www.un.org/News/dh/infocus/centafricrepub/Independent-Review-Report.pdf>

12 Colum Lynch. 'The U.N. Official Who Blew the Lid off Central African Republic Sex Scandal Vindicated' Foreign Policy, 17 December 2015. Online at: <https://foreignpolicy.com/2015/12/17/the-u-n-official-who-blew-the-lid-on-central-african-republic-sex-scandal-vindicated/>

13 AFP. 'UN mission chief vows tough action on C.Africa sex abuse claims' 6 January 2016. Online at: <https://news.yahoo.com/un-mission-chief-vows-tough-action-c-africa-185636041.html>

against French military personnel and UN peacekeepers; one thing was already clear and that is *that UNICEF had no jurisdiction to investigate either.*

12. One would expect, therefore, that the sensible thing for UNICEF to have done would be to report this to the Head of Mission without delay, and let the Organization move swiftly to avoid a repetition of the mistakes made before – so both the French and Burundian governments could be informed through the proper diplomatic channels as quickly as possible. This does not appear to have been done. Instead, UNICEF waited until February when they sent one person to Dekoa to carry out an assessment. She interviewed 80 possible victims of sex crimes.¹⁴
13. On the one hand, this person could be commended for trying to collect as much information as possible so senior management could make the most informed decision on how to deal with the crisis – but at the same time, it should have been very obvious to them that unless any UN civilian staff were implicated in any of these crimes; the UN had no jurisdiction to investigate. **This was going to be a matter for the French and Burundian authorities.**
14. In addition, it was clear from February 2016 that this was a potentially even larger scale scandal than had been exposed the previous year, and it was worse because it would expose as a patent *lie* all the assurances the UN had given the world about their commitment to stamping out sexual misconduct.
15. The Head of the MINUSCA mission was not even informed until 23 March 2016, when he was told that there were allegations of “a staggering number” of sex crimes by peacekeepers in the Dekoa area in 2014 and 2015¹⁵ (i.e. the period when MINUSCA had been scrutinised by the international media.
16. Again, with the information that UNICEF was able to provide at that time, the Head of Mission should have realised that the UN had no jurisdiction over the alleged perpetrators, so the most expedient and pragmatic course of action would have been for the Organization to have played 'pass the parcel' and alerted the French and Burundian authorities.
17. Instead, the UNICEF Representative in Bangui - who had been sitting on this information for at least two months already - insisted that “*more information was required*” before taking any action and recommended that “*a verification mission to substantiate the allegations and assess the capacity of response on the ground should be conducted jointly by UNICEF, MINUSCA, and other UN Agencies.*”¹⁶
18. **UNICEF had already had nearly three months to collect the information that was required and had clearly not done it very well.** What benefit a *further* “verification mission” would serve is not

14 Annex A. Para 15.

15 Annex A. Para 16

16 Annex A. Para 16

entirely clear.

19. OIOS/ID also had a Chief Resident Investigator deployed to the MINUSCA mission. One would have thought that it would have made sense to involve him immediately – but that was not done either.
20. To his credit, however, the Head of Mission did issue a Press Release two days later - conveniently overlooking the question of why UNICEF had not done this already - stating that an integrated team was being sent (*i.e. future tense*) to gather and preserve available evidence.¹⁷
21. That Press Release specifically stated that the team would include OIOS - but OIOS knew nothing about it and had never been consulted. The OIOS Investigations Director in New York learned from his Investigator in the MINUSCA mission on 28 March that although he knew that meetings and briefings had been held to discuss the allegations, he himself had not been involved in the matter.¹⁸
22. This raises three important questions:
 1. Why did UNICEF and others in senior management in the MINUSCA mission exclude the representative from the only office with jurisdiction to even participate in any investigation, from the 'verification mission' announced in the press release of 25 March?
 2. When exactly did the Chief Resident investigator learn of these allegations and why did he not inform his superiors in New York immediately?

and most importantly:

3. What did UNICEF think they could do to investigate the allegations?
23. UNICEF had known about the abuses for two months already and while the MINUSCA press Release of 25 March had referred to “*sexual exploitation and abuse both by UN and non-UN forces and civilians in the Kemo prefecture*”¹⁹ there does not appear to have been any suggestion of UN civilian personnel being involved.
24. More importantly, UNICEF has no jurisdiction to investigate peacekeeping troops; there is no legal framework for them to do so. The only action they could take was to refer the matter to OIOS, and the MOU signed by Troop Contributing Countries gave the UN no discretion in the matter either; it is primarily a matter for the Troop Contributing Country.
25. The first priority for OIOS, of course, was to understand what had happened, and that simply

17 MINUSCA Press Release. 'UN send integrated team to investigate new SEA allegations in Kemo and reiterate commitment to sanction any perpetrator' 25 Mar 2016. Online at: <https://minusca.unmissions.org/en/un-send-integrated-team-investigate-new-sea-allegations-kemo-and-reiterate-commitment-sanction-any>

18 Annex A. Para 25

19 MINUSCA Press Release. 25 Mar 2016. *supra*

involved UNICEF sharing everything they had collected; they do not appear to have even been able to do that very well.

26. Even at that stage however, if the allegations all related to troops who had since been rotated out of the Mission; it was therefore apparent that there should have been no immediate need for urgency; if all of the individuals accused of these offences were out of the country already, they would have had very limited ability to interfere with witnesses or compromise the investigations.
27. When the OIOS Investigations Director discussed the matter with Ms. Mercedes Gervilla, the CDU Chief, (and wife of OIOS Deputy Director Michael Dudley) on 28 March, she also agreed it was necessary to collect more information before taking action. The report quotes her e-mail: *"...let us see what UNICEF has and then review it carefully for follow-up, namely assess and verify and determine credibility, and from there, as appropriate notify Member states or undertake investigations ourselves."*²⁰
28. This indicates some prudence rather than acting prematurely on the information already available, but it also appears to suggest that there might be some discretion in how these allegations should be investigated. This is not the case. The UN's standard 'Memorandum of Understanding' is clear and primary responsibility for investigating misconduct by military personnel lies with the Troop Contributing Country. Those national authorities may ask the UN to assist or to participate in their investigation, but the choice lies with them.²¹
29. There were only two possible scenarios here, either
 1. there *was* sufficient information or evidence to support a reasonable belief that misconduct has actually occurred, - in which case the UN would have to notify the TCC and let them proceed to investigate their own personnel, or
 2. there was *insufficient* information to support such a determination, so the UN could inform the TCCs that it did not appear to be possible to take any further action.²²
30. By that time, UNICEF had conducted **96** interviews.²³ That number of interviews alone must eliminate the possibility that there might not be sufficient grounds to initiate a formal investigation, but still; none of those interviews appear to have implicated UN civilian personnel;

20 Annex A. Para 24

21 Annex A. Para 123

22 If UN missions have the discretion to *assess* complaints against military personnel and then dismiss those complaints on the basis of the conduct did not appear to be a prima facie violation of any UN regulations so they do not refer the matter to the TCC; those military authorities are denied the opportunity to discipline their own troops for violations of military law of which the UN is entirely unaware. Moreover, the UN would have no grounds to object to the deployment of those individuals on future peacekeeping missions. The UN is not, and can never be, in a position to make disciplinary decisions relating to individuals on peacekeeping duties; any allegations must logically be referred to the TCC for them to carry out their own assessment of the matter.

23 Annex A. Para 23

this was always going to be a matter in which the Troop Contributing Countries were going to have the initiative.

31. In summary therefore, what appears to have happened here is that on becoming aware of the allegations, UNICEF spent over two months *assessing* the information before sharing it with the Head of the Mission, who agreed they needed more information deciding what to do about it, so he accepted UNICEF's recommendation that he order a 'verification mission' to do more *assessing*.
32. On learning what had happened, the OIOS Investigations Director immediately ordered his Chief Resident Investigator on the ground to get the necessary information from UNICEF.

The Senior Level Meeting

33. On Tuesday 29 March, having been made aware of what UNICEF had found; Ban Ki-moon's Chef de Cabinet, Mr. Edmond Mulet called an emergency meeting of what were described "all Senior-Level actors", including:
 - Mr. Anthony Lake, Executive Director of UNICEF;
 - Ms. Jane Holl Lute, Special Coordinator on Improving the UNs Response to Sexual Exploitation and Abuse;²⁴
 - Mr. Miguel de Serpa Soares, Legal Affairs and Legal Counsel,²⁵ and
 - Mr. Atul Khare, Assistant Secretary-General for Field Support.
34. The OIOS Investigations Director was aware of the allegations, but was not included in the meeting.
35. The MINUSCA mission had only learned of the allegations on Wednesday 23 March²⁶ and had rushed a team from various offices and agencies to Dekoa on Saturday 26 March.²⁷ This meeting - not unreasonably - wanted more information to *assess* the situation and requested that the best available detailed information be provided to them "*to inform the Spokesperson*" by close of

24 Ms. Lute had only been appointed as 'Special Coordinator on improving the United Nations response to sexual exploitation and abuse' in February 2016. This would therefore have been her first opportunity to demonstrate what could and should be done. She had earlier been tasked with convening a "high-level task force to develop as a matter of urgency, a clear, game-changing strategy to achieve visible and measurable further improvement in the Organisation's approach to preventing and responding to sexual exploitation and abuse". For reasons that are not known, however, that Task Force however, did not include representation from OIOS or any other investigative body. (See <https://www.un.org/preventing-sexual-exploitation-and-abuse/content/un-special-coordinator-0>)

25 Mr. Soares had earlier been responsible for the legal advice that stated how UN staff - because of their "immunity" - could not co-operate with French investigators (See <http://www.codebluecampaign.com/carstatement/>) Whether he drew the meetings attention to the fact that the UN had no jurisdiction here and that this was primarily a matter for the TCCs is not known.

26 Annex A. Para 16

27 Annex A. Para 18

business the next day; Wednesday 30 March.

36. Whether or not Mr. Lake was called to account for UNICEF not already having all of this information is not known. Nor is it known if the meeting demanded an explanation for why they had taken so long to pass it on.
37. In any event, if the documents leaked to Code Blue Campaign are an accurate reflection of what was discussed at that meeting, it shows the Meeting was more concerned with social support for the victims rather than identifying perpetrators who should be disciplined. It also shows, unfortunately, a confused and extraordinarily cumbersome approach to any problem as is common in the UN; but on this occasion they conflated the needs of the investigation with the desire to provide support to the victims.
38. With regard to the investigation of these allegations, in the first place the meeting does not appear to have given much consideration to the fact that **there were no allegations against UN civilian staff**.
39. The meeting was apparently told that “*Integrated/multidisciplinary assessment teams including Office of Internal Oversight Services investigators as well as UN staff members from MINUSCA’s Human Rights Office, UNICEF, and the UN Population Fund, have been sent (i.e. past tense) to investigate in affected remote areas of CAR*”, and that “*additional members to support urgent investigations are being dispatched in the coming days.*” (emphasis added) This was not correct. OIOS investigators had not been included.
40. While this may have satisfied the need to be seen to be *doing something*: the only thing that any UN personnel could do at that stage was take more statements, which is something that UNICEF had clearly not done very well in nearly **three months** since they had learned of the allegations from 'International Rescue.'
41. Moreover, while a degree of panic may be understandable, it showed a lack of management direction. The allegations all dated from 2014 and 2015, and were all against Burundian and Gabonese military personnel who – even if UN staff had the authority to interview them – were believed to have completed their deployments and returned to their home countries.
42. Assurances that investigators were being sent into the field were premature. This was a matter for the Burundian and Gabonese military authorities, neither of whom had even been formally notified of the allegations yet: Notes Verbale were only delivered to the Permanent Missions of the Republic of Burundi and Gabon on 30 March to inform them of the allegations against their respective military personnel.²⁸
43. The only thing the UN could do was to interview possible victims, distributing aid and assuring

28 Annex A. Para 28.

them that more support would be forthcoming. To that end, Assistant Secretary-General for Field Support Atul Khare is reported to have instructed “*that MINUSCA funds can be used for victim assistance where necessary, including transportation, medical support and emergency psycho-social care.*”²⁹

44. There was of course a need for social and medical support, but that should at least have been *started* by UNICEF three months earlier.
45. With regard to the investigation of these allegations, in the first place, the meeting does not appear to have realised that the allegations were for the TCCs rather than the UN to investigate.
46. When convenient, and when fielding questions about misconduct by civilian personnel in field missions; the UN is adept at shifting the blame for any inaction on to the TCCs, and excusing themselves on the grounds that they have no jurisdiction to investigate peacekeeping troops. Here however, there appears to have been such a need to be *doing something* that jurisdiction was entirely overlooked.
47. The result of MINUSCA's initial “fact-finding” visit to Dekoa was more confusion. Investigators arriving in the Mission several months after the investigation had begun reported the management of the information gathered to date was still unsatisfactory.³⁰

Assessment of Allegations

48. One of the peculiar features of the UN's approach to allegations of sexual exploitation and abuse in field missions is the practice of first carrying out an assessment to establish whether there is sufficient information or evidence to support a reasonable belief that misconduct has actually occurred, so that a formal investigation is warranted.
49. There is nothing inherently wrong with assessing every matter that is reported as possible misconduct. No investigative body anywhere can reasonable be expected to investigate every complaint received.
50. What is peculiar about the UN, however, is that these assessments are not carried out by the (supposedly) *independent* investigative agency who would, in any other environment, be the final arbiter of whether or not they believed they could make a case out of the evidence in front of them. In the UN, this is done by the Organization itself. As such, there is no oversight or public scrutiny of matters reported to them that they elect not to pursue, so information about the number of complaints dismissed at the assessment stage is withheld from the General Assembly.
51. Given the fact that large numbers of SEA investigations would reflect badly on the Organization

29 Code Blue Campaign Press release. 'Shocking new reports of peacekeeper sexual abuse in the Central African Republic' 30 March 2016. Online at: <http://www.codebluecampaign.com/press-releases/2016/3/30>

30 Annex A. Para 40, sub-paras [A] to [D].

itself, there is clearly an incentive for Missions to dismiss as many complaints as possible, for whatever reason that staff there can offer.³¹

Unintended Consequences of Financial Support

52. In the rush to be seen to doing something and their willingness to spend money, it appears likely that the UN sowed the seeds of the factor they later tried to rely on to discredit the victims.
53. As soon as it became known that the UN was offering financial support, it would have been quite foreseeable that some in the local community, including the individual identified as Gerard Moussa³² and probably others – would see this as a business opportunity.
54. In October 2016 – when the investigations were still ongoing – the Reuters news agency reported that leaked memo by Mercedes Gervilla, the head of the Conduct and Discipline Unit, was briefing her superiors on the conduct of the OIOS investigation, with particular reference to how many of the complaints appear to have been contrived. Quite apart from the breach of confidentiality, in that OIOS should not have been discussing the progress of the investigation with her, Gervilla's³³ efforts to discredit many of the victims; has to be described - at best - as *duplicious*.³⁴
55. What is curious is the suggestion that Moussa's activities in soliciting complaints, while apparently known to the MINUSCA mission - seems to have been withheld from the OIOS investigators, making it difficult to assess the credibility of witnesses and introducing an element of subconscious prejudice as *all* of the complaints may have been (improperly) assumed to be financially motivated.³⁵
56. It is unlikely that Mr. Khare was conscious of the risk that financial support might compromise the investigations when he made the decision at the meeting on 29 March when he said that mission funds could be spent. There is no evidence that the meeting even considered the need for an investigation, but the risk of fraudulent claims should always have been foreseeable. This risk only underscores the need for a high level of skill and a degree of sophistication on the part of the investigators; it should never be cited to discredit genuine victims.

31 This explains the complete absence, on the UN Conduct & Discipline website (<https://conduct.unmissions.org/table-of-allegations>) of any allegations where the assailant is described as “unknown.” This implies that either (a) absolutely every rape victim in the UN system can always positively identify their attacker, or (b) the UN will not investigate a case where the victim cannot do so.

32 Annex A. Para 104

33 Gervilla is the wife of OIOS Deputy Director Michael Dudley. The relationship between OIOS and CDU is clearly not one of any arms length distance.

34 Reuters. 'U.N. memo casts doubt on some Central African sex abuse accusations' Tim Cocks, Michelle Nichols & Marine Penetier. 11 October 2016. Online at: <http://www.reuters.com/article/us-centralafrica-un-crime-exclusive-idUSKCN12B268>

35 Annex A. Paras 49 and 113.

Identification of the Dekoa Investigations

57. The first challenge here was identifying the Dekoa investigations from all the *other* SEA investigations going on in the MINUSCA mission that year.
58. OIOS reports are not consistent. The normal practice is that one report should relate to misconduct by one individual, but there have been instances where multiple allegations against the same individual were investigated as separate cases rather than as a pattern of behaviour. In addition, in the case of civilian staff members, OIOS differentiates an 'investigation report' (meaning an investigation that found "possible misconduct")³⁶ from a 'closure report' (where no "possible misconduct" was found).
59. Contingent reports need not follow that same practice. In the first instance, all subsequent disciplinary decisions are taken by the TCC not the UN, but more significantly, all reports are called "Contingent Reports" whether or not the initial allegation is established, making it very difficult to determine how many of these investigations were actually successful.
60. In addition, military law being peculiar in many respects, the code of military justice of many armed forces includes a general catch-all provision, such as the offence of "conduct prejudicial to good order and military discipline" - cunningly worded to encompass a multitude of sins! It is therefore possible for an investigation into an alleged rape to result in a soldier being disciplined for a lesser offence, such as being late on parade in the morning or out of barracks without permission.
61. In the Dekoa situation, OIOS issued reports against multiple subjects, making it difficult to establish the total number of soldiers actually investigated for sexual misconduct.
62. Annex B shows that analysis of the OIOS Annual Reports and other official UN information has established:
- 1. that all of the results of all the allegations were reported in only two reports (203/16 and 204/16),**
 - 2. that while 'performance shortcomings' by *some* investigators were identified, the more serious failings were at the management level, and**
 - 3. that any suggestions that OIOS personnel might need "additional training" - or that the allegations in Dekoa could not have been foreseen - are clearly not supported by the evidence of the number of *other* allegations investigated - *from that mission alone.***

36 Regardless of what is found in an OIOS investigation report, the decision as to whether or not that *does* constitute misconduct lies with the Under-Secretary-General of the Department of Management Strategy, Policy and Compliance.

Mismanagement of the Investigations

63. On 29 March 2016, having met with UNICEF and other parties involved in the matter, the OIOS investigator in the CAR was given just a spreadsheet with 98 names of victims, the age at time of incident, the current age, the nationality of the perpetrator, the year of incident, the type of the incident, and the victims' situation with regard to being pregnant or having given birth.³⁷
64. Of these however, he identified only 32 victims as representing *possible* cases for OIOS.
65. Given that there were no allegations against UN *civilian* staff, that would seem to suggest that those were the only ones where UN *peacekeepers* were involved.³⁸ The remaining 66 cases would logically appear to have been have been cases involving non-UN (i.e. French 'Sangaris') peacekeepers.
66. That same day - 29 March - that OIOS investigator advised his superiors that a MINUSCA fact-finding mission would go (i.e. in the future tense) go to Dekoa, but he did not believe there was any merit in him traveling there, suggesting instead that he stay in the capital "*to gather the UNICEF notes of interview and information about contingent rotations, and to prepare a photo album of possible perpetrators.*"³⁹
67. That would seem to suggest that he was unaware of the "integrated team" from MINUSCA that had already travelled to Dekoa on 26 March.⁴⁰

Proper Preparation and Planning

68. OIOS procedures require an action plan to be prepared and approved before work is commenced on any investigation. This is normal practice. No investigation, even into a single allegation against a single perpetrator on a single occasion proceeds without an action plan being approved.
69. Inexplicably, despite the facts that (1) it was clear from the outset that this would be a major investigation, (2) that it would be politically sensitive and (3) that it was the first major investigation into 'Sexual Exploitation and Abuse' in UN peacekeeping missions after publication of the Report of the Deschamps Enquiry;⁴¹ **this was not done for these major investigations in Dekoa.**
70. It also appears that the witnesses were not divided up and assigned to individual investigators,

37 Annex A. Para 26

38 OIOS Annual Report on 'Activities of the Office of Internal Oversight Services on peace operations for the period from 1 January to 31 December 2017' (UN Document No. A-72-330 Part II dated 19 February 2018.) Para 46.(c) Online at: [https://undocs.org/A/72/330\(Part%20II\)](https://undocs.org/A/72/330(Part%20II))

39 Annex A. Para 27

40 Annex A. Para 18

41 'Taking Action on Sexual Exploitation and Abuse by Peacekeepers; Report of an Independent Review on Sexual Exploitation and Abuse by International Peacekeeping Forces in the Central African Republic.' December 2015. Online at: [http://www.un.org/News/dh/infocus/centafricrepub/Independent-Review- Report.pdf](http://www.un.org/News/dh/infocus/centafricrepub/Independent-Review-Report.pdf)

leading to a predictable situation of investigators not knowing what they were supposed to be doing in advance, and so not being able to prepare for their interviews.

71. OIOS deployed a total of 31 staff members to the Central African Republic on a rotation, 21 of whom were investigators (It follows the remainder must have been support staff.) Those investigators interviewed some 435 individuals, both witnesses and complainants over 137 days.⁴² If the arithmetic holds, this would give an average of over 20 interviews per investigator, and 3.2 interviews per day.
72. Investigators did however complain that they were under pressure to conduct a given number of interviews per day⁴³; and that this – not surprisingly - compromised the *quality* of the investigations; the *quality* that the Director had earlier said would be “critical” to unearthing the necessary information.⁴⁴
73. It is significant that in mid-May – six weeks after the investigation began - one diligent Team Leader had the initiative to speak to two individuals who had important information hitherto unknown to OIOS.⁴⁵ The fact that nobody had done this six weeks earlier is a serious indictment of the OIOS Team Leaders on the ground in Bangui.
74. Investigators were also compelled to work in very difficult conditions, some of which was unavoidable, but there was clearly a serious lack of logistical support - despite the presence of the team that appears to have included 10 “non-'P' staff.” It follows that their role should have been as part of the team in Bangui, the purpose of which Swanson had described as being to “*make the investigation happen*”.⁴⁶
75. While intervention of Investigations Director Ben Swanson and Jason Uliana was obviously very helpful; that it was necessary in the first place is indicative of shortcomings on the part of the Chief Resident Investigator in the MINUSCA mission who, one would expect, should have made better arrangements prior to the arrival of the first investigators from other offices.⁴⁷

Sworn Records of Interview

76. On 10 April 2016, the Team Leader in the MINUSCA mission asked the Investigations Director Ben Swanson if investigators should follow the usual OIOS procedures, and ask victims and witnesses to provide an oath at the beginning of their interview. He argued, quite reasonably, that this was not appropriate when interviewing civilian rape victims.

42 Annex A. Para 38

43 Annex A. Para 65 sub-para [F], [G], [H], para 78 sub-para [A]

44 Annex A. Para 35

45 Annex A. Para 48.

46 Annex A. Para 36.

47 Annex A. Paras 59 & 79

77. Swanson replied that deviating from existing procedures would just create confusion, adding that he was more concerned with the *quality* of interviews.⁴⁸
78. The UN requirements for sworn statements arises from the UN Appeals Tribunal judgement in *Nyambuza* (2013-UNAT-364)⁴⁹ where it was held that a witness statements taken under oath (or affirmation) constitutes “clear and convincing evidence” of the facts stated therein, whereas one that is not declared to be “under oath” requires some other indication of the accuracy of the information, or, for that matter, the credibility of the witness.⁵⁰
79. Be that as it may, as this investigator was clearly aware; asking a rape victim – who is not a UN staff member – to formally declare that that they are telling the truth is likely to cause offence. This was always foreseeable and it is precisely what happened.⁵¹ It was interpreted negatively by witnesses and created the impression that they are being accused of wrongdoing themselves – which is hardly likely to help establish the rapport an investigator needs to put the witness at their ease and therefore get the most amount of useful information from them.
80. However, in answering the question, Swanson appears to have overlooked an important point; that the subjects of these investigations were military peacekeepers, not UN staff members. They were subject to the military discipline of their respective Armed Forces, so UN policies and procedures were of only secondary importance to what was admissible in evidence under military law of the TCCs.
81. What the UN Tribunals might have determined to be “admissible” for administrative purposes in the UN internal justice system may be interesting – but it has no bearing on whether or not that same piece of evidence will be admissible in a military tribunal of the Burundian or Gabonese armed forces.
82. This question never appears to have been addressed, resulting in witnesses being unnecessarily offended or intimidated.⁵²

Failure to Identify Fraud

83. In the course of the investigation, information was received from a local official who alleged that a Mr. Gerard Moussa had brought a number of women to UNICEF to be registered as victims, which he was doing for financial gain.⁵³
84. In order to establish whether this was fraud, two situations would have to be considered:

48 Annex A. Para 35

49 Online at: <https://www.un.org/en/internaljustice/files/unat/judgments/2013-UNAT-364.pdf>

50 The prospect of a witness *lying* under oath to an investigator does not appear to be one that either the Appeals Tribunal or OIOS cared to consider.

51 Annex A. Para 129

52 Annex A. Para 129

53 Annex A. Para 108

1. If any of the women that he introduced were **not**, in fact, victims, they would be perpetrating a fraud by claiming that they were, *and if Mr. Moussa was aware of the fact they were not victims*, he would be personally implicated.

and

2. If we assume that the women he introduced **were**, in fact, victims of sexual assaults; it would depend on whether he told them that they were obliged to pay him a commission in order to qualify for financial compensation.

85. Ms. Gervilla the Conduct and Discipline Chief claimed to have learned from OIOS⁵⁴ “...*that many of the complaints followed a specific pattern of accusations; many of the complainants' stories were nearly identical, lacked specific details and fell apart when probed. It appeared as though the complainants had memorized a script.*”⁵⁵

86. If that is so, it clearly indicates that the witnesses were coached, and if their allegations were “nearly identical” there was clearly a common source for that coaching. All of the witnesses whose stories bore striking similarities should have been interviewed about their involvement with Mr. Moussa or any other preparation by any other party they had received.

87. This does not appear to have been done, **because no-one appears to have been reviewing or monitoring the interview reports in real time.**

88. OIOS did, nevertheless, identify the possibility of fraud here, and shared their concerns with UNICEF – even if only in a very small number of witnesses. For unknown reasons however, this appears to have been done at the local level rather than by following the established procedure.⁵⁶

89. Collusion among witnesses and possibly involving NGOs in receipt of mission funds is not insignificant. It is directly relevant to both the allegations being investigated by OIOS and financial accountability of the MINUSCA mission in general, particularly in view of the implications for how the Organization handled large scale allegations of sexual exploitation and abuse. The allegations should have been investigated properly, and the decision to do so should have been made by the Investigations Director himself and certainly not anyone less senior.

90. In the end, UNICEF claim to have found no evidence of collusion or corruption and so closed the

54 Her husband is OIOS Deputy Director Michale Dudley.

55 Reuters. 'U.N. memo casts doubt on some Central African sex abuse accusations' Tim Cocks, Michelle Nichols & Marine Penetier. 11 October 2016. Online at: <http://www.reuters.com/article/us-centralafrica-un-crime-exclusive-idUSKCN12B268>

56 It may be entirely co-incidental but OIOS investigator Jason Uliana, who played a leading role in the Dekoa investigations, was later employed by UNICEF as head of their Office of Internal Oversight and Audit. That in itself would not be so suspicious if he had not consented to retaining his predecessor in that post as his “Principal Adviser. See <https://www.linkedin.com/in/jason-u-882852b/> and <https://www.linkedin.com/in/kevin-curtis-b431547/>

case.⁵⁷ Given the concerns raised by OIOS investigators, and UNICEF failure to properly collate and assess the information they had *since January 2016*, and what is known about their history of poor investigative work in other areas,⁵⁸ that conclusion cannot be considered satisfactory.

Financial Management

91. The exact financial cost of the investigations was not known to the author of the review document, but Investigations Director Ben Swanson was quoted as having said that the cost of the operation was some **US\$ 481,000**, a sum about equal to the entire operational and training travel of the Investigation Division for *two years*.⁵⁹
92. If that is even vaguely correct, significant readjustment of budgets must have been necessary, taking funds away from other budgets for other purposes, and is very likely to have had an adverse impact on *other* investigations, particularly if travel might have been an option.
93. The author of the review noted that a staff member Patricia had to seek Swanson's permission to release the financial information, and that that permission was not forthcoming before the draft was finalised.⁶⁰ While it is not impossible that that was an innocent oversight, it is probably more likely to be interpreted negatively.
94. The level of expenditure on this case, compared to the number of allegations (none, or very few of them being substantiated) must be a considerable embarrassment.

DNA Evidence

95. The mishandling of DNA evidence in this case described in the report is suggestive of gross negligence.
96. Unconfirmed rumours of DNA evidence being mishandled in this case had been circulating for some time, and were referred to in a press article in 2018.⁶¹ It now appears that **none** of the DNA samples collected in the course of the investigation actually produced any reliable results, and that this was due to the incorrect collection and subsequent storage of the samples before they were sent for analysis.⁶²
97. There is an OIOS Protocol on 'Collection of DNA Samples'⁶³ that was clearly not followed, even

57 Annex A. Para 114

58 See Aahooja (UNDT/2019/033) online and annotated at: <http://peteragallo.com/wp-content/uploads/2019/04/Aahooja-UNDT-2019-033-Annotated.pdf>

59 Annex A. Between paras 83 and 84.

60 Annex A. Between paras 83 and 84.

61 Philip Kleinfeld "Special report on the Central African Republic, Part 3. 'I have no power to complain'" The New Humanitarian. 25 July 2018. Online at: <https://www.thenewhumanitarian.org/special-report/2018/07/25/central-african-republic-peacekeeper-sexual-abuse-investigation>

62 Annex A. Para 175

63 OIOS document No. 5e-PROT-012011 dated 1 January 2011

though it was evident from the UNICEF spreadsheet that was available from the outset that several of the victims had had children as a result of either relationships with, or rape by, the subjects of the investigation.

98. While it is appreciated that the deployment of investigators was – rightly or wrongly - rushed at the beginning of the investigation, there can be no excuse for staff rotated through the CAR later not to have found the time to refamiliarise themselves with it.
99. Even without reference to the Protocol however, there can similarly be no excuse for specimens were collected in Dekoa between March and May 2016 being stored in Bangui for twelve months in what were patently inappropriate conditions.⁶⁴
100. This is a further indictment of the general lack of management of the investigations, and suggests a very serious failing on the part of the Team Leader in Bangui in particular.
101. Investigators writing the reports on their work in the CAR ought to have realised the DNA results were missing and raised the matter long before a full year had passed.
102. The New Humanitarian reported in their article: *'Swanson, the UN's top investigator, disputes some of the women's accounts. He told IRIN that DNA testing "on around 20 victims and their children" has shown "with a high degree of confidence, that the soldiers identified were not the fathers of the children they were alleged to be.'*⁶⁵
103. How Swanson could make such a statement if none of the DNA samples taken in the course of the investigation produced any useable results is not clear.
104. More seriously, Swanson also admitted to the New Humanitarian journalist that there were problems with DNA evidence on "2-3 swabs". If the report is correct; that was patently not the case. It appears that the journalist's source was not mistaken, leading to the conclusion that Swanson had simply *lied* when interviewed by the press.

Interviewing Standards

105. Interviewing is the most basic 'bread and butter' work of OIOS investigators, the importance of which cannot be exaggerated. It is particularly crucial in sexual misconduct investigations where the subject matter is acutely sensitive, there are no third party witnesses and there is no forensic evidence. These investigations very often come down to consideration of contradictory statements from the victim and the accused.
106. The Conduct and Discipline website suggests that OIOS had conducted 117 SEA investigations,

64 Annex A. Para 176

65 Philip Kleinfeld "Special report on the Central African Republic, Part 3. 'I have no power to complain'" The New Humanitarian. 25 July 2018. Online at: <https://www.thenewhumanitarian.org/special-report/2018/07/25/central-african-republic-peacekeeper-sexual-abuse-investigation>

plus another 9 joint investigations with Troop Contributing Countries in the previous 5 years. Interviewing victims of sex crimes could not have been an unusual occurrence, and - particularly after the 2015 crisis – there can be little justification for poor interviewing techniques. OIOS investigators carry out interviews in every investigation; management cannot plausibly claim not to have been earlier aware of the general conclusions in the review document.

Activity over Productivity

107. The review documents also describes over 100 daily situation reports being generated.⁶⁶ Staff from other duty stations were deployed to the CAR from April to September 2016 which is a period of six months, suggesting that one such report was being sent about every second day.
108. While this will almost certainly have helped keep the Director intimately apprised of the number of interviews being carried out and other logistical problems that needed to be addressed, the greatest investigative failing in this investigation appears to have been the lack of any overall supervision of the investigation at the operational level. There does not appear to have been any significant analysis of the information being collected, and no manager with longer term responsibilities for identifying strategic opportunities, establishing priorities and directing what further information needed to be pursued.
109. Also, the allegations in Dekoa were historic. The only action that OIOS might have to take immediately would be on a logistical matter, one would have expected direct intervention by senior management to have resolved matters before it required 100 situation reports.
110. If those daily situation reports contained a lot of operational information about the progress of the investigation, sending one every second day must have been an administrative burden that took up valuable time that the senior figure on the ground should have been spending on actually managing the investigation. If they did not, one can only wonder what value they actually were.

Victim A : Photo Arrays & Corroboration

111. In these investigations, as is usually the case in the UN, identification of subjects had to be done largely by means of photo arrays. Where the victim did not subsequently give birth as a consequence of her sexual contact with the subjects, photo arrays were the *only* way of identifying the accused.⁶⁷
112. The case of 'Victim A' is particularly shocking.⁶⁸ She was presented with photographs of 13 individuals, but the man she claimed had got her pregnant *was not included*; so she obviously failed to identify him!⁶⁹ This, apparently, was relied upon by the Burundian investigators to clear

66 Annex A. Para 63

67 Annex A. Para 138

68 Annex A. Paras 145 to 172

69 Annex A. Para 153

the subject referred to in Annex A as “John” of rape - despite the fact that 'Victim A' had never claimed to have been raped.⁷⁰

113. On a second occasion however, Victim A was shown 140 different photographs and was immediately able to recognise him.⁷¹
114. Even if the OIOS investigators present at the first interview were not responsible for producing the first photo array, it is clear that OIOS knew that “John”’s picture was missing from the photo array she had been shown – so at the very least there ought to have been a disagreement between them and Burundian investigators over John's innocence.
115. No such contrary findings are recorded.
116. Moreover, the OIOS investigators failed to follow up on Victim A's statement about having rice from the Burundian contingent at home⁷², and they failed to follow up on her information about her abortion⁷³ and failed to follow up with the information about John's friend “Tom” knowing about their relationship.⁷⁴

Co-Operation with NIOs

117. In the final analysis, the role of OIOS in these investigations was to support the investigations by the military authorities of Burundi and Gabon respectively.
118. If any troops were to be disciplined, that would have to be done under the applicable laws of military justice of the respective NIOs. For that reason, on occasions such as this, OIOS policies and procedures are largely of secondary importance; the subjects were not UN civilian staff members and could never be disciplined by the UN.
119. TCCs have the option of inviting OIOS to conduct a “joint” investigation when one of their troops on UN peacekeeping duties is accused of wrongdoing, and when they elect to do so, the decision is likely to be motivated, at least in part, by the desire to be *publicly seen* to be complying with their obligations to the UN. The legal basis for such “joint” investigations however, is contained in Terms of Reference agreed with OIOS on a case by case basis.
120. In this case however, the TOR with the Gabonese authorities does not appear to have complied with the standard form of such agreements, and the document in the file appears to be just a two page agreement with two fonts on each page.⁷⁵
121. It serves no useful purpose to hypothesise on what legal complications might have arisen of this

70 Annex A. Para 156

71 Annex A. Para 153

72 Annex A. Para 145

73 Annex A. Para 146

74 Annex A. Para 147

75 Annex A. Para 87

agreement was not properly executed, but it is curious that it bore the signature of the OIOS Team Leader not the Director. This was clearly an important legal document but one that appears to have been executed improperly, which agains points to serious shortcomings on the part of OIOS management.

122. In the case of Victim A⁷⁶ the OIOS investigators also failed to follow up on her statement that she had been interviewed previously by three Burundian officers *before* her interview with the NIOs and OIOS. That raises a number of questions about what the Burundian investigators were doing, and what else they may have withheld from OIOS. It is particularly curious (if not suspicious) that OIOS should omit this piece of information from their report.⁷⁷
123. In general, the comment from one of the investigators about the need to brief all the investigators before they begin working on an investigation on such a scale, and “*the value of having an initial meeting with the NIOs to also compare processes and work out a modus operandi before the investigation begins*” is fundamentally obvious.⁷⁸ It is, of course, very possible that somebody did have a meeting with them but the fact this investigator was unaware of what was agreed indicates, at the very least, a failure to communicate important information.
124. A number of other comments unfortunately indicate not just a lack of liaison with the NIOs, but with UNICEF and other UN offices as well.⁷⁹
125. OIOS investigators were thrown into a project without knowing the NIOs objectives or understanding the legal basis under which they were required to operate. This has to be an indication of serious management failings on the part of OIOS.
126. There is however another liaison question that is not addressed in the review, and that relates to allegations against French 'Sangaris' mission troops.
127. The initial allegations reported to UNICEF had specifically mentioned French troops⁸⁰ and the documents leaked to Code Blue about the secretary-general's meeting on 26 March 2016 made specific reference to local civic leaders having told a MINUSCA Human Rights Officer about a local girl being forced - by French troops - *to have sex with a dog.*⁸¹
128. In the course of the OIOS investigation, one witness - Victim F – mentioned local women being forced to have sex with dogs.⁸² Whether this information or the contact details of this witness were ever shared with French authorities is not known.

76 Annex A. Paras 145 to 172

77 Annex A. Para 158

78 Annex A. Para 52 sub-para [I]

79 Annex A. Para 52 sub-para [A] to [I] and [Q],

80 Annex A. Para 13.

81 Code Blue Campaign Press release. 'Shocking new reports of peacekeeper sexual abuse in the Central African Republic' 30 March 2016. Online at: <http://www.codebluecampaign.com/press-releases/2016/3/30>

82 Para 96 sub-para [F]

129. The Review document makes no reference to any co-operation with French authorities, which is curious given that the scandal the previous year had involved the UN's failure to co-operate with the French authorities when they tried to investigate allegations of child sex abuse in the CAR.

Improper Involvement of UN Conduct & Discipline

130. The more significant feature of Reuters story about Gervilla's memo⁸³ is that it reveals how OIOS appear to have breached confidentiality by sharing information with her prior to completion of the investigation.⁸⁴
131. The Conduct & Discipline website confirms that the investigation into Burundian contingent (0203/16) which was initiated on 30 March⁸⁵ was completed in 266 days. Simple arithmetic therefore puts the completion date of those investigations about mid-December, so the investigations would still have been ongoing in October when Mercedes Gervilla was writing memos trying to discredit the victims.
132. Communication of this sort is unsurprising and has been the subject of numerous complaints that the UN has been unwilling to address; Mercedes Gervilla is the wife of Michael Dudley, who is the Deputy Director of OIOS/ID in New York; and both were appointed to their respective positions in a rather controversial manner.
133. In the memo, Gervilla also states that an OIOS fact-finding mission at the end of August had collected *a further 216 allegations* against Burundian, Gabonese and French military personnel.⁸⁶
134. If this was the case, those allegations appear to have mysteriously *vanished*.
135. Alternatively, if it was *not* the case; it raises very serious questions about the *quality* of information that Gervilla passes on to senior management, and the extent to which she is improperly influenced by what she learns from her husband.
136. Moreover, there is no indication of the Investigation Director having been concerned about this information being shared with the Conduct & Discipline Unit, despite his own Deputy being the prime suspect and there being a history of such improper collusion in the past.

83 Reuters. 'U.N. memo casts doubt on some Central African sex abuse accusations' Tim Cocks, Michelle Nichols & Marine Penetier. 11 October 2016. Online at: <http://www.reuters.com/article/us-centralafrica-un-crime-exclusive-idUSKCN12B268>

84 Reuters. 'U.N. memo casts doubt on some Central African sex abuse accusations.' 11 October 2016. Online at: <https://af.reuters.com/article/congoNews/idAFL8N1CH5CZ>

85 Annex A. Para 29

86 Reuters. 'U.N. memo casts doubt on some Central African sex abuse accusations' Tim Cocks, Michelle Nichols & Marine Penetier. 11 October 2016. Online at: <http://www.reuters.com/article/us-centralafrica-un-crime-exclusive-idUSKCN12B268>

Security and Safety

a) Physical Security

137. The MINUSCA mission was a particularly dangerous environment. There were fatalities among peacekeepers⁸⁷ and the mission headquarters building had come under attack⁸⁸ only a few months earlier and the violence continued when the OIOS investigation was underway.⁸⁹
138. UN staff, including obviously OIOS investigators, should not be deployed in field missions without prior security training and adequate measures being put in place for their safety in the field. Why this does not appear to have been done in Dekoa is not clear and should be addressed. It is indicative of serious negligence on the part of OIOS management.
139. MINUSCA conducted a security risk assessment on 12 April 2016⁹⁰, followed by a security survey on 11 May 2016,⁹¹ but adequate measures were never put in place, even on a temporary measure. Under-Secretary-General Heidi Mendoza herself visited the investigators on the ground on an unknown date during the course of the investigation, she was accompanied by two armed Close Protection Officers who expressed their astonishment at the lack of security.⁹²
140. All of the subjects in these investigations had been rotated out of the mission some time earlier, there should have been no real risk of them interfering with witnesses or otherwise compromising the investigation. A delay in conducting the investigation, while not desirable, would have been understandable and justifiable in view of the known security risks.
141. That said, the irony is that the local peacekeeping troops still appear to have been Burundian.⁹³ Had they failed to respond with sufficient speed had an incident occurred; they would have been exposed to the criticism that they had no interest in preventing the OIOS investigators from being intimidated.
142. The lack of security, which had clearly been seen by the USG herself, meant that investigators lives were being put at risk unnecessarily.

b) Medical Health and Safety

143. There was, in addition, a serious risk to the investigators' health; of the 21 investigators who were deployed, **8** contracted malaria, **3** of whom suffered very serious and potentially life threatening

87 MINUSCA Press Release 7 October 2015. <https://minusca.unmissions.org/en/one-minusca-peacekeeper-killed-attack>

88 MINUSCA Press Release 3 October 2015. <https://minusca.unmissions.org/en/armed-individuals-open-fire-front-minusca-hq-bangui>

89 Security Council Press Statement on attack against UN Peacekeeping Mission in CAR. Ref: SC/12329-AFR/3362-PKO/572. 18 April 2016 <https://www.un.org/press/en/2016/sc12329.doc.htm>

90 Annex A. Para 73

91 Annex A. Para 74

92 Annex A. Para 76 Sub-Para [C]

93 Annex A. Para 76 Sub-Para [I]

strains of the disease.⁹⁴ How this came about is not clear. UN Personnel should not be deployed into field mission environments without prior medical clearance. The risk of malaria in Africa is well known but modern prophylaxis for the disease is generally effective if taken properly and in accordance with established UN procedures.

144. How so many OIOS staff became ill should be addressed, while it may have been unavoidable, the number of cases is indicative of serious negligence on the part of OIOS management.
145. What is less excusable, however, was OIOS management's disregard for the welfare of their staff.
146. While the Investigation Director must be excused his embarrassment for only learning about the health of one of his investigator from a parent who called him to inquire about it, that investigator's immediate supervisor should have no excuse for not informing him – particularly if the investigation was still ongoing as there was clearly an ongoing health risk. This is indicative of very poor management on the part of their supervisor.

The Results of the OIOS Investigations

147. On completion of an investigation into UN staff members, OIOS issued either an 'Investigation Report' if misconduct is established, or a 'Closure Report' where no disciplinary action is warranted. When investigating military personnel however, all reports are described as 'Contingent Reports' regardless of whether or not misconduct is established.
148. Reference to 'Contingent Reports' in OIOS Annual Reports therefore show *activity*, but do not allow the Member States to draw any conclusions as to whether any misconduct was ever established.
149. With regard to the allegations from Dekoa however, buried in the small print in the OIOS Annual Report for 2016 is the admission that OIOS was unable to substantiate **any** of the allegations of misconduct against the Burundian contingent⁹⁵ and the UN Conduct & Discipline website fails to indicate that **any** of the allegations against the Gabonese contingent were substantiated either.⁹⁶
150. What therefore appears to be a batting average of **zero** out of 163 allegations, and at a financial cost of **US\$ 481,000**⁹⁷ and what must have been a very substantial (but undisclosed) number of man hours) is *unimpressive*. It cannot be entirely unrelated to the numerous shortcomings identified in the review document – not least of which was the mishandling of the DNA evidence.⁹⁸

94 Annex A. Para 70

95 OIOS Annual Report for Peacekeeping activities for the year ending 31 December 2016. UN Document No. A/71/337 (Part II) dated 21 February 2017. (Online at: [https://www.un.org/ga/search/view_doc.asp?symbol=A/71/337\(PARTII\)&Lang=E](https://www.un.org/ga/search/view_doc.asp?symbol=A/71/337(PARTII)&Lang=E)) Para 57

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

97 Annex A. Text between paras 83 & 84

98 Annex A. Paras 175 to 179

151. In December 2016, when the OIOS investigation was over, the UN Press Office prepared a note for correspondents on the conduct of the OIOS investigations.⁹⁹
152. In it, they stated that 139 possible victims were interviewed. The number of “possible victims” identified by OIOS however, was reported to be 163¹⁰⁰. The discrepancy is not explained.
153. As is not uncommon in the UN, the briefing note is comprised of statistics that fail to answer the fundamental questions about the results of the investigations; “*By means of photo array and/or other corroborating evidence a total of 41 alleged perpetrators (16 from Gabon and 25 from Burundi) were identified by 45 interviewees; eight persons were unable to identify perpetrators through photo array or other corroborating evidence but were able to describe some distinctive traits; 83 were not able to identify perpetrators or provide corroborating evidence; and three accounts were considered unreliable. A total of 25 minors asserted they had been sexually abused. A total of eight paternity claims were filed, including by six minors.*”¹⁰¹
154. This states that 41 peacekeepers (16 Gabonese and 25 Burundian) had been “identified.” That can easily be misinterpreted to mean that the allegations against them had been proved. That interpretation is certainly reinforced by the later statement that the names of these identified alleged perpetrators had been “*passed to the national authorities*” and that the UN had “*requested for appropriate judicial actions to ensure criminal accountability.*”(sic)
155. That, however, appears to conflict with the information on the Conduct & Discipline website which indicated that, at least insofar as the Burundian contingent is concerned, the OIOS investigators found all of the allegations to be **unsubstantiated**; they found absolutely no sexual exploitation and abuse, but they did find “fraternization.”
156. In that respect, the use of the word “identified” in the Press Note suggests that the word is being used to mean just that they had been *recognised* by witnesses who were able to pick them out of a photo array.
157. The Press Office makes no reference to any DNA evidence of course as it is now clear that all of the samples were mishandled by OIOS and rendered useless.
158. In their case therefore, the “*appropriate judicial actions to ensure criminal accountability*” requested by the UN appears to relate to nothing more serious than buying drinks for local women and possibly asking them to dance.
159. OIOS does not appear to have established any sexual misconduct in Dekoa; and this Review

99 UN Note to Correspondents on the investigations into allegations of sexual exploitation and abuse against peacekeepers deployed in the Central African Republic. 5 December 2016. Online at: <https://www.un.org/sg/en/content/sg/note-correspondents/2016-12-05/note-correspondents-investigations-allegations-%E2%80%8E-sexual>

100 Annex A. Footnote 3 on page 1.

101 UN Note to Correspondents *supra*

appears to indicate that the reason for this must, at least in part, be attributed to performance shortcomings on the part of OIOS investigators and more importantly, managers.

160. As for the activities of the Burundian and Gabonese authorities, the Press Note states: “*Responsibility for **further investigations** lies with Burundi and Gabon. The United Nations has requested from the Burundian and Gabonese authorities that **they review the OIOS findings and conduct the interviews of the alleged perpetrators** who had all been rotated out from Central African Republic before the allegations surfaced. The United Nations has asked for a copy of the final national investigation reports to be transmitted urgently.*”¹⁰² (Emphasis added)
161. This makes it quite clear that OIOS involvement was limited to interviewing witnesses - and it is now clear that that was done very badly.
162. It is not unusual in “joint” investigations that the military NIOs will interview the military personnel and OIOS interview the civilian witnesses (usually with the NIOs observing.)
163. On this occasion, however, it is clear that OIOS could not present any viable cases of sexual misconduct on the strength of the witness interviews that they carried out. The OIOS investigations were nevertheless closed, even though the Burundian and Gabonese investigations continued. This would explain why, in 2018, OIOS issued an addendum to 0204/16.¹⁰³ It suggests that the Gabonese came back to OIOS with a request for more information from a witness.
164. This is only to be expected. A peacekeeper accused of misconduct might have a plausible excuse for how he was identified (e.g. “*I asked her to sew my uniform after it got torn and then she wanted more money as we agreed, so we argued...*” or “*She pestered me for a drink in the bar and was offended when I would not buy her one...*”) When this happens, it is necessary to re-interview the witness.
165. Swanson was quoted in the New Humanitarian article as saying: “*This revisionist approach which seeks to rubbish [our investigators’ work in Dekoa] and attack OIOS is as repulsive as it is unwelcome.*”¹⁰⁴ The irony, of course, is that it was Swanson who commissioned the internal review of the investigations, it was his leadership that was inadequate and it was he who failed to take any management action against any of the supervisors or investigators whose professional shortcomings were exposed in the investigations that he denied were flawed.
166. While he may well consider any criticism of his office and of his own management abilities to be

102 UN Note to Correspondents *supra*

103 See Table A above.

104 Philip Kleinfeld “Special report on the Central African Republic, Part 3. ‘I have no power to complain’ The New Humanitarian. 25 July 2018. Online at: <https://www.thenewhumanitarian.org/special-report/2018/07/25/central-african-republic-peacekeeper-sexual-abuse-investigation>

repulsive and unwelcome; the conclusion to be drawn is that OIOS/ID, which has been the subject of numerous scandals covered up by senior management, appears to be ***unfit for their function***.

Options for Reform

167. In his report to the General Assembly on 27 September 2017, the Secretary-General wrote: “*The implementation of my strategy to combat sexual exploitation and abuse and our strengthened whistleblower policy will be greatly enhanced by our ability to conduct **robust and timely investigations**. OIOS is an important partner in those efforts. I encourage Member States to mandate an external review of the mandate and capacity of the Office, focusing on its functions in the areas of auditing, **investigation** and evaluation.*”¹⁰⁵ (Emphasis added)
168. It is clear that the Organization has no interest in instructing such an “external review” nor is the Secretary-General interested in pursuing complaints of misconduct by the Investigations Director¹⁰⁶.
169. A number of management reviews of the OIOS Investigations Division have been conducted in the past, all facilitated by the then Department of Management, none of which has addressed the management problems therein. On the contrary, the Department of Management was been complicit in protecting key individuals in OIOS/ID despite overwhelming evidence of their mismanagement, and other wrongdoing.
170. The mishandling of the Dekoa investigations is not an anomaly. Senior management of the UN has been wilfully blind to numerous personal and performance shortcomings on the part of senior staff in the OIOS Investigation Division and have been content to protect them from any form of accountability for at least ten years.
171. The current Under-Secretary-General of Management Strategy, Policy and Compliance – Catherine Pollard – has been personally involved in protecting individuals in the OIOS Investigation Division accused of serious wrongdoing.
172. She refused to provide information¹⁰⁷ about the financial cost of settling a number of UNDT cases that resulted in the Organization had to settle because decisions were made on the strength of fundamentally unsound investigations by an identified clique of OIOS investigators who enjoyed her protection.
173. She was also complicit in the misuse of a considerable amount of money on an unwarranted

105 Report of the Secretary-General. 'Shifting the management paradigm in the United Nations: ensuring a better future for all' UN Document No. A/72/492. Online at <https://undocs.org/A/72/492>. Para 62

106 e.g. complaint against Investigations Director Ben Swanson and others for misconduct in the course of the UNDT hearing in *Nouinou -v- Secretary-General (UNDT/2018/070)* dated 22 August 2018

107 Requested by then Investigation Director on 20 June 2014

investigation into a bad faith complaint against that former Investigations Director, also for the benefit of these same individuals.¹⁰⁸

174. This protection, acknowledged by a previous Under-Secretary-General, raises very serious questions about what benefit is being enjoyed in return, and fundamentally undermines the “*operational independence*” that OIOS was established to exercise.¹⁰⁹
175. A further review of the investigations in Dekoa would be costly and ultimately serve no useful purpose, nor would any *internal* review of the operations of the OIOS Investigation Division carried out under the auspices of the Department of Management Strategy, Policy and Compliance.

A more comprehensive and totally *external* review by the member states, addressing all the managerial and investigative shortcomings in the office over the last ten years is clearly warranted.

ANNEXES

Annex A: OIOS internal review of the Dekoa Investigations

Annex B: Identification of the Dekoa investigations & OIOS/ID's previous experience of Sexual Exploitation and Abuse in the MINUSCA Mission.

¹⁰⁸ UNDT Order No.185 (NY/2015). Online at: <https://www.un.org/en/internaljustice/files/undt/orders/ny-2015-185.pdf>
¹⁰⁹ A/Res/48/218-B dated 12 August 1994. Online at: <https://undocs.org/a/res/48/218B>

Annex A

OIOS Review of the Dekoa Investigation (OIOS Case numbers 0203/16 and 0204/16)

Note: This document is clearly incomplete and is marked 'Draft'.

Although finished in early 2017, it appears that:

1. the author was denied certain information, notably with regard to the financial cost of the operation, and
2. no final version was ever produced, nor were the findings ever made known, either to the investigators who worked in the investigations, or their supervisors

DEKOA REPORT (FIRST DRAFT)

Introduction

1. This report was prepared in response to a request¹ by the Director of the Investigations Division, Office of Internal Oversight Services, (the Director) for an independent and comprehensive review of the OIOS deployment to Dekoa², Central African Republic. The report is divided into three sections and several subsections. It describes the circumstances surrounding the Director's request, the methodology followed, and the findings arising from the review. It also makes recommendations based upon those findings. The views expressed in the report are based upon four main sources.

- findings from the documentation
- findings from the review of case files
- findings from the responses to a questionnaire
- findings from the interviews

Background

2. Between April and September 2016, OIOS deployed investigators to Dekoa, following allegations received in March 2016 that Burundian and Gabonese United Nations peacekeepers sexually exploited and abused 106³ local women and girls in 2014 and 2015. The OIOS investigation was completed in late November 2016, and two reports of investigation with adverse findings and recommendations were provided to the Governments of Burundi and Gabon.

3. Shortly thereafter, the Director advised the author of this report that a holistic review of the OIOS deployment to Dekoa was necessary. In January 2017, he assigned the author this task and provided him terms of reference for the review.⁴

4. The main objectives of the review were to: (a) determine what worked well during the deployment, what didn't and why; and (b) to identify lessons that OIOS may apply for the future. In February 2017, the Director asked all OIOS staff involved with the Dekoa deployment to assist the review.⁵

Terms of reference

5. The terms of reference (TOR) for the review were as follows:
- (a) the circumstances of the initial report, the involvement of the NGOs and UN Agencies, how the report came to OIOS, and the decision making that led to the deployment;
 - (b) the speed of the OIOS response, internal and external enablers/disablers;

¹ E-mail from the Director to the author, 19 January 2017.

² Dekoa is a village located at about 300 kilometers north of Bangui, the capital of the Central African Republic.

³ The number of allegations subsequently grew to 163.

⁴ E-mail from the Director to the author, 19 January 2017.

⁵ E-mail from the Director to OIOS-ID staff, 7 February 2017.

- (c) the operation of the Forward Operating Base (FOB) in Dekoa;
- (d) staffing considerations, health, wealth, security, individual contribution and effects of rotation;
- (e) the cost of the operation to OIOS and the UN;
- (f) the NIOs;
- (g) the NGOs and the effects of possible corruption on the ground;
- (h) OIOS victimology, how OIOS treats victims;
- (i) OIOS procedures, policy and paperwork;
- (j) are there any available investigative techniques that weren't used and perhaps would have helped?
- (k) how the review can contribute to the work of the SG's Special Coordinator on SEA and the work of the UN-RIS Standing Task Force on the Improvement of the Investigation of SEA;

Methodology and deadline

6. The methodology used in the review is as follows:
- (a) literature and documentary information were examined
 - (b) an assessment of responses to a questionnaire was made
 - (c) interviews were conducted with UN staff and others
 - (d) OIOS case files⁶ were reviewed and results were summarized
 - (e) conclusions and recommendations were drawn up

Examination of material

7. In addition to materials available on the OIOS website, the documentation reviewed included: reports of the Secretary-General; Secretary-General Bulletins; Administrative Issuances; Resolutions of the General Assembly; Policy training; Guidance papers; and Specialized literature.

Questionnaire and Interviews

 This is believed to be a typo, the correct date being 2017

8. On 20 February 2016, the author sent a questionnaire⁷ to 27 current and 4 former OIOS staff involved with the deployment to Dekoa. Responses were received from 26 staff, including three former staff. The purpose of the questionnaire was to elicit views about the manner in which OIOS conducted its operation in Dekoa. Open-ended and specific questions were asked, allowing the interviewees to express candidly particular concerns and views.⁸

9. Subsequently, the author conducted interviews with selected respondents and with others. Most respondents and interviewees addressed policy issues, perceived deficiencies in operations and current processes. They also commented on challenges encountered, and offered valuable recommendations for change. It is important to note that all respondents were assured that their

⁶ ID Cases 0203/16 (Burundi) and 0204/16 (Gabon).

⁷ E-mail from the author to OIOS staff, 20 February 2016.

⁸ The questionnaire is provided in the annex to the report.

names would not be disclosed in this report and that the information they provide will be not-attributable.

Deadline

10. The Director requested that a first draft of this report be provided to him by 30 April 2017. The review was undertaken from late January 2017 to late April 2017, when a first draft of this report was submitted to the Director.

Findings

11. The findings are structured according to the four sources of the review identified in the introduction to this report. Although the sections below are treated separately, the remarks and findings contained therein reflect also responses to the questionnaire, comments, and recommendations made during interviews, and the examination of the case files.

Circumstances of the initial report; the involvement of the NGOs⁹ and of UN Agencies; how the report came to OIOS; and the decision making that led to the deployment.

The initial report

12. In late September 2015, at least 37 people were killed and more than a hundred were wounded in clashes that erupted in Bangui after the killing of a young man who was apparently targeted because he was a Muslim. Because these clashes had repercussions in Dekoa, the International Rescue Committee¹⁰ (IRC) deployed staff in the area.

13. In late December 2015, one IRC Child Protection Officer (CPO) present in Dekoa received initial allegations of SEA made against members of the French Sangaris¹¹ forces, and Burundian UN peacekeepers.

The involvement of the NGOs and of UN Agencies

14. In January 2016, the IRC informed the United Nations Children's Fund (UNICEF) of the allegations, and UNICEF deployed one staff to Dekoa. The UNICEF staff together with an IRC staff conducted joint interviews with SEA victims in Dekoa and identified 4 girls who made allegations of SEA against members of the French Sangaris forces.

15. In late February 2016, UNICEF again sent one staff to Dekoa, to assess the situation. She interviewed eighty possible victims of SEA, and documented her findings in a report which was later submitted to the UNICEF Representative in Bangui (the Representative).

9 The involvement of the NGO Association of Female Lawyers (AFJC) is discussed further in the report.

10 The IRC is a non-governmental organization which responds to humanitarian crises and helps people whose lives and livelihoods are shattered by conflict and disaster to survive, recover, and gain control of their future.

11 Operation "Sangaris" is a military intervention of the French military in CAR from late 2013 until 2016. This intervention was authorized under United Nations Security Resolution 2127 of 5 December 2013. Sangaris uniformed personnel are non-UN forces operating under Security Council mandate.

16. On 23 March 2016, the Representative informed the Special Representative of MINUSCA (the Special Representative) about the possible SEA cases. He did not provide details or figures, indicating instead that “a staggering number” of alleged SEA cases have been perpetrated in 2014 and 2015 by peacekeepers and international forces deployed in the area.¹² He added that while his colleagues had spoken directly with SEA victims, more information was required before preparing an official alert or going public. He also recommended that a verification mission to substantiate the allegations and assess the capacity of response on the ground should be conducted jointly by UNICEF, MINUSCA, and other UN Agencies. The Special Representative concurred.¹³

17. On 25 March 2016, MINUSCA issued a press release advising that it will deploy an integrated team rapidly to the area, to gather available evidence, and to preserve evidence to the extent possible.¹⁴

18. On 26 March 2016, a MINUSCA integrated team (composed of MINUSCA Human Rights Division (HRD), MINUSCA Conduct and Discipline Unit (CDU), UNFPA, UNHCR, and UNICEF) travelled to Dekoa and conducted interviews with the Sub-Prefect of Dekoa; the sisters at the Catholic Mission; and members of the local women’s association. Separately, HRD and UNICEF staff met with three possible victims of SEA.

19. On 28 March 2016, MINUSCA informed the Department of Field support (DFS) at UNHQ about their visit to Dekoa, provided details about the background of the allegations, and advised of ongoing efforts to ensure the protection of the possible victims. MINUSCA further advised that work was underway to review the information gathered by UNICEF, to try to determine which cases might have been committed by UN forces, and which by non-UN forces. It further advised that although at the time of the visit to Dekoa none of the SEA allegation could be confirmed, a full investigation was still necessary.¹⁵

20. On 29 March 2016, DFS answered that MINUSCA should first ensure all early information gathered in Dekoa is carefully assessed and investigated to establish the facts according to existing policies and guidance, and then, that any further fact-finding and investigation be carried out in a victim-centered approach, in respect of the principles of do-no-harm, confidentiality, and informed consent, and with the interest of the victims in mind.¹⁶

How the report came to OIOS

Why was this not done BEFORE?

21. On 24 March 2016, the UNICEF Representative forwarded his email exchange with the Special Representative to UNICEF colleagues in New York.¹⁷ This time, he provided more information, indicating for example, that the preliminary report prepared by his CPO had identified over 50 possible SEA cases - all occurring between 2014 and 2015. The Deputy

What exactly had UNICEF been doing since January?

Child Protection Officer?

12 E-mail from the UNICEF Representative in Bangui to the Representative of MINUSCA, 23 March 2016.
13 E-mail from the MINUSCA Representative to the Representative of UNICEF in Bangui, 23 March 2016.
14 MINUSCA press release, ID Case 0203/16 document 000008.
15 Code Cable from the Special Representative of MINUSCA to the USG/DFS, 28 March 2016.
16 Code Cable from the USG/DFS to the Special Representative of MINUSCA, 29 March 2016.
17 E-mail from the UNICEF Representative in Bangui to UNICEF colleagues in New York, 24 March 2016.

Executive Director of UNICEF thanked for the information and assured him UNICEF was standing ready to support him.¹⁸

22. On the same day, the Chief of Investigations at UNICEF forwarded the above email exchanges to the Director and asked: “*Are you aware of this?*”¹⁹ In turn, the Director forwarded the emails to the OIOS Investigation Team Leader in Bangui, asking: “*do we know about this?*”²⁰

The decision making that led to the deployment

23. By e-mail dated 28 March 2016, the Director instructed the OIOS Investigation Team Leader (the Team Leader) to advise MINUSCA that while OIOS was keen to assist and exercise its mandate, more information was required and more should be obtained from UNICEF, which had known of the matter for some time, considering the fact that they had already interviewed 96 people. The Director copied this email to the Chief of the Conduct and Discipline Unit, DFS.²¹

24. Shortly thereafter, the Chief thanked the Director and advised that she too believe more information was necessary: “*...let us see what UNICEF has and then review it carefully for follow-up, namely assess and verify and determine credibility, and from there, as appropriate notify Member states or undertake investigations ourselves.*”²²

25. On the same day, the Team Leader informed the Director by email that although meetings and briefings about the allegations were held at MINUSCA, he himself had not been approached about that. He argued – correctly - that before anything, UNICEF should hand over all information, including their interview notes, so that an assessment can be made and appropriate planning can be done. He asked the Director to assist by ensuring that UNICEF provides everything they have so that he can plan ahead and decide what resources are needed to deal with the allegations.²³

26. By email dated 29 March 2016, the Team Leader informed the Director and the Acting Deputy Director OIOS in the Nairobi Regional Office (the Acting Deputy Director) that although he met with UNICEF and other actors, UNICEF had provided him only scant information about their interviews with the victims in Dekoa. The information essentially amounted to a spreadsheet with 98 names of victims, the age at time of incident, the current age, the nationality of the perpetrator, the year of incident, the type of the incident, and the victims’ situation (pregnant/child born).

27. The Team Leader mentioned, however, that only 32 victims of those shown on the UNICEF list were possible cases for OIOS. He also advised that while a MINUSCA mission would deploy on the following day to Dekoa, he saw no added value for him to travel there, suggesting instead that he stays in Bangui, to gather the UNICEF notes of interview and

18 E-mail from the Deputy Executive Director of UNICEF to the UNICEF Representative in Bangui, 24 March 2016.

19 E-mail from the Chief of Investigations at UNICEF to the Director, 24 March 2016.

20 E-mail from the Director to the OIOS Investigation Team Leader, 24 March 2016.

21 E-mail from the Director to the OIOS Investigation Team Leader, 28 March 2016.

22 E-mail from the Chief CDU to the Director, 28 March 2016.

23 E-mail from the OIOS Investigation Team Leader to the Director, 28 March 2016.

See para 18
above

i.e 30 March

information about contingent rotations, and to prepare a photo album of possible perpetrators. He asked the Director and the Acting Director to provide their views on his suggested course of action.²⁴

OIOS Investigations Director Ben Swanson

Unclear if any response was received - to check with BS and JU. What was done? Have they responded?

Jason Uliana. Chief Investigations Section, OIOS/ID Nairobi Regional Office

28. On 30 March 2016, the Secretariat of the United Nations requested the Permanent Mission of the Republic of Burundi to the United Nations and the Permanent Mission of the Gabonese Republic to the United Nations for assistance in investigating the SEA allegations involving their contingent members. On 1 and respectively 5 April 2016, both Missions answered that their National Investigation Officers (NIOs) will conduct investigations together with OIOS.

29. On the same day, the Team Leader informed the Director and the Acting Deputy Director that he initiated two cases in Gocase²⁵: Case 203/16, involving the Burundian contingent members and Case 2014/16, involving the Gabonese contingent members. He added that while he uploaded a spreadsheet with names of victims provided by UNICEF, he had requested them to provide the full details of their interviews with the victims.²⁶

What happened here? Did they? Did they not? If not, why not? Are there any emails about that?

On 1 April 2016, the Director approved a "Joint-OIOS with NIO/TCC." investigation for the case of the Burundian contingent members, and six days later, decided the same for the case of the Gabonese contingent members.

Swanson

Uliana

BS' email asking for volunteers.....who answered, how many, etc. Jason made some comments about these issues, but I need context and email exchanges.

30. On the same day, the Acting Deputy Director sent an email to all OIOS Chiefs along with a MINUSCA deployment calendar for staff in their sections, advising of conditions on the ground. He asked to be contacted if further clarifications were required.²⁷

31. By e-mail dated 4 April 2016, one OIOS Investigator²⁸ based in New York asked the Acting Deputy Director if individualized work-plans, action plans, or assigned cases per investigators and location of deployments were available.²⁹ The Acting Deputy Director replied on the same day that individual action plans didn't exist, but colleagues on the ground dealing

24 E-mail from the OIOS Investigation Team Leader to the Director and the Acting Deputy Director, 29 March 2016.

25 GoCase is an automated case management system used by OIOS investigators.

26 E-mail from the OIOS Investigation Team Leader to the Director OIOS and the Acting Deputy Director OIOS, 30 March 2016.

27 Email from the Acting Deputy Director OIOS to the OIOS Chiefs, 1 April 2016.

28 This investigator was assigned "Second Investigator" in both ID case 0203/16 and ID case 0204/16; he who later would be appointed Chief of Section in the OIOS office at MINUSCA.

29 Email from the OIOS Investigator based in New York to the Acting Deputy Director OIOS, 4 April 2016.

first hand with the cases will develop them as the cases progressed. He added that upon arrival in Bangui the investigators will receive detailed briefings, and that before their deployment to Dekoa, after logistics are in place, all staff will be further informed about the cases that needed to be handled.

32. The Acting Deputy Director further advised the Investigator from New York that when he himself will go to MINUSCA he would be the face/management of the Investigations Division there. Therefore, in addition to other duties, the investigator from New York was expected to further initial plans in course of development. The Acting Deputy Director also advised that in discharging these duties, he will be assisted by an Operations Manager who would ensure that all required activities have adequate support, and that staff are adequately tasked as work unfolds.³⁰

33. Also on 4 April 2016, the Team Leader updated the Director and the Acting Deputy Director on his activities. Thus, he advised he had travelled to Dekoa together with MINUSCA senior managers and others to assess the conditions on the ground and the operational and logistical requirements ahead of the OIOS deployment. He added that the identification of the alleged perpetrators might be problematic because MINUSCA had no records of troop movement and deployment of individual troops. According to him, OIOS would therefore have to rely solely on information from the Troop Contributing Countries regarding the whereabouts of their troops at a particular time. So, he asked the Director to assist him by ensuring that the UN Secretariat requests the Governments of Burundi and Gabon to provide that type of information as soon as possible.³¹

It appears his suggestion at Para 27 above was over-ruled

This suggestion appears to overlook the fact that it would be the TCCs who had primary jurisdiction here

34. By separate email of the same day, the Team Leader informed all OIOS Chiefs concerned about the harsh conditions in Dekoa. He advised there was no running water, the electricity was limited, there was little food, and the accommodation was basic. He added, however, that despite all this, MINUSCA planned to install prefabs, generators, Wi-Fi network, etc.³²

35. On 10 April 2016, the Team Leader wrote again to the Director and also to the Acting Deputy Director, seeking instructions on whether investigators should ask victims and witnesses to provide an oath at the outset of their interview, as required by the OIOS procedures. He argued that the oath was not appropriate in such investigations and asked for clarifications.³³ The Director answered that deviating from existing procedures would saw confusion. He said he himself was more concerned about the quality of the interviews, pointing out that qualitative testimonies were critical to unearth historic events.³⁴

36. By e-mail dated 11 April 2016, the Director sent all OIOS investigators involved with the Dekoa operation his instructions regarding the investigation. He said there would be two teams of investigators: a “surge team” in Dekoa, to “do the investigation”, and a team in Bangui, to “make the investigation happen”. The “surge team”, led by rotating senior investigators acting as

30 Email from the Acting Deputy Director to the OIOS Investigator in New York, 4 April 2016.

31 E-mail from the OIOS Investigation Team Leader to the Director, 4 April 2016.

32 E-mail from the OIOS Investigation Team Leader to Chiefs OIOS, 4 April 2016.

33 E-mail from the OIOS Investigation Team Leader to the Director, 10 April 2016.

34 E-mail from the Director to the Team Leader, 10 April 2016.

Operations Chiefs would deploy on a rotational basis from Bangui into Dekoa, to deal with victims and collect evidence.

37. In turn, the Chiefs would be assisted by an office manager, an administrator and a liaison officer from UNICEF. Meanwhile, the team in Bangui would act as the problem-solving interface with MINUSCA and other agencies, and would ensure investigators rotating in and out of Dekoa are adequately briefed, equipped, and prepared. While the Director acknowledged that significant administrative and logistical challenges were yet to be addressed, he nonetheless expressed the hope that these will be resolved, so that investigators can “*hit the ground running*.”³⁵

This indicates advance knowledge of “administrative and logistical challenges” having to be resolved - and which clearly were not yet addressed several months later..

38. Between April and September 2016, 31 OIOS staff (including 21 professional grade investigators) deployed to CAR and rotated in and out of Dekoa; they spent 137 days in CAR and interviewed 435 individuals including complainants and witnesses.

Findings

Initial report

39. Sexual exploitation and abuse protocols³⁶, policy guidance³⁷, SEA handbooks³⁸, and related materials³⁹ on receiving and reporting allegations of SEA generally require that minimum processes be followed. Thus, besides the obligation to report SEA allegations promptly, the person who receives such allegations must document them properly and with sufficient details,⁴⁰ and must also indicate his/her name, position, organization, the date and time when he/she recorded the allegations.

40. The documentation examined shows that OIOS was informed about the SEA allegations several weeks after interviews had already been conducted with 98 victims in Dekoa. It further shows that, as noted by the Team Leader and a few respondents, the initial information about the allegations (provided to OIOS in the form of hand-written notes and spread sheets) lacked details, was inaccurate, and was incomplete. Specifically, the information about the victims: (a) was scarce; (b) it was unclear if the victims had received any type of assistance, or if the local authorities were contacted; (c) there was no reference about when the allegations were reported, how, and to whom; and (d) the person who took the initial information did not provide his/her name, position or organization. The following comments from respondents illustrate this:

35 E-mail from the Director to ID-OIOS staff, 11 April 2016.

36 Inter-Agency Standing Committee Task force on Protection from Sexual Exploitation and Abuse – IASC draft Model Complaints and Investigation Procedures and Guidelines related to SEA, 2004

37 See ST/SGB/2003/13, sect. 3 (e)

38 Building Safer Organisations HANBOOK - Training materials on receiving and investigating allegations of abuse and exploitation by humanitarian workers - issued by the International Council of Voluntary Agencies in 2007.

39 Inter-Agency Standing Committee Minimum Operating Standards for PSEA (2012); and IASC Statement on PSEA (2015).

40 These include at the minimum: (a) the name of the complainant or victim; (b) the address or contact details; (c) the age, sex and nationality; (d) the date, location and specific of the alleged incidents; (e) witnesses’ names and contact details; (f) the name, organization, and physical description of the accused; (g) whether the local authorities were contacted; (h) whether the victim received medical assistance; and (i) other pertinent information.

- [A] *“During my first deployment, initial information provided by UNICEF/NGO relating to victims was in most cases partially or at times wholly inaccurate. This had been provided to OIOS in the form of an excel spreadsheet (apparently from UNICEF) and contained incorrect personal details, first account of incidents and other important information. As such, it was challenging for investigators to obtain a first - hand account in interview, then have to clarify inconsistencies an initial disclosure which may have been made by an incorrectly identified person. It would also have serious implications for any subsequent legal proceedings.”*
- [B] *“in the initial planning, I would interrogate the information provided by UNICEF more thoroughly as it was inaccurate...”*
- [C] *“...this information was first escalated to OIOS sometime in February 2016. However, at the time of my first deployment in June 2016, it was not clear when, how, where and by whom these initial statements have been collected...this also applies for the list of victims. It was not clearly recorded who obtained this list from whom, when and where...”*
- [D] *“It was quite apparent that victim’s initial complaints had not been recorded by UNICEF when they were first approached with the complaints.”*

41. To respond effectively to allegations of SEA, OIOS must benefit from accurate, complete, and timely information of when particular acts of SEA occurred, how and where they were perpetrated, and who the perpetrators are. The review found, however, that the allegations of SEA provided to OIOS were not documented properly; were inaccurate; and were incomplete; they were also not reported timely to OIOS.

42. **It is recommended that OIOS engages in a collaborative approach with UNICEF and other UN and Non-UN partners to ensure they comply with SEA policies, guidance material, operating standards and their own SEA International Commitments. Unless they have already done so, these actors should be strongly encouraged to establish procedures that detail the actions to be taken and should allocate clear and specific roles and responsibilities to named post-holders following allegations of SEA; this would identify who should do what, within what timeframe, and the lines of reporting or consultation at each stage. OIOS can and should assist with doing that; If properly done, this would improve speed, accuracy and comprehensiveness in reporting serious allegations of SEA.**

Decisions to investigate and to deploy

43. There are several issues that arise from the manner in which the Director’s decision was made.

44. First, OIOS policies provide that all reports of alleged misconduct submitted to OIOS must first be “*assessed through an intake process*”⁴¹. The intake process requires a “*methodical*

⁴¹ OIOS, “Terms of reference: intake”, art 2.

and consistent approach for receiving, recording, screening and assigning matters for investigations”.⁴²

45. The intake process is, per the OIOS procedures, “critical to ensuring transparency and accountability during the investigation process”.⁴³ Under current OIOS practice, the decision to investigate should be made only after proper assessment of the complaint or information received, to establish the basis for the investigation; the Director decides to investigate or not upon recommendation from his Deputy.⁴⁴

46. Further, specialized literature⁴⁵ and good practice generally require that before engaging into fact-finding mode, investigators should assess the matter submitted to their attention. The assessment phase of an investigation typically involves the examination and evaluation of the facts or allegations and some pre-investigation activities. This is a time when investigators decide if the matter should be investigated, if the allegations are credible, etc.

47. A common mistake that investigators sometimes make is that of over-reacting to allegations and undertaking insufficiently planned investigations; failing to undertake some simple pre-investigation steps often results in wasted time and resources, and in incomplete or superficial investigations; investigators are also required to prepare investigation work plans before starting their investigations; the well-known adage: “Plan your work, then work your plan” works perfectly here.

48. The documentation examined shows that no assessment was made, and no preliminary interviews were conducted to learn more about the background of the allegations in either case under review. These should have been done before the decision to investigate was made or shortly thereafter. To illustrate, in mid-May 2016, one diligent Team Leader deployed to Dekoa conducted two brief interviews with key persons, and as a result, gathered more critical information about the initial allegations, (including who might have interviewed the victims first) than was then available with OIOS.

49. Significantly, one interviewee provided the Team Leader important information, including the copy of a strictly confidential MINUSCA report which found possible collusion between several victims and one local man who was reportedly acting for the local authorities. This issue will be discussed further under the section on the NGOs and the effects of possible corruption on the ground. It is clear, however, that if this important information had been obtained earlier, and if it had been assessed properly, the OIOS investigation would have benefitted greatly in terms of strategy, tactics, interviewing, and collection and assessment of the evidence.

50. Second, the OIOS Investigation Manual requires investigators to prepare and submit a “work plan” regarding cases assigned for investigation. A thorough work plan is the essential

42 See OIOS, “Investigations Manual: provisional, pending promulgation of the revised ST/AI/371, 2015, P.15; and OIOS, “Investigations Manual”, March 2009, p.15.

43 OIOS, “Procedure: investigation intake”, art.2.

44 OIOS, “Procedure: investigation intake”, art. 21.

45 Eugene Ferraro, “Investigations in the Workplace”, (2d ed.2012), pp. 25, 26.

starting point for any properly conducted investigation, and its importance cannot be overstated - all OIOS investigations should begin with a work plan.

51. The documentation examined further shows that no proper work plan was prepared in either case under review. While two “plans” in the Burundian file existed - more specifically, a “*Dekoa operational plan 18 April to 8 May 2016-1*”, and a “*Dekoa Plan of Action (17 June 2016)*”, neither conformed to the work plan template of OIOS. Indeed, the first⁴⁶ was brief, aspirational, and unsigned. The second⁴⁷, while more detailed, was prepared nearly two months after the initiation of the investigation. It should also be noted that neither “plan” was approved by an OIOS supervisor, as required by relevant OIOS protocols.

52. Further, many investigators did not know that such “plans” existed. In their submissions and interviews, these investigators deplored not only the lack of proper preparation and planning before their deployment, but also the absence of an investigation work plan proper. Some of their comments illustrate this:

- [A] “...preliminary interview and triage should be conducted with the victims by individuals appropriately trained to take and assess that information. That initial triage would enable a full initial assessment of priority, classification and credibility to allow an informed predication decision...”
- [B] “...we should have spent a little more time in planning, especially from Bangui. We acted in haste and had to make manage the crisis...”
- [C] “At the level of planning, OIOS was surprised by a situation for which it was apparently not prepared but which should have normally been anticipated.”
- [D] “in the initial planning, I would interrogate the information provided by UNICEF more thoroughly as it was inaccurate. It may have been prudent to have fielded an exploratory mission prior to deployment to check the veracity of the complaints.”
- [E] “...we sent a lot of people to CAR without ensuring there was adequate infrastructure to support the investigation...The location in Dekoa had secured beds, but nothing else; there was no food or supplies prepared, no security in place, no communication methods and no transportation secured.”
- [F] “...Lack of OSSS input in the planning and execution of the operation – some guidance would have helped...”
- [G] “...I think we could have been far more prepared before we sent people there...”
- [H] “...not having a clear direction and proper assessment of the cases on the ground in Dekoa meant that we operated in what seemed to be an ad-hoc manner. Everyone involved worked very hard to ensure the success of the mission, but we could have

46 ID Case 0203/16 - Document # 000028.

47 ID Case 0233/16 – Document # 000984

- [H] *planned better. Had we done this, we may have had a better coordination with UNICEF and UNFPA regarding the identity of the alleged victims, better coordination with MINUSCA child protection and CDT...*”
- [I] *“There needs to be a briefing note for all investigators before a large investigation kicks off, to keep everybody aware of the expectations and objective of the mission. It would also be preferable to have an initial meeting with NIOs to also compare processes and work out a modus operandi before the investigation begins. This would ensure that all teams work uniformly and don’t deviate too far from each other.”*
- [J] *“...we would need a better planning of the allegation. Moreover, it would be necessary to send over a team of qualified investigators to conduct a preliminary assessment of the matter and then write a report with the consideration and further investigative steps if necessary...have impacted on later decisions made to fully deploy.”*
- [K] *“What may have proved beneficial would have been to have sent an initial smaller team to obtain a sample of testimonies. This may have highlighted trends later identified e.g., similar accounts and also may have impacted on later decisions made to fully deploy.”*
- [L] *“...I think more due diligence was required by UNICEF on the initial list of victims and more detailed extracts obtained from the victims first accounts should have been recorded and properly relayed to OIOS early on.”*
- [M] *“...when I arrived in Bangui, I asked who is the complainant and where do you have the witnesses, who are they? I wasn’t told nothing. He didn’t try to even explain what to do in Dekoa. I couldn’t prepare for the interviews, I didn’t have the allegations.”*
- [N] *“...OIOS was provided a list of over 100 reported victims. OIOS was also provided with brief statements provided by some victims to different NGOs (UNICEF, HR...). Most of these statements were not detailed. This information was first escalated to OIOS sometime in February 2016. However, at the time of my first deployment, in June 2016, it was not clear when, how, where and by whom these initial statements have been collected.”* This date appears to be incorrect
- [O] *“...I believe that the NGO Femme Juriste’s engagement with UNICEF and the flow of information to OIOS was not thorough enough in the initial stages of the investigations... more due diligence was required by UNICEF on the initial list of victims and more detailed extracts obtained from the victims first accounts should have been recorded and properly relayed to OIOS early on...I think UNICEF and the NGO should have provided a complete and entire list of victims to OIOS from the outset...”*
- [P] *“The one thing that I would do differently is to put the logistic arrangements in place ahead of deployment, and also to prepare better in terms of reviewing the victim accounts and acquiring more information as to the overall context of the investigation. Both of these were not possible to do given the pressure on OIOS to act quickly and deliver results within a short time.”*

- [Q] "...needed a work plan, a better strategy with clear lines of responsibility and a clear leader for the entire operation - someone on the ground with knowledge and competence for logistics and investigative ops as well..."
- [R] "...Lack of a work plan for the cases - we made things up as we went along..."
"...I would recommend that we agreed with partners/agencies on what and how they should report matters to OIOS, what specific information they should have before making a report to OIOS. Obviously, this was one of the main flaws in the Dekoa crisis."
- [S] "Living conditions in Dekoa were a joke - there was inadequate space to live and work in, I ended up having to use my bed space as an office to conduct meetings - not ideal, nor professional."
- [T] "The poor conditions included lack of enough proper tables and chairs to work on when we finally got additional chairs they sent office managerial chairs that were completely unsuitable; the mission said that was all they had."
- [U] "I was more of a camp manager than an investigation team leader; on a daily basis, I had to worry about feeding the team, giving instructions and paying the local persons – cook and ground keeper, checking the pantry and making sure food orders were put in on time."

53. The review found that despite the paucity of the information available, no assessment of the known facts was made and no preliminary investigative activities were conducted to serve as a basis for the decisions to investigate and to deploy; such activities should have included, at the minimum, interviews with the CPO from UNICEF and the representative from IRC. It is true that some handwritten interview notes and tables with names of victims were available in the case files, but it is (still) unclear who gave them to OIOS, how, and when.

54. The review also found that despite the scope, resources, and importance of the investigations, no work plan proper was prepared for either case reviewed. Yet, assessments and work plans were very important in the context. If they had been prepared, many of the issues raised by the investigators would have been properly and timely addressed; investigators would have benefitted from more accurate and more detailed information about the background of the initial allegations before their deployment; investigators would also have been better prepared for conducting interviews, collecting evidence, and pursuing leads; and the investigation might have been more focused, less expensive, and completed faster.

55. It is recommended that in any case where the initial information which could lead to an investigation is manifestly insufficient and requires assessment and follow-up, these activities should be done promptly and properly.

56. It is also recommended that the requirement for all investigators to submit an investigation plan before commencing an investigation be enforced; the plan must be reviewed and approved by a supervisor.

The speed of our response, internal and external enablers/disablers.

57. Considering the seriousness of the allegations and the high number and location of possible victims, the speed of the OIOS response was impressive. It was largely due to the prompt decisions taken by the Director and to his direct and constant involvement before, during and after the completion of the investigations, so to ensure that OIOS staff and counterparts assist as best as they can.

Write here about BS's email asking for volunteers and the responses received. And also ask about any email exchanges with UNICEF and MINUSCA that might be relevant for this section. Also, emails about our deployment and anything that can explain further why we deployed fast, etc. and, if there were any problems.

58. One respondent criticized the Team Leader on the ground that his initial requests to MINUSCA, especially for logistics, were neither timely nor realistic. This respondent argued that the deployment could have occurred several weeks earlier had the initial requests made by the Team Leader been more realistic and had he asked for assistance from MINUSCA differently. When this was ultimately properly done, by someone else, investigators were deployed faster and the assistance received from MINUSCA was more substantial and faster according to him. Several respondents echoed this view. One of them pointed out that the Team Leader had bad personal relations with UNICEF representatives in Bangui and with others, and didn't know how to ask for information or assistance from them.

59. Some investigators responded that, given the urgency and prevailing conditions, MINUSCA provided reasonable support. In contrast, others criticized the logistical arrangements in place before their deployment.

[A] *"The greatest challenge in the early part of the deployment was the dearth of living facilities. This was greatly alleviated through the intervention of Ben and Jason with DPKO in New York and with the MINUSCA authorities who eventually upgraded the living facilities."*

[B] *"Overall, the logistics side of Dekoa was quite an accomplishment, thanks to those who first set foot on the ground, as well as to the support received from the mission. However, the long-term management of Dekoa proved to be more of a challenge."*

[C] *"...the mission, MINUSCA, did not provide any support without argument, emphasized by the lack of food and water for OIOS investigators in Dekoa. Specific units in MINUSCA, which were offered as assistance for OIOS, were reluctant or detrimental to this effort, leading to spoiled or lost food. This resulted in investigators eating emergency rations and relying on the good will of a military contingent to feed them."*

[D] *“The one thing that I would do differently is to put the logistic arrangements in place ahead of deployment, and also to prepare better in terms of reviewing the victim accounts and acquiring more information as to the overall context of the investigation. Both of these were not possible to do given the pressure on OIOS to act quickly and deliver results within a short time.”*

The operation of the Forward Operating Base (FOB) in Dekoa.

60. As requested by the Director, under the leadership of rotating Team leaders, successive teams of investigators “hit the ground running” and between April and September 2016 deployed on a rotational basis into Dekoa to conduct the investigation. The victims and witnesses were brought for interviews by representatives from the NGO *Femmes Juristes*. These interviews were conducted in the presence of a child protection staff, an interpreter, the NIOs, and where applicable, a parent or other support person. In the meantime, OIOS investigators and support staff from Bangui, and from New York.

61. While the support from Bangui was mainly logistical, the support provided by the staff from New York greatly impacted the operational side. Indeed, the staff assigned was asked to and designed a tool (e.g., an excel-based matrix, complementary Excel files and corresponding dashboard) to manage and track information from the growing number of victims, which could be organized, populated, updated and distributed effectively on a daily basis to assist team leaders and team members in decision making and in the investigation progress.

62. The sheer amount of information generated daily, which required a significant amount of efforts to maintain the data up to date was not a problem for the staff assigned. However, as he put it, to function optimally, the tool required that data from the field was provided timely and fully; yet as noted elsewhere in this report, this was not always the case because important information was omitted from some synopsis of interviews and daily situation reports.

63. Despite difficult conditions on the ground, however, the review found that the investigators worked well together, were motivated, supportive of each other, and demonstrated professionalism, dedication and good team work spirit. This was confirmed in the over 100 daily situation reports, (which recorded daily accomplishments, challenges, outstanding tasks, etc.) prepared by the rotating Team Leaders for superiors and colleagues.

64. Likewise, in written submissions and interviews, many respondents commented about their efforts and achievements, and about what worked well during their assignment. Samples of relevant quotes are provided below:

[A] *“In my view, the investigation teams functioned well, everyone contributed.”*

[B] *“The effort that went into these jobs, in difficult and challenging circumstances – unprecedented in OIOS history, was astounding. I was very proud to be part of that team and assist in the outcome.”*

- [C] *“This was a tough, but enjoyable mission. On reflection, I’m most proud of being able to be deployed to an area and use my skills working with a number of professional investigators from OIOS.”*
- [D] *“I am very proud that OIOS/ID responded expeditiously and competently to investigate the grave allegations of SEA from Dekoa, and to generate a huge amount of evidence within a very short time. The dedication, skill, sacrifice and commitment of OIOS/ID personnel and management was very evident. This is one of the highlights of my career as an investigator, and I feel privileged to have been a part of this assignment.”*
- [E] *“I felt the Mission was accomplished extremely well under very difficult circumstances. In retrospect, I do not think that many investigation agencies worldwide would have coped as well considering the conditions and lengths of deployments.”*
- [F] *“I am very glad to have been a part of it. We were able to successfully accomplish the interview of multiple victims and witnesses, and to conclude the investigation of such high-profile cases. I firmly believe that in doing so we restored some of the credibility of the United Nations as a force for good.”*
- [G] *“I found that all OIOS staff during my tenure were hardworking, ready and willing to do whatever tasks they were required to do or fill any gap they needed to fill.”*
- [H] *“I am happy to have delivered an information tool to assist managers and investigators in CAR operations which contained all up to date data and could be used as a stand-alone application regardless of connectivity or other technical limitations. I am very proud to have joined the entire ID staff in an effort of this caliber involving cooperation and TCCs to the logistics of deploying consecutive rotating teams under public opinion scrutiny. In my subjective opinion, ID showed the highest level of professionalism, dedication and leadership.”*

65. But respondents also noted challenges. Specifically, they argued that intra-team communication, especially while team leaders were rotating, was not always adequate, and that as a result, important information was not always disseminated timely; some said that the pressure from supervisors, to produce a minimum number of interviews daily, might have compromised the quality of some interviews; others deplored the absence of an overall project or operations manager, to keep the investigation focused and directed. Their comments below illustrate this:

- [A] *“It appeared to me that no one had a bird’s eye over the investigation. Therefore, a number of transversal leads and issues were looked at but then quickly forgotten as the next team of investigators came in.”*
- [B] *“the short sight on the Dekoa deployment was to treat it ‘just as another case’ – business as usual. The entire operation had to be handled with a ‘project approach’, which would require a cultural change and higher degree of resilience. Throughout the operation, the OM had to take on the role of dedicated project manager - with no external interference*

- [B] *from other 'usual work'. This would have ensured consistency of procedures, approaches and interactions, as well as a higher degree of review and corrective actions where/when required. There should have been a dedicated team, adequately staffed, that operated as a project team ensuring consistency, accuracy, accountability and, as a result, credibility. With the project approach, there should have been a dedicated administrative support throughout the operation."*
- [C] *"The team leaders replaced each other and hand over notes/meetings were done. However, there did not seem to be a Case Officer involved to keep the eye on the overall investigation. Team leaders and the team members discussed about additional avenues of inquiry resulting from the conducted interviews, but I missed the overall view. To my opinion, this could be someone at distance, for example in Bangui, who ensures following-up on the work plan and amending it where and when required."*
- [D] *"A handover note/meeting was held with the previous/subsequent team leader. The challenge I experienced was that, for the 0203/16 case, at the time of my arrival, nearly all reported victims had been interviewed. However, there was no assessment done of the conducted interviews. More than 60% of the conducted interviews was not available to me, neither in goCase yet, nor the summaries of the audio-recorded interviews."*
- [E] *"...it was a challenge to obtain and analyze in a couple of days, the summaries of the conducted interviews and to assess the content of it in order to identify potential witnesses, physical evidence or relevant avenues of inquiry..."*
- [F] *"...the challenges elaborated above were overcome with the assistance of the helpful and dedicated staff. I implemented a template of NTF to be drafted after each interview which provided a clear view of the evidence obtained, as well as potential avenues of inquiry. In terms of report writing, what did not go well is the lack of detail and common sense whereby documents and files were uploaded into goCase. Point of self-criticism is that, for the report writing, I relied on synopsis and did not listen to the interview recording. Even though it would have been unrealistic to start listening to over hundred interviews, some of the more than 2 hours, to complete the report within the deadline...Initially, between four and eight witness interviews were conducted per day. There was no analysis done on these interviews. For this reason, I implemented a NTF to draft after each interview detailing the details of the interviewee, the context, short synopsis, whether DNA was available, whether any other evidence was available, potential witnesses and comments...I would suggest next time we have such a large quantity of victims to interview, is that immediately after an interview, investigators should make a note of whether any witnesses could be interviewed in relation to that victim. Had this be done after each interview, and then the information provided to the team leader at the end of the day, the team leader could have included this in the spreadsheet – so at all times during this long exercise, we could have known how many interviews would be necessary to do once the victims were completed. My understanding is that the team that came right after I left, had to go through each record of interview and extract the info reg. possible witnesses - a painstaking and time-consuming exercise that could have been easily avoided. In a similar situation, we should also consider taking photographs of the*

- [F] *victims, with the only purpose of ensuring that we are not interviewing the same person twice.*”
- [G] *“I do not believe that Managers outside the field environment should place pressure on investigators in the field to produce X (a certain number) of interviews per day, every day. People outside the field environment should not dictate numbers to the person in charge on the ground (Operations Manager), because they don’t know the reality of the situation on the ground. Sometimes, I think placing a X number of interviews daily can be damaging to the investigators conducting the field interviews at the time. Some interviews take longer than others and sometimes victims/witnesses are not available. An investigator should not cut corners to produce more interviews daily, at the expense of the quality of interviews and the gathering of evidence. I think there is a balance between quality/quantity/outputs - you should not sacrifice quality of interviews for quantity of interviews...”*
- [H] *“...I feel the pressure on completing as many interviews as possible per day hurt investigations where there were serious allegations that required further follow-up.”*
- [I] *“Case Management of the Dekoa matter from the initial outset required an Operations Manager on the ground from Day 1 of the investigation to the final day of the investigation. The Operations Manager should have been there the entire length of the deployment to maintain continuity with the case, UNICEF/NGO, investigators and victims handling etc.”*
- [J] *“The information handling and input of investigators work into Go-Case was often of poor quality. I saw synopsis of interviews which I deemed unprofessional.”*
- [K] *“Early allocation of a case management officer and specialist analyst (someone that can use analyst notebook/I Base). The HQ administrative coordination of the cases came far too late. Early engagement of an analyst on a case by case basis, identify additional lines of enquiry, track tasking’s, allocate priorities etc. While we were tracking the case, in a very rudimentary fashion using excel, there are special tools for exactly these situations that should be used that would have enhanced resource allocation and prioritization.”*
- [L] *“...One major issue...was the leadership on the ground at log base. I should say lack of leadership. [X], while a nice person, lacks ability to do the job.”*
- [M] *“...Due to time constraints on the ground and/or lack of continuity of outstanding enquiries from one mission deployment group to another, I think a lot of avenues of enquiry or sources of evidence were overlooked and therefore evidence was not collected for certain cases. I think this was a continuity issue and could be avoided if the Operations Manager was there for the entire duration of deployment.”*
- [N] *“Looking for witnesses and arranging for interviews – our total reliance on the NGOs and the local community leaders meant that we were not in control of the process leading to possible false witnesses, double reporting using false names, etc. It also meant that we*

[N] *were inflexible – if no one showed up, we waited in unsuitable conditions with no food just water from us, some accompanied by infants who also had nothing to eat.”*

[O] *“I do not want to renew my experience with this. This was done in disarray.”*

66. The review found that, while overall the operation went well, especially given the difficult conditions on the ground, better preparation, especially as regards logistics, and better support, especially from the Chief in Nairobi, would have better assisted the investigation.

67. Further, while the Director’s instructions provided for the assistance of a dedicated operations manager from Nairobi, this did not happen. Appointing a dedicated manager from the outset and ensuring that he/she: (a) manages the overall investigative effort; (b) keeps the investigation focused and directed; (c) sees and know everything; (d) facilitates proper and continuous intra-team communications; (e) provides updates; and (f) queries team members when decisions needed to be made would have been extremely helpful for the investigation into both cases.

68. Because this wasn’t done, the Director himself had to provide significant input and direction throughout the investigation; despite his other responsibilities, he also had to make himself available at all times to investigators deployed to Dekoa. This role should rather have been assigned to an operations manager, and not to the Director.

69. It is recommended that when similar large or complex SEA investigations with multiple subjects or victims are conducted by OIOS, an operations manager possessing the right skills, experience, and expertise, should be appointed and assigned specific (and measurable) duties and tasks commensurate with the scope of the investigation.

Staffing considerations, health, wealth, security, individual contribution and effects of rotation.

For staffing consideration, need email exchanges, or more on that; to ask BS about what he might want here in this regard.

Health

8 out of 21 investigators deployed = 38%
(See para 38 above)

70. Eight investigators got malaria following their deployment to Dekoa; three, quite serious or even life-threatening forms, which required hospitalization. One of them expressed serious disappointment over the fact that, unlike one colleague who assisted her and was supportive, superiors appeared to lack compassion, empathy, or interest over her health. This prompted her to comment that: “Senior Management needs to reach out to an employee if they contract an illness as serious as this one.”

71. The Director told the reviewer that he “*learned by accident*” about the condition of that investigator from her father who called him to inquire about her health. The Director commented that it was not normal for him to learn about the serious health condition of investigators from

their parents and not from ID managers or staff; he regretted that no one else informed him earlier about that.

Wealth

72. One Team Leader who got malaria deplored the fact that he could not enjoy rest and recuperation time off although he spent 11 weeks in Dekoa through two deployments. He argued that after he got malaria he had to cover the cost for the flight to his country and to his duty station because the travel was classed as “*deviation*” and so, the Organization did not cover the full cost of the travel. He commented that he did “...*not feel that the UN looked after me well in respect of this.*” Other investigators also commented on difficulties regarding entitlements or wealth.

- [A] *“Having to ask for revised DSA to cover Dekoa expenses was a bit of a pain.”*
- [B] *“There were issues with understanding what our entitlements were, whether ad-hoc arrangements were made, and why some staff were authorized for special DSA and others were not. This was further exacerbated by the UMOJA system and the usual lack of responsiveness by the OIOS executive office.”*
- [C] *“The biggest challenge was the food and transportation issue. Part of this problem was that OIOS was outside of the normal MINUSCA family. Purchasing food ourselves, arranging MOP flights and coordinating with mission personnel was difficult, and could only be solved by hands on supervision.”*
- [D] *“There were challenges in getting the payment of supplementary DSA paid. In fact, I only received mine at the end of last month (February 2017) almost 9 months later.”*
- [E] *“Action was taken to have the applicable DSA reviewed as that set by the ICSC did not reflect the realistic deployment cost. OHRM took a substantial amount of time to review the matter; however, a change was ultimately obtained. From an administrative point of view, many staff displayed a lack of knowledge of TR and ETR rules and processes.”*

Security:

73. On 12 April 2016, MINUSCA conducted a security risk assessment in Dekoa, to identify threats and risks and to recommend risk mitigation measures before the deployment of OIOS in the area. The security report prepared afterwards rated the risk to OIOS as medium, and noted weaknesses and threats, such as: (a) the fact that OIOS would be investigating MINUSCA forces that were already deployed to Dekoa; (b) the lack of security on routes, which were used by armed groups; (c) the prevalence of criminality and banditry in the area; and (d) the fact that armed groups had had a history of operating in the vicinity of Dekoa.

74. On 11 May 2016, MINUSCA conducted a security survey at the location where the OIOS team was based, and issued a second report with 18 recommendations; eleven of these recommendations required immediate attention; they included: (a) the deployment of sufficient

professional security personnel to operate 24/7; and (b) a requirement that walls surrounding the compound should be at least 2.5 meters tall.

75. One month later, a Team leader in Dekoa wrote to the Chief OIOS in Bangui expressing concerns over the lack of follow-up on the above recommendations. He noted that only one of the 18 recommendations had been implemented by that time, arguing that while he understood that not all recommendations could be implemented, some, such as those on the 24/7 security guards, the missing concertina wire, and the illumination, should be implemented.⁴⁸ The Chief replied on the following day that while he himself had requested the survey, he thought that something had already been done after the issuance of the security report.⁴⁹

76. The Team leader's security concerns were echoed by eleven respondents. Below are selected quotes from their submissions and interviews:

- [A] *"I noticed an extremely 'relaxed' attitude towards safety in the Dekoa compound. Just a few observations: the compound was guarded by contingent troops from 18:00 to 6:00, however, there was absolutely no security during the day. I was told that during the day we were protected by troops patrolling the area and making their regular rounds: that is, every time a patrol drove down the road in front of the compound.*
- [B] *During the day, we had no one at the gate, except an elderly gentleman who was our "groundkeeper" (he cleaned the compound, washed clothes etc.) and he would open the gate every time one of our vehicles drove in or out. But to be very clear: people would walk in and out of the compound without any controls. That meant anyone could walk very easily up to our rooms (where we had all our valuables) with no one to stop them. The compound was walled off, however, it was a low wall - and in large sections the wall was very low wall and could be jumped over very easily, even by a child.*
- [C] *My concerns were not eased when our USG came to visit us one day, accompanied by 2 close protection officers. I noticed the CPOs immediately began to walk around the compound shaking their heads, so I went over to ask them what they thought of the place, and they simply said: 'we simply can't understand how this place was approved; how is it possible that you guys are staying here? anyone can storm in here within seconds' When I explained that TCC driving by the front road a few times a day were our only day protection, they simply laughed. Keep in mind, these patrols were not even stopping by to check on us, they were simply driving by the road, and from the road there was no way they could see what was happening inside the compound.*
- [D] *Also, our movements outside of the compound were very easy to figure out; we drove every morning to pick up the victims and the support staff from the NGO pick up point in town. We did the same in the afternoon to drop them off - there was only one way to get to this place and back.*

48 E-mail LN to YN, 18 June 2016

49 E-mail YN to LN, 19 June 2016

- [E] *So, anyone could have figured out, that twice a day 2 of us (when I was there, it was the only 2 male colleagues in the team who were doing the driving of the 2 vehicles) were leaving the compound for at least 20 minutes. I cannot stress enough how little control there was of who walked through the gate of the compound. It is my opinion that we were very lucky that nothing happened while the ID teams were deployed there.*
- [F] *Lucky as we were, I do believe that we exposed ourselves in a very careless way and it certainly worried me that there did not seem to be a lot of thought or care given to the matter.”*
- [G] *“Security was always a main concern in Dekoa and I felt that it was inadequate around the base. There was a lack of engagement from DSS.”*
- [H] *“We were extra concerned about our security as people would know we were carrying a lot of money with us.”*
- [I] *“We were very lucky nothing happened to us. We didn't know it wasn't safe, so we drove to the market on Saturday to buy food and we started to walk around the market. Some Burundian armed peacekeepers saw us, said we weren't safe and that they were responsible for our security; so they escorted us around and we were then walking with these armed guards around us.”*
- [J] *“I had serious concerns regarding security at Dekoa. More specifically, the LACK OF SECURITY. Upon arrival, there was NO security at all within the Dekoa compound. NONE. Ultimately, I wrote an email to YOUSSEU, who was at Log Base and advised that if security was not provided, I would not remain at Dekoa and would return. The next day, the Pakistan military provided troops to patrol the Dekoa base from 1800 to 0800 the following day. I still cannot believe that the situation was allowed to occur where there was NO security at the Dekoa base. At the time, I discussed the matter with staff who were deployed at Dekoa base and they felt the same way as I.”*
- [K] *“The first challenge I can think of was security. In Dekoa there was no secure environment at all. During the day, we were left without any kind of security and we were not informed whatsoever of the developing situation around us.”*
- [L] *“Security wise, there had been a security inspection to make the compound MORSS compliant. None of the recommendations have ever been implemented or mitigated. However, it has to be noted that many of the recommendations were not feasible and/or unrealistic for the environment.”*
- [M] *“...It was not ideal that we did not have DSS presence and had to rely on uniformed TCC to provide security at night only...”*
- [N] *“I was concerned by the need for OIOS investigators entirely unfamiliar with the country to drive across a dangerous environment without an escort. I was expected to drive on my*

- [A] *own (with only interpreters for company) for the convenience of the team, the rest of whom chose to go by helicopter.”*
- [B] *“I was expected to drive and not told so beforehand. When I advised that I didn’t feel safe enough to drive in that country, I was teased a bit and there was obvious disappointment...being a white, non-French speaking American woman employed by the UN, and given the evident tension between the locals and UN staff, I definitely didn’t want to be on the roads alone.”*
- [C] *“Also, since we had no DSS staff in our midst, we weren’t always sure of how far we could drive, we also did not have anyone in our teams who had local knowledge to assist, instead when we ventured out, we found ourselves being followed by the Burundi TCC charged to protect us - this wasn’t properly planned so we took them by surprise a lot of time as they weren’t sure when we were to head out and where we were going. Also, given that the TCC implicated in the SEA cases was Burundi, it was a little difficult to know how much we could involve them as they were interested parties - as a TCC.”*

Individual contributions

77. The selection of the right investigators and team leaders is critical for any investigation; these staff should have a combination of experience, education, and continuing professional development sufficient for the level of sophistication of the investigation. Experience shows that seasoned individuals with a successful record of prior investigations of similar nature and complexity are more likely to appreciate the time and resources necessary to complete the investigation properly, be more familiar with the appropriate stakeholders, and possess more insight as to the investigative standards required, etc.

78. In terms of individual contributions, it is clear that the performance, passion, and dedication of some staff deployed stood out; the good quality of their work, most notably reflected in their good interviews conducted and in the fact that they volunteered to stay in Dekoa for longer periods than others, to ensure continuity in their investigations and to assist their colleagues and office, amply demonstrate this. These individuals have also demonstrated empathy and compassion towards victims, including by offering victims water from their meager supplies and by ensuring victims reach their homes safely after interviews. For this, they should be formally acknowledged and commended. One of them commented that:

- [A] *“The investigators who did go into mission to carry-out investigations and contribute to the ‘core’ business of the organization should be recognized over and above the ‘investigators’ who chose not to assist their organization in SEA investigations. When investigators are required in the field on an urgent operational basis, they are normally the same people who continue to assist the organization with rotations into that field environment over and over again. ID Management needs to make it compulsory for all investigators across the Division to ‘do their part’ and contribute to SEA investigations in the field. I say this for two reasons: the workload needs to be shared and the impact of conducting multiple interviews a day of sexual assault matters shared and the continual travel/field deployment medical problem shared.”*

[B] *“The case management (Go-Case) was poor, the handling of some victims by inexperienced investigators was poor and the availability of investigators to deploy to Dekoa across the Division was poor.”*

[C] *“The information handling and input of investigators work into Go-Case was often of poor quality. I saw synopsis of interviews which I deemed unprofessional”*

79. Likewise, another one made critical remarks about specific colleagues, who they felt did not deliver as they should have. To illustrate:

“On the not so great - X and Y - could have done more, e.g., be more informed of the situation on the ground, forged a closer partnership with Mission staff to ensure we received better logistical support and basically be more responsive, especially YN who didn't seem to comprehend what this project was about and wasn't providing clear advice - Ben and Jason did a better job in being responsive and seeking feedback on the progress of the project.”

Youssou
N'Diaye

To include here the issue about volunteering (missing emails?) and JU's comments about command and control. And to also include that the reviewer got more and better responses from these good guys!

Why was this done like that? That is, requesting volunteers and not asking Chiefs to nominate themselves available investigators? This was, after all, a top priority for the office and bar other pending important professional commitments or health reasons, no OIOS investigator should refuse an instruction to assist his/her office.

I need BS' emails asking for volunteers and replies received!

80. The review found that the security measures undertaken to ensure the safety and protection of the OIOS investigators in Dekoa were insufficient and largely inadequate; this clearly put investigators at risk. Better and proper preparation and planning, to ensure and secured and safe environment should have occurred but didn't. Whatever the urgency of a matter - and in this regard, the reviewer noted there was no evidence to be preserved or collected urgently given that the allegations were one or two-year old - security of staff must always come first; and in the cases examined it didn't; the investigators were exposed at risks and, as some of them noted, they were simply lucky nothing happened to them.

81. The review also found that while staff from all OIOS duties stations contributed to the operation, a small group of investigators demonstrated particular dedication and professionalism; they should be formally commended for that.

82. It is recommended that no OIOS staff deploys in hazardous or dangerous areas until proper security and safety measures are taken, and that, when deployed, all OIOS staff benefit from appropriate security protection throughout the duration of their mission.

83. It is also recommended that the few OIOS staff who demonstrated particular dedication and professionalism throughout this mission be formally commended by the Director and USG/OIOS.

The cost of the operation to OIOS and the UN

Patricia provided information, but I need the costs broken down for this deployment only, not that for the overall OIOS operations and travel to CAR. I reminded her about this on March 2017. Patricia said she cannot provide that; must discuss this further with BS.

BS said the operation cost USD 481,000 and this large amount constituted the equivalent of the entire operational and training travel of the Division for the years 2016/16 and 2016/17.

The NIOs.

84. The United Nations SEA policies provide detailed procedures applicable to both the United Nations (UN) and troop-contributing countries (TCCs) after allegations of SEA by troops under UN command are reported; these include the following:

- The Head of Mission (through the Conduct and Discipline Unit) must promptly inform the Under-Secretary-General for Field Support, the Under-Secretary-General for Peacekeeping Operations and the Under-Secretary-General for Internal Oversight Services, when applicable, of all allegations of SEA by members of the TCCs;
- The UN must notify the Government of the TCC about the allegations without delay where there is prima facie evidence that SEA incident(s) occurred;
- The UN must cooperate fully with appropriate authorities of the TCC to assist the TCC in their investigation as necessary (including by sharing documentation and information related to the allegations under investigation) and to facilitate the conduct of the TCC investigation, including as regards identifying and interviewing witnesses;
- TCCs agree to inform the UN of actions taken to substantiate and address allegations, and the UN follows up with the TCCs on all actions taken by them.

85. In the cases under review, after being notified about the allegations of SEA, both the Governments of the republic of Burundi and that of Gabon deployed NIOs to CAR to conduct investigations together with OIOS. The terms of reference (TOR) document between OIOS and the Burundian NIOs, which sets out the manner in which OIOS and the NIOs should cooperate in the investigation, was signed on 2 May 2016.

86. In contrast, the TOR with the NIO from Gabon was signed on 9 February 2016, that is, more than one month before 24 March 2016, the date when the UN notified the Republic of Gabon of the SEA allegations.

87. While this latter issue will be discussed in greater detail further below, under the OIOS procedures, policies, and paperwork subsection, it should be noted here that OIOS uses a four-page template as TOR with TCCs for SEA investigations; yet, the TOR with the NIOs from Gabon had only two pages, with two different fonts on each page. It appears therefore that the OIOS Team Leader who signed this TOR attached the second (signed page) of a TOR related to a previous investigation, and used it for the investigation into ID Case 0204/16.

88. The documentation examined shows that the Burundian NIOs travelled to Dekoa and conducted interviews together with the OIOS investigators. In contrast, the NIOs from Gabon decided to stay in Bangui, and relied on the OIOS investigators to conduct the interviews with the victims and witnesses. Therefore, the comments below essentially refer to the NIOs from Burundi and their interaction with victims, witnesses, and OIOS investigators.

89. The review found that, while problems were noted, the cooperation between the OIOS investigators and the Burundian NIOs depended largely upon the personality, experience, and professionalism of the OIOS Team Leaders and investigators. Most of the time when problems occurred, these staff managed to overcome them. But there were challenges too, some significant. And both the NIOs and the OIOS investigators noted them.

90. For example, in an email⁵⁰ to the USG/OIOS, the head of the Burundian NIO delegation complained about the frequent rotation of the OIOS team leaders and about some of the investigative tactics and strategies used by the OIOS investigators: “...the OIOS representative refused neither to share the draft minute nor to sign it as it was agreed in advance....” And: “...we request that OIOS understand that some cases require to meet specific witnesses on the ground to further verify some facts...”

WAS THERE ANY RESPONSE TO THIS EMAIL? TO OBTAIN FROM BS? WHAT HAPPENED?

91. Likewise, in their two reports of investigations, submitted in response to the OIOS investigation report provided to them, the Burundian NIOs deplored the fact that the two teams (OIOS and NIOs) had “...separated after each interview without sharing an observation or commentary...” and had also: “...separated without sharing the analysis of the information collected jointly, which produced some divergent views as regards conclusions for some of the cases...”

92. In effect, the Burundians accused the OIOS investigators of violating the terms of the TOR. Indeed, article 7 of the TOR provides that during the investigation, the NIOs and OIOS will inform each other of the evidence collected, and of other aspects of importance to the investigative activities.

93. In turn, many OIOS investigators criticized the manner in which the NIOs treated victims and witnesses; they also queried some of their investigative strategies and tactics; this was

⁵⁰ Alexis Nadayizeye email to Heidi Mendoza, dated 16 June 2016 – ID Case file, document # 000929.

reflected in daily situation reports⁵¹ and in email exchanges with the Director and others. In one notable exchange⁵², a Team Leader even suggested that OIOS should:

“...pull out of this joint investigation since their methods are worrying. Their interviews are interrogatory in nature and seemingly more interested in catching minute inconsistencies with victims who are not only vulnerable but also illiterate or semi-literate...”

94. Further, the examination of documentation and audio records of interviews shows that the Burundian NIOs lack the skills and experience required to conduct interviews with victims of SEA; indeed, they asked inappropriate questions and made insensitive and unwarranted comments towards the victims. Some of these questions or comments related to the prior or sexual conduct of the victim; others were humiliating, irrelevant, or incongruous as illustrated below:

Victim A: said she had been raped twice, once by a Burundian soldier and once by a Gabonese. After she told her husband that a Burundian soldier raped her, he stopped having sexual relations with her and left her. Because she became pregnant following the rape, she self-provoked an abortion. After querying her at length about the abortion, the NIO asked her if abortion was legal in CAR, and if, as such, she was not afraid of the CAR justice if it would become known she had an abortion.

Victim B: said that if shown photographs, she could recognize the soldier who raped her; the NIO then asked her to explain how exactly she would be able to do that since she said she saw him only once? This victim was also asked how much money she wanted as compensation for her rape, and whether she preferred a lump sum or monthly installments. Because she wouldn't answer for a longer period of time, the NIO pressed her further until she provided a figure. The NIO then commented: so, you are the only witness to your rape, aren't you?

Victim C: was asked by the NIO how much money she wanted; because she manifestly didn't know what to respond, she simply replied: “it's up to you.”

Victim D: was asked by the NIO: What do you recommend to CAR women who mislead soldiers?

Victim E: was asked by the NIO if, given her level of intelligence, she thought the perpetrator was a commander?

Victim F: was asked by the NIO what she received in exchange for providing information to the woman from UNICEF who had first interviewed her? When she replied nothing, the NIO asked if the woman from UNICEF had explained to her the particular interest that existed for complaining against the soldiers.

51 See, Situation Report dated 11 June 2016 - ID Case file, document # 000596.

52 E-mail team leader to Director and others, dated 16 June 2016 - ID case file, document # 000945.

Victim G: after being told that the soldier would be punished for what he did, the NIO asked this victim to indicate what punishment he should get. She replied that such decision rest with the NIOs and not her.

Victim H: was asked if she knew what truth is, and what a lie is.

95. The lack of experience and interviewing skills of the NIOs, as well as their inappropriate line of questioning of victims and witnesses during interviews was noted also in written submissions received from investigators. The quotes below illustrate this:

- [A] *“The Burundi’s were initially more concerned with discrediting witnesses than taking their testimonies. They also wished to speed things up to leave Dekoa as soon as possible.”*
- [B] *“The involvement of the NIOs greatly inhibited the investigation due to their lack of training in investigation management, interviewing, and victim management. The perceived link between the NIOs and OIOS had the potential to cause reputational risk, along with risk to the investigation itself. If further such investigations are envisaged, significant training needs to be conducted before any agreement.”*
- [C] *“The NIOs I was involved with had extremely limited experience in conducting interviews. In addition, the interviews involved minors and were audio recorded. They were out of their depth. Their agenda (questions) reflected other issues other than whether there was actual misconduct.”*
- [D] *“Throughout both my deployments I experienced a good collaboration and understanding with the NIO Team. They were also receptive for OIOS’ refusal to conduct tasks they suggested, as far as the refusal was adequately motivated. OIOS should intervene more severely whenever the NIO team asked inappropriate questions.”*
- [E] *“Working with the Burundian NIOs was at times challenging. Their skills and knowledge of dealing with SEA was inadequate for the task. Interviews were too long (mainly focusing on irrelevant questioning and the need to write questions and answers). There was very little time dedicated to rapport building with victims, which at times led to what could be considered an intimidating environment for them to disclose information i.e. 2X NIOs, 1 X OIOS investigator, 1X interpreter, 1X support worker and/or family member for an interview lasting up to 8 hours.”*
- [F] *“OIOS’ experience with the joint team Burundian NIO-OIOS showed that NIOs questioning was, often, a tool to discredit or to frame victims and/or witnesses. Witnesses who were not relevant to the allegation were interviewed to “frame” the reported victim, whilst relevant witnesses to the reported matter were not flagged by the NIO Team.*
- [G] *“Some NIO questioning also seemed to be quite inappropriate, but after a few discussions, we came to an agreement on the most appropriate questioning for them to use to obtain the information which they deemed necessary for their investigation.”*

- [H] *“NIOs - very (very) poor interviewing skills, lack of consideration for victims and witnesses, inappropriate line of questioning, lengthy interviews which incorporated large components of irrelevant questions.”*
- [I] *“...the NIOs questioning was, often, a tool to discredit or to frame victims and/or witnesses. Witnesses who were not relevant to the allegation were interviewed to ‘frame’ the reported victim, whilst relevant witnesses to the reported matter were not flagged by the NIO team.”*
- [J] *“The NIOs from Burundi dragged on endlessly while interviewing victims – often asking irrelevant questions. There were also instances where they asked very inappropriate questions. However, they were very receptive to any comments I made to them about the way victims should be interviewed or the questions they should ask - and they changed their line of questioning accordingly, at least when I was working with them.”*
- [K] *“...there was constant pain as to their interviewing techniques - very interrogatory, which was intimidating to the witnesses...the NIOs handwritten accounts which made the interviews last even longer than necessary and their reluctance to state exactly what they wanted...the NIOs seemed unfazed by our concerns regarding their failure to address our security requirements, their interrogatory techniques; inappropriate questions for the witnesses/victims, their asking the witnesses/victims that they wanted out of the investigation - thus alluding to promises or expectations of monetary or other compensation. We could have done better to ensure corroboration of identity or the witnesses and victims - perhaps taking photos of them and putting their names to the photos since we later found out that when discovered by the OIOS teams were rotating, the same persons were resubmitting using different names.”*

96. However, the examination of records and audio tapes of interviews revealed also that some OIOS Investigators present in interviews have not always sanctioned the inappropriate line of questioning and inappropriate comments by the NIOs, and have also not always reflected these issues in the synopsis of interviews which they had to prepare after the interviews; it revealed also that due to their own poor performance during interviews, those investigators require training, to ensure that in the future, they conduct proper and thorough interviews with vulnerable victims; to illustrate, here are just a few examples:

Victim A: described during her interview how a soldier had sexually abused her. Towards the end of her interview, the OIOS investigator asked her: *“Did you love him?”*

Victim B: replied to a question from the NIO that she was a virgin before being raped by a Burundian soldier. The OIOS investigator asked her if she felt pain or bled. When she replied that she didn’t, the investigator commented that after first sexual contacts, virgins do experience bleeding and/or pain.

Victim C: was told by an OIOS investigator in her interview: *“This may result in a court martial”* and, further: *“Sorry for what happened and hope something will come out of it.”*

Victim D: was told by one investigator: “this is sad, you’re only a small girl and we feel it...justice has to be done and the perpetrator has to be punished...”

Victim E: when asked if she knew what a condom was, she replied she didn’t. Instead of developing the issue and reformulate the question so that the victim understands what is required of her, the OIOS investigator asked the victim why she did not become pregnant after she had sex with the alleged perpetrator.

Victim F: when asked if she felt stigmatized by what happened to her, this victim replied she did not, or at least not as much as the other women who had had sex with dogs in the presence of soldiers; she was clearly referring in the context to the fact that some soldiers had reportedly forced those women to have sex with dogs in their presence. The OIOS investigator then asked her if she knew whether those women had had voluntarily sex with the dogs.

97. Further, the OIOS procedure on interviews requires that before the commencement of the interview, interpreters shall be briefed so as to have a clear understanding of the objectives of the interview, its structure and the function served by any specific techniques used (for example those of the cognitive interview); the process for audio recorded interviews shall be explained to ensure a clear and audible record (e.g. no cross talk); and the interpreter should be instructed not to interject their own feelings, opinions or advice into the interpretation.

Interpreters

98. The review noted also several problems as regards the interpreters who participated in interviews. Specifically, besides their obvious lack of training, it was noted that some interpreters re-formulated questions, engaged in direct conversations with the victims, re-formulated answers, and, at times, did not provide direct or accurate interpretation.

99. Moreover, because the NIOs asked questions in French, and because most OIOS investigators present in the interviews did not understand French, these investigators could not always sanction or detect inappropriate comments made by the interpreters or their reformulation of questions asked or answers provided. Some of these problems were underlined by some investigators who made critical remarks also about the interpreters present in their interviews. Examples include:

[A] *“Our interpreters were only ‘language assistants’ and so they were performing a role for which they were not trained or employed. Regardless the quality of translation was questionable, and on multiple occasions the language assistants had to be reminded of the need for direct interpretation rather than versions or summaries – continual reminders to fully translate investigator questions and refraining from preempting.”*

[B] *“I think that interpreters would benefit from receiving training of forensic interviewing of children. At times, I felt that the interpreter may not be literally translating the SEA victim’s comments because he either felt embarrassed to interpret the child’s words of he was trying to interpret in a way he may have thought we would understand the victim better.”*

100. The review found that the OIOS protocols on interviews were not always complied with; and that the inappropriate conduct of the interpreters was not always sanctioned by the OIOS present in interviews, nor reflected in the daily situation reports or in other related documentation. As a result, the overall quality of the interviews was affected and as a result, not all information provided by the victims could be properly verified.

101. It is recommended that interpreters assigned to assist with SEA investigations should be properly trained for such activities.

102. It is also recommended that OIOS enforces the requirement that investigators comply fully with the OIOS policy on interviewing.

The NGOs and the effects of possible corruption on the ground.

Why not sooner? When did Child Protective Services first hear this and did anyone give a formal statement about it?

103. OIOS obtained information about one particular NGO, and about possible corruption on the ground, first in May 2016, during a discussion with the Chief of the Child Protection Section at MINUSCA, and then, in July 2016, during interviews conducted with the Sub-Prefect of Dekoa, and with a representative of UNICEF, as detailed below. Most surprisingly, this information was not mentioned in the reports of investigation issued by OIOS. It is also unclear if this information was shared with the NIOS.

This must affect the credibility of the witnesses.

Why was it removed from the final investigation reports?

104. Thus, on 11 May 2016, during a meeting with an OIOS investigator, the Chief of the Child Protection at MINUSCA (the Chief) provided critical background information about the SEA allegations in Dekoa. First, the Chief advised that UNICEF sent a staffer named Marie Louise to Dekoa after the IRC alerted UNICEF about the SEA allegations. There, she identified 98 victims of SEA; but at the same time, she learned anecdotally that a man named Gerard Moussa was possibly canvassing victims, by proactively knocking on their doors.

105. The Chief further said she herself had also travelled to Dekoa on 29 March 2016, to assess the situation, as a member of a MINUSCA multi-dimensional team. She explained that the team had interviewed 58 victims (of which 20 were on a UNICEF list) and that after duplication, the number of victims shown on the UNICEF list was reduced down to 88.

Does this mean that the Mission filtered out some potential witnesses who were not then interviewed by OIOS?

106. In support of her statement, the Chief provided the OIOS investigator with the copy of a three-page strictly confidential *“Special report on SEA allegations 27-30 April 2016”*, which set out further critical information. Specifically, that one national NGO was allegedly paying off fake victims to encourage them to make false SEA allegations against MINUSCA, and that Mr. Moussa was directly involved in the matter.

Was this information shared with the 'Special Co-ordinator on the UN's response to SEA?

Has this risk been considered and have new policies been implemented to identify / prevent fraud in the assessment of later SEA complaints?

107. This important report, which also contained succinct narratives of interviews conducted with 9 local actors, including the mother of an SEA victim and the husband of a fake victim, reached three main conclusions:

- (a) First, that women and girls in Dekoa were being manipulated to come forth as victims of SEA;
- (b) Second, that despite this fact, the team believed genuine victims of SEA still existed, but some of them were yet to be identified; and
- (c) Third, that the widespread belief that long term assistance and travel opportunities will be offered to victims had negatively impacted the fact-finding investigation. On this latter point, the report mentioned that up-front and widespread distributions of dignity kits to alleged victims had been cited by numerous interviewees as an incentivizing factor.

108. Further, on 23 July 2016, during a meeting with OIOS, the Dekoa Sub-Prefect advised that he learned about 2 false reports of girls claiming to be victims of SEA. Three days later, during a formal interview, the Sub-Prefect provided additional information to OIOS. Specifically, the Sub-Prefect said that Mr. Gerard Moussa, who brought victims to UNICEF for registration as victims, was targeting them and was requesting them to pay him cash and food in exchange for his assistance to ensure their names are included on the UNICEF list of victims. He added that Mr. Moussa had told SEA victims that if they report to the investigators that they were SEA victims, in the end, they will get money.

Were these statements provided to OIOS?

109. The Sub-Prefect further said that UNICEF funds were used for a dual purpose. First, to pay a local NGO that took statements from victims of SEA; and second, to ensure that victims receive 10,000 CFA monthly as assistance. As he put it: "*money was paid to the victims and this is how it happens they made it a kind of business.*" According to the Sub-Prefect, Mr. Moussa wanted to facilitate deals with the victims so to get a cut of the monies.

110. On 27 July 2016, in a subsequent meeting with a UNICEF representative, OIOS learned that UNICEF had retained the NGO "*Association of Female Lawyers*"⁵³ to assist SEA victims, and had budgeted funds for that specific purpose. OIOS further learned that UNICEF was paying SEA victims 10,000 CFA monthly, as elementary support; and that that amount later increased to 20,000 CFA monthly if the victims had a child as a result of SEA; the NGO made these payments directly to the victims.

111. OIOS provided UNICEF three names of possible false victims and asked them to verify if these victims had falsely reported they were victims of SEA, or if a false victim was presented to OIOS for interview in place of a true victim. OIOS also requested UNICEF to clarify duplicative names of victims registered onto the IRC and the UNICEF lists. UNICEF later confirmed that one victim had registered twice on both lists so that she could gain support from both sides.

⁵³ The Association of Female Lawyers (AFJC) was founded in 1992 to promote human rights and to protect the rights of women and children in the Central African Republic. Its goal is to help survivors of violence (many of whom are women) by providing legal support and psychosocial counselling.

112. Furthermore, OIOS documented an incident during which an agent of the NGO, who presented one victim for interview with OIOS, removed that victim from the OIOS interview for “verification purposes”, and did so without the authorization of the investigators. After OIOS sought clarification from the agent on the reason for the removal of the victim, the agent replied, disingenuously, that one OIOS investigator told the agent the victim was no longer required. When OIOS later pressed the agent and the UNICEF representative for further explanations the UNICEF representative claimed a misunderstanding and said the victim would be produced for interview. In the meantime, OIOS learned that the Sub-Prefect had visited the UNICEF/NGO tent and advised that OIOS knew that false victims were being presented for interviews:

Was this ever investigated?

113. But some investigators too had suspicions regarding possible collusion. They discussed these issues among themselves, and they also advised the reviewer of the same. Some wrote about it in their submissions. Here’s one illustrative example:

“It appeared that some of the victims may have been coached in the way that they recounted their stories. This may not mean they were necessarily giving false testimony but that they may have embellished their stories either in expectation of compensation or with a view to obtaining some benefit. Unfortunately, this influenced the attitude of some colleagues towards the victims and caused them to become skeptical. This came across in the interviews and in the assessment by some colleagues of the veracity of the accounts of many victims who would otherwise have been believable.”

114. Further, the documentation examined show that the above information was referred to in one copy of the draft report of investigation. However, the reference was taken out and the final report does not speak about it. Interestingly also, this information was shared with UNICEF so that they investigate the matter, but this was done informally and not through established OIOS procedures which require a formal referral. The reviewer queried UNICEF over the result of their investigation but was advised that because no evidence of collusion or corruption could be found, the case was closed.

115. The review found that important information suggesting collusion between NGOs and victims and possible corruption as regards the registration of victims was not properly followed up, nor included in the final report of investigations issued by OIOS. It was also improperly shared with UNICEF.

116. It is recommended that in future cases, any and all information which is relevant for the investigation is properly explored and is included in final reports of investigation. This is particularly important when such information is potentially mitigating and suggest that one or more victims may have been induced into provide false accounts.

OIOS victimology, how we treat victims.

117. Guidance material, protocols, policies and good practice require that interviews with vulnerable persons (such as victims of SEA) should be conducted in a safe and supportive environment by accredited/designated investigators who have undergone the appropriate training; in accordance with good practice, investigators are required to consider the victim’s

race, age, gender, caste, culture, and ethnicity, and be aware of the role of unequal positions of power and cultural differences when conducting such interviews. Because SEA victims are vulnerable, fearful, and likely to have strong feelings, investigators must demonstrate also special care to reduce the risks of causing victims further harm or distress.

118. The documentation examined revealed a certain lack of clarity on the part of some investigators as regards victimology, and as regards what they were expected to do (or not) in terms of supporting the victims. This may be due to their lack of training on conducting interviews with vulnerable victims, on insufficient direction provided as regards what others were supposed to do in terms of assisting victims, or on the absence of detailed OIOS protocols to ensure a certain conduct during victim-sensitive investigations. Some of these issues are illustrated in the comments below:

- [A] *"I believe some investigators were inexperienced in handling minors and victims of sexual crimes. It was evident to me that some investigators had never received training in interviewing victims of sexual assault. Some investigators showed no empathy to the victims and gave no weight to victim's accounts from the outset, lacking a victim-centric approach."*
- [B] *"I don't feel there was a lot of guidance other than my own initiative in looking for guidance on a victim centered approach to interviewing and information on interviewing survivors of SGBV. Other than standard OIOS guidance materials which don't contain any guidance relating to specific issues that arise during SEA investigation, there was very little guidance provided to investigators in the field."*
- [C] *"I feel that if given the opportunity better briefing of issues related to SEA and interviewing minors could be given. A focus on gathering whatever physical evidence possible should be provided and more tie to gather evidence should be allotted."*
- [D] *"Furthermore, some colleagues appeared to have insufficient appreciation of the techniques for conducting sexual violence interviews, especially with minor victims, and where unable to show the required sensitivity in managing the interview process resulting in a rather insensitive treatment of victims and leading to hasty judgments as to the credibility of their accounts."*
- [E] *"The role of the NGO in providing support workers was also challenging. Due to the working conditions, there was limited opportunity for investigators to speak with victims before interview, thereby create rapport and make it easier to obtain information. However, this could have been mitigated by support workers who should have been engaging with victims before (most did not know their name) and did not understand their role in the process. The term psycho-social support was used on a number of occasions by the support workers, but it was apparent that they did not appear to know what was required. This placed extra pressure on investigators to place victims at ease and obtain a quality product. Additionally, it was also clear that UNICEF/NGO had not supported victims prior to interview in terms of physical care i.e., feeding them. Not only*

[E] *did this place investigators' impartiality at risk, but the subsequent refusal damaged rapport. In this respect, a hungry victim was also liable to underperform in interview."*

[F] *"...lack of TOR with UNICEF/UNFPA and the NGOs providing support...would have saved us time trying to figure out each other's role, identify the victims and witnesses properly. In addition, the support person had no idea what to do most of the time, they thought OIOS was supposed to provide care for the victims including food and medical - we had to keep telling them no. However, out of compassion, we had to share our dry provisions with the most vulnerable ones and the babies who were waiting hungry. In addition, some of the victims/witnesses did not even know who their support persons were indicating that briefing for them was not done or not done properly."*

[G] *"Too many people in the interview room - 2 NIOs, 1 to 2 OIOS staff, 1 interpreter, 1 support person, 1 adult family member for the child victims (when they requested their presence) and the victim/witness. It felt intimidating for the most victims/witnesses especially since we are discussing sexual activities - this was not ideal for the witnesses/victims."*

119. The review found that some investigators are still unclear about what was expected on them when conducting interviews with vulnerable victims, and on the roles of those who were required to provide assistance to victims.

120. The review also found that investigators require specialized training to conduct such interviews; establishing rapport with victims and witnesses before or at the commencement of the interview was virtually impossible given the conditions on the ground. Likewise, limiting the number of persons who were present in interviews was equally challenging. These were shortcomings that could have been overcome but were not.

121. It is recommended that interviews of vulnerable victims are only conducted by interviewers who are properly trained; that these interviews are conducted in a safe and supportive environment; that victims receive the support required from those assigned to do that, and that, all necessary action is taken for the protection of the victims and witnesses during the interview and investigative process.

OIOS procedures, policy and paperwork.

122. SEA policies and procedures provide that when dealing with allegations of SEA committed by members of TCCs, the investigative activities of OIOS are secondary and complementary.

123. Indeed, under the revised MOU, the Government of the concerned TCC has the primary responsibility for investigating acts of misconduct or serious misconduct committed by members of its national contingent; when the Government decides to start its own investigation, the NIOs sent to the mission area lead the investigation. The role of the United Nations investigators in such cases is therefore limited to assisting the NIOs, if necessary - and only if requested - in the conduct of their investigations in terms of, e.g. identification and interviewing of witnesses,

recording witness statements, collection of documentary and forensic evidence and provision of administrative as well as logistical assistance.

124. In contrast, when OIOS leads an investigation - either because so decided by the Government of the TCC, or by default due to a lack of response - the Government of a TCC is obliged to instruct the Contingent Commander to cooperate and to share information with OIOS. Regardless the scenario, however, mutual cooperation on a technical level is essential between OIOS and the TCCs.

125. To facilitate this, OIOS issued a detailed procedure⁵⁴ which sets out the interaction with the TCC; this procedure includes a template TOR that must be signed between OIOS and the NIOs. Because this procedure derives from the revised MOU, it should be consistent with its provision; but in the cases examined it was not, for the following reasons.

126. First, the TORs in both cases examined improperly refer to the syntagm: “*joint investigation*” and also, improperly quote article 7 *quater* of the revised MOU in that regard; why? because the syntagm “*joint investigation*” does not exist in this article and is never mentioned as such in the revised MOU. It is therefore unclear why this syntagm was included in the OIOS procedures as early as 2011. But it is clear it shouldn't have; this is not semantics nor legalese, OIOS cannot/should not operate outside established mandates, rules or procedures; it should also not issue guidance material that is manifestly inconsistent with GA legislated mandates.

127. While in practice some NIOs may decide to provide a greater role to OIOS during their investigations, current mandates require them, and them alone, to be in the lead when their Government decided to deploy them. Until the revised MOU is modified, OIOS should ensure that its procedures or policies reflect this reality; what if one day, a TCC refuses to conduct a “*joint-investigation*” with OIOS, preferring instead to conform to current rules? One cannot have differing standards and practices over such important matters. So, whenever the revised MOU will be modified - and OIOS has suggested such revision in the past⁵⁵ - OIOS should ensure the revision reflects the fact OIOS is permitted to conduct joint-investigations with Member States; that is, if such course is accepted. Until then, however, all OIOS procedures that reflect or misquote non-existent provisions should be modified accordingly.

128. Likewise, the OIOS procedures regarding interviews with victims of SEA and witnesses should also be revised. Both the preamble of the OIOS interviewing template and the advance notice provided to victims ahead of their interviews must be revised. It is not reasonable to expect that a victim or witness interviewed will ever fully understand the already lengthy and complicated language of the template.

54 Procedure - Interaction with Troop Contributing Countries and military members of national contingents - 2a-PROC-062015, June 2015.

55 See the OIOS report “Evaluation of the Enforcement and Remedial Assistance Efforts for Sexual Exploitation and Abuse by the United Nations and Related Personnel in Peacekeeping Operations” (page 23, paragraph 73) of 15 May 2015.

129. Moreover, asking a victim or witness in an SEA case to provide an oath is not appropriate either; it may also be deemed insulting. It should be noted in this regard that after an OIOS investigators asked the Dekoa Sub-Prefect to provide the OIOS oath before his interview, the latter felt offended, and argued that being asked to do that manifestly implies that he would be telling lies: “*me demander de jurer sur l’honneur? Veut dire que je suis en train de mentir.*” - translation: “*asking me to swear on my honor means that I am lying to you.*”

130. OIOS has no authority over non-UN staff, and no victim or witness approached for interviews is obliged to cooperate with an OIOS investigation. This fact should be properly reflected in all relevant OIOS procedures and protocols, which should also be revised accordingly.

131. Lastly, the OIOS protocol on DNA was criticized by several investigators. Again, OIOS was not set up to conduct criminal investigations or investigations into alleged crimes. While it is sometimes called to do that, as in the cases under review, it is doubtful that any evidence collected by an OIOS investigator (who may not be properly trained to do that) will ever be admitted in a court of law.

132. Moreover, it is equally doubtful that OIOS should have a role in preserving DNA evidence. Because DNA may be the only type of evidence that could link a possible perpetrator to a victim of SEA this is an extremely important matter.

133. In this case, it was noted that **none** of the DNA samples collected was deemed usable by labs retained for that purpose. It is unclear if the problem with the DNA samples available was due to improper collection, storage or examination. If OIOS is expected to continue to collect DNA samples, it **must train its staff** to doing that, and it must also revise its procedures accordingly, to provide for more clarity. Likewise, OIOS must ensure that it has in place proper storage facilities for DNA samples collected, to avoid contamination.

An OIOS protocol on collecting DNA evidence does exist.

Lack of training is hardly an excuse for leaving DNA samples out in the heat for months.

134. The review found that the TORs examined in these cases improperly refer to the fact that OIOS conducts joint investigations with the TCCs and improperly quote references from the revised MOU as regards roles and responsibilities. It is unclear if this is due to an insufficient understanding of specific provisions of the MOU or to other reasons. But until the MOU is revised, OIOS should adapt its policies accordingly.

135. The review also found that the interview protocols used by OIOS are not suited for conducting interviews with victims and witnesses of SEA. Administering an oath to interviewees who do not fall under the remit of OIOS, and who, therefore, are under no obligation to cooperate with OIOS is inappropriate; reading the long preamble to such interviewee, at the outset of the interview is also inappropriate.

136. It is recommended that OIOS revises its procedure on interaction with the TCC and its protocols of interviews accordingly. The first should be made consistent with the revised MOU and the reference to joint-investigations should be eliminated. As to the second, OIOS should issue a separate procedure for witnesses, victims and other persons who do not fall within the remit of OIOS.

Are there any available investigative techniques that are available that weren't used and perhaps would have helped?

137. Obtaining evidence of SEA, especially sufficiently strong evidence that could stand the scrutiny of national court proceedings one or two years after the events, and after the alleged perpetrators were repatriated is extremely difficult. Therefore, conducting high quality interviews with victims and witnesses, and obtaining as much independent corroboration evidence as possible is especially important; corroboration is crucial in investigations conducted a long time after the facts occurred, where physical or biological evidence is hard if not impossible to obtain.

138. In the cases examined, the NIOs and the OIOS investigators relied quasi-exclusively on three investigative techniques: (a) interviews with victims and witnesses; (b) photographic arrays of soldiers presented to victims for identification purposes; and (c) where children were born on DNA collected from victims. Because the review found deficiencies in each, they are discussed in greater detail below.

Interviews

139. There are few skills more important to an investigator than the ability to obtain information through effective interviewing; the importance of properly conducted interviews cannot be overstated. Specialized literature and best practice generally require that a good interview should be objective in scope, and aimed at gathering information in a fair and impartial manner; also, interviews should be conducted as closely as possible to the event in question because with the passage of time, the memories of potential witnesses and respondents become faulty and critical details can be lost or forgotten.

140. Further, good interviews share common characteristics: they should be of sufficient length and depth to uncover relevant facts; should include all pertinent information; and should exclude irrelevant information. Professional investigators are reasonably expected to be able to determine what information is relevant in an interview, when to ask follow-up questions, and when to obtain corroboration.

141. The OIOS procedure⁵⁶ on interviews sets out the manner in which interviews should be conducted with victims, witnesses and subjects of an investigation and provide specific obligations for the investigator: before, during, and after the interview. Thus, in preparation for the interview, the investigator must complete an interview plan, which should give a brief summary of the matter reported and the inquiries and/or issues to be addressed with the interviewee; the investigator is also required to refrain from asking certain questions (e.g., argumentative, rhetorical, loaded, accusatory, judgmental, etc.) and to document the interview.

142. Likewise, specialized literature and best practice require that regardless of the model or type of the interview conducted (e.g. accusatory/non-accusatory; PEACE, cognitive, advance cognitive, conversational, etc.) investigators should prepare an interview plan (e.g. a preliminary interview “*template*” or outline, plus a list of questions/topics specific to the elements of the

⁵⁶ OIOS Procedure on Interviews 5a-PROC-072015, 9 July 2015.

alleged offense; investigators must also ensure to cover in their interviews the: “*who*”, “*what*”, “*where*”, “*when*” and “*how*” of the alleged offense (while remaining wary about asking the victim/witness any “*why*” questions, so as not to apportion blame to the survivor/witness); and they should never forget to ask the “*How do you know?*” or the “*What led you to that conclusion?*” questions, because the answer to these questions will often give investigators the most critical evidence.

143. However, investigators should not stick too rigidly to the above list and should ensure they react to what they hear from the victim/witness. Importantly, they should react by asking follow-up questions when necessary or appropriate. But to do so, investigators should be able to identify which particular information provided in an interview is important and requires follow-up to obtain corroboration.

144. In SEA cases, which, again, are often quite difficult to prove, not doing so may result in negative repercussions, as we will discuss further below in the case of a particular victim interviewed by the NIOs in the presence of an OIOS investigator. The example of this victim was chosen because during her interview, both the NIOs and the OIOS Investigator failed to ask critical follow-up questions which would have lend more credibility to her account. But this example shows also that the OIOS investigators present in the interview failed to include critical information provided by this victim in the synopsis of her interview. Because of these shortcomings, the victim’s account was dismissed; and the alleged perpetrator was cleared.

Victim A:

Names redacted here to protect the anonymity of victims and witnesses

See also
para 94
above

145. She was living with her husband at the IDP Camp. Her husband died in an accident and after his funeral, Victim A went to live with CK her cousin, at the latter’s house. This is when she met **John** a soldier who used to come drink alcohol at their neighbor’s place. He asked her to start a relationship based on sex; she accepted because she had no means to support herself and her three-year old son. **John** helped her, including by providing her rice, canned food, and beverages from his military camp. She said she still had a box of rice that **John** had given her; she was using it to prepare her family’s main daily meals.

146. She became pregnant with **John**, but after he left Dekoa without telling her, she self-provoked an abortion. Because there were complications, she was hospitalized at the local hospital and had a surgical intervention. She provided the first name of the doctor who performed the surgery and said he was still with the hospital at the time of her interview.

147. When asked if **John** was going for drinks alone or with friends, she replied that while there were many soldiers there (whom she could recognize) she recalled and could recognize two of **John**’s friends: **Fred** and **Tom**. She added that **Tom** knew of her sexual relationship with **John**.

148. She further said that **John** used to drink a lot and couldn’t stop because he got used to it. **John** told her that his superiors at his camp had beaten him twice because of his excess drinking, and because he had breached the rules about movement outside the camp. She said she and others could hear **John**’s cries when he was beaten.

149. When asked who else knew of her relationship with **John** she replied that many knew, but offered only the names of **Rose (W-1)** (her cousin's wife) and that of **Daisy (W-2)**, a woman who used to sell alcohol near the place where she lived.

150. When asked also who assisted her with her complaint she replied that no one did. However, she said that before her interview with OIOS and the NIOs (which occurred on 18 May 2016) one woman named Marie Louise came by airplane to Dekoa to collect information about women who were sexually abused. This woman asked for her, so they met and spoke. The NIO then asked what that woman gave her in exchange for the information provided. She replied that she didn't receive, nor was promised anything.

151. Significantly, she added that two weeks after her interview by Marie Louise, three Burundian military officers had also asked for her. They met and they interviewed her for about two hours in the presence of an interpreter; they took notes and also took her picture. She added she saw that same interpreter in Dekoa one day before her interview with the NIOs and OIOS.

152. The NIO then asked her to indicate what these officers promised her, to which she replied they didn't promised her anything; instead, all offered her advice. When asked further about the officers, she replied they came to see her as a result of Marie Louise's visit. She said that Mr. Moussa Gerard had introduced the officers to her.

153. On the same day of her interview with the NIOs and OIOS, the victim was shown 13 photographs of Burundian soldiers, but she did not recognize **John** she did not recognize him because his picture was not included. However, on 16 August 2016, during a second photo array shown to her with 140 different photographs, including that of **John**, she immediately recognized him.

154. She named **Daisy (W-2)** and **Rose (W-1)** as witnesses; each corroborated her account. Thus, **Daisy** recognized **John** from photographs and confirmed she knew about the relationship between **John** and V013. She added that **John** visited the victim often at her place.

155. Likewise, **Rose** confirmed she knew about the victim's abortion and hospitalization. She said the victim told her she had had an abortion following sexual relations with **John**. She added that, unlike other soldiers whom she only saw during the day, **John** was the only one whom she saw by the victim's place also at night.

156. In their report of investigation submitted to the Organization, the Burundians argued that no case could be established against **John** (they said there was no evidence of rape by **John** although rape was never alleged) for two reasons: First, because the victim could not recognize **John** second, because of an apparent conflicting account about the location where **John** was buying beer.

157. The Burundians further argued that the victim stated in her interview that **John** was buying alcohol from her neighbors, whereas in contrast, **Daisy** said in her interview that **John** was buying alcohol from the victim. However, upon listening to the tape and to the French

interpretation, the reviewer noted that the victim simply said that **John** had first noticed her when he came to drink alcohol at her neighbors' place, not hers; this is when he suggested that they should start a relationship based on sex. But the Burundians also failed to mention that V013 recognized **John** when shown a second set, more complete set of photographs. So, they dismissed her account altogether.

158. The review noted significant problems with the interview of this victim. First, there was no follow-up on the victim's statement that she had been interviewed previously by three Burundian officers before her interview with the NIOs and OIOS. This fact is mentioned in the synopsis of the interview prepared by the OIOS investigator, but is not mentioned in the OIOS report of investigation, nor in the Burundian report.

159. This is a significant failure because if the account of Victim A in this regard is correct, this means that the Government of Burundi failed to inform the Organization about the allegations of SEA involving its uniformed personnel before OIOS decided to investigate the case.

160. The Government had such obligation under article 7 quarter (1) which reads as follows: *"In the event that the Government has prima facie grounds indicating that any member of its national contingent has committed an act of serious misconduct, it shall without delay inform the United Nations and forward the case to its appropriate authorities for the purposes of investigation."*

161. Second, there was no follow-up on the victim's statement about her abortion. The NIOs and OIOS could have easily verified her account about that by interviewing the doctor, whose first name had already been provided to them and who was on duty at the hospital on the day of the interview. Had they done so, they would have likely established the date of the abortion and other relevant information.

162. Third, there was no follow-up about the food (the box of rice) reportedly provided by **John**. Indeed, the victim said she still had a box of rice at her home when she was interviewed. If the NIOs and OIOS had verified this key aspect, they could have likely established the quantity, origin, and type of rice based upon the brand, etc. This is surprising considering that one picture of this victim's house, and one of the location where **John** used to drink are available in the case file.

163. Fourth, the alleged punishment of **John** by his superiors could and should have been easily verified, for example, by examining the Burundians "*registre des punitions*" mentioned in their own report of investigation.

164. Fifth, an attempt should have been made to identify **Fred** and **Tom** through photographs presented to the victims and to others. Both could have provided important information to corroborate (or not) the victim's account.

165. The above facts show that this victim's account was dismissed entirely and **John** was cleared because of several tactical mistakes:

166. First, although her account was credible and required follow-up questions and corroboration, this wasn't done;

167. Second, the victim was presented with a first set of pictures that did not include **John** s. So, she didn't recognize him. But how could she if his picture wasn't included? In contrast, when **John**'s picture was included in the second, larger set of pictures presented to her, she immediately recognized him; and witnesses did the same.

168. Third, and more importantly, the case of this particular victim is very important because no one knows if the Burundians who interviewed her before May 2016, have also approached and interviewed other victims than Victim A before the deployment of the OIOS investigators to Dekoa, or even before OIOS opened an investigation into these cases. If so, this could have compromised some of the evidence gathered.

169. The example of victim A is not isolated, however; indeed, the reviewer noted in other interviews also both the absence of follow-up questions and the presence of inappropriate questions posed to victims.

170. For example, rather than asking the victim to take her time and explain exactly what happened to her - while attempting to also obtain as many details as possible - after some victims said only that they were raped or had sex in exchange for food, they were never asked to describe the sexual acts. In contrast, interviews where more experienced and obviously trained OIOS investigators were present, such questions were asked.

171. Further, the documentation examined shows that in the majority of the interviews conducted with victims, the NIOs and the OIOS investigators have not even tried to establish (any type of) rapport with the victims at the outset of their interviews. Instead, the victims were quickly read the preamble of the OIOS interview template and then, were asked what happened to them; audio tapes reviewed also suggest that victims didn't really understand all of the information provided at the outset, especially the technical information about OIOS and its mandate per ST/SGB/273; it is reasonable to infer in this regard that none of the victim interviewed had ever heard about a bulletin issued by the Secretary-General of the UN or about what OIOS is or does. Yet, it is generally accepted that in all interviews - and especially in those involving SEA allegations where sensitive questions are asked, establishing rapport is absolutely required. While listening to some audio tapes, the reviewer also noted that the tone of some investigators and NIOs appeared harsh and prosecutorial even when making apparently neutral remarks.

172. It is clear, therefore, that some investigators, and the NIOs demonstrated lack of interview dexterity or proficiency; and they require training. There is an absolute need for investigators and NIOs alike to be trained in the proper conduct of interviews with vulnerable victims.

Given the number of previous investigations that OIOS had done over the last 10 years that involved "vulnerable victims" - is there any excuse for investigators needing additional training in this very basic investigative skill?

Photographic array

173. The photographic array is an important procedure used to discover or establish the identity of a person; it is widely used, especially in SEA cases involving historic allegations made long after the alleged perpetrators returned to their countries. The importance of a properly conducted photographic array cannot be overstated. To be effective, this procedure requires that accurate and complete pictures are provided to victims and witnesses in a consistent format and practice.

174. However, the examination of the documentation available revealed that various practices were used for conducting photographic arrays presented to different victims. This was a significant shortcoming, and had potentially affected some of the probative material adduced; several investigators deplored this fact in their submissions:

“...for the photo array, we were given 2 or 3 different files and it was not clear which was to use and which was the most accurate.”

“Following the operation, I was asked to answer a request from the Burundian NIOs which seemed simple enough: confirm the photo array identification of a number of Peacekeepers (39 if I remember correctly). When I tried to conduct this verification, I found out that goCase contained full documentation for only ten of these identifications, some folders being completely empty of any photo array related documents while the daily sitreps indicated that it had been done. In a large number of cases, the folder contained no indication as to which photo array was used, and no photo array was uploaded into goCase as the official photo array. Furthermore, a number of variations in the photo arrays used made it impossible to guess which particular version the investigator had used.”

DNA

175. The OIOS has a protocol⁵⁷ in place which sets out the steps required to ensure proper collection, storage, and testing of DNA samples obtained during an investigation. In the cases reviewed, however, none of the DNA samples collected - and tested - produced reliable results. And this was due to both the (faulty) manner in which specimens were collected and to the long period of time that elapsed from the collection of specimens and their transmission to the lab in Nairobi.

176. To illustrate, while the majority of specimens were collected in Dekoa from March through May 2016, they were stored in Bangui for many, many months, since the OIOS Nairobi office got them only in late April 2017! Moreover, in early May 2017, when these specimens were ultimately sent to the lab in Nairobi, most were already rotten. It is therefore hardly surprising that positive results could not be obtained. It is also hardly surprising that the Burundian TCCs - who got duplicate specimens from OIOS between May and July 2016, could get positive results either. This is the reason why, in late March 2017, OIOS dispatched investigators to Burundi to collect DNA specimens from soldiers.

Even without an official OIOS protocol on the subject, can there be any excuse for this?

⁵⁷ Protocol on Collection of DNA Samples – 5e-PROT-012022, 1 January 2011.

177. Comments from some investigators suggest that both the collection and the storage of the DNA samples might have been problematic. Some of them also commented on of apparent lack of clarity on what was to be done once DNA samples were collected.

- [A] *“The procedure for DNA sample taking, as well as the available equipment has to be revised. The DNA analysis conducted by the Burundian authorities failed to extract a DNA profile from the samples collected from the babies. Other procedures to take DNA samples on large scale are available and are said to be user-friendly.”*
- [B] *“DNA samples were left in the field for weeks on in a cabinet, there should have been more attention paid to transferal back to HQ and refrigeration asap.”*
- [C] *“There needs to be training on DNA sample collection. It seems that most Investigators have different interpretations of how it is done and this leads to bad DNA samples that cannot be used for paternity testing.”*
- [D] *“...we didn’t know what to do with the evidence and the DNA collected... take the DNA sample to Bangui or leave it there? We took the DNA to Philip and he put it in a drawer...but the place was very humid.”*
- [E] *“OIOS should consider an advisory whereby all troops are encouraged/instructed to provide a DNA database of the troops before deployment to ensure that in case of any reported SEA matters, DNA samples obtained can be simply matched to a DNA database.”*

178. OIOS was not established to conduct criminal investigations or investigations into alleged crimes per se. While it is sometimes called to do just that, as in the cases under review, it is doubtful that all courts will admit evidence collected by an OIOS investigator who may not be properly trained to do that, and who, after all, is employed to conduct UN administrative fact-finding investigations.

179. Proper DNA collection and testing is critical, however, because in sexual related cases this may be the strongest and undisputable evidence to prove or disprove sexual activity or paternity if a child was born following the sexual relations. If OIOS should continue to do that, it must train its staff to do that and it must also revise its procedures accordingly. OIOS must also ensure it has proper storage facilities for DNA and other biological samples, to avoid contamination.

180. The review found that important information regarding possible corruption by the NGO’ was not refined and corroborated further although it should have. It was also not included in the final investigation report although it should have. While this information was ultimately provided to UNICEF for investigation, the manner in which this was done was inconsistent with the existing referral procedure in OIOS which required such information be formally referred through a formal referral report, and not a mere email.

181. The review also found that different photographic arrays were used for different victims. Moreover, the filing of these photographic arrays was deficient.

182. It is recommended that all relevant information - especially that which could be deemed as mitigating or potentially exonerating - should be included and discussed in the final reports of investigation. If OIOS took no action over it, and referred it instead to another organization, this must also be reflected in the report.

183. It is recommended that in future cases OIOS ensures from the outset that all photographic arrays used during the investigation are consistent, and are properly filed so that they can be provided to TCCs if required.

184. It is recommended that a voluntary database for DNA be created from all deployed personnel deployed in a peacekeeping mission. This will assist not only in proving an SEA incident occurred, when DNA is the means to do that, but also to exonerate any and all individual who might be wrongly accused of such offenses.

185. It is recommended that OIOS ensures that only trained investigators collect DNA specimens, and that once collected, these specimens are stored properly in specially designated locations to avoid contamination. OIOS also should revise its protocol on DNA collection, to make it simpler and clearer.

How the review can contribute to the work of the SG’s Special Coordinator on SEA and the work of the UN-RIS Standing Task Force on the Improvement of the Investigation of SEA.

186. The findings of this report show that despite numerous statements, commitments, and much publicized successive SEA policy frameworks, important SEA related norms and procedures continue to be unknown or unevenly applied; they also show that much remains to be done to eradicate SEA.

Jane Holl Lute → who had been appointed BEFORE news of the allegations from Dekoa were received cannot be held responsible for gross ineptitude on the part of OIOS investigators

187. The appointment of the Special Coordinator on Improving UN Response to SEA, the establishment of the UN-RIS Standing Task Force on the Improvement of the Investigation of SEA, and the comprehensive new measures set out in the most recent Secretary-General report of 28 February 2017 constitute a new start for breaking down excuses, for ending impunity, and for ensuring zero tolerance becomes a reality across the UN system.

188. The reviewer learned that key SEA material referred to in this report (e.g. guidance material and tools for operational actors regarding SEA, the complaints and investigation procedures, the model information sheet, and the complaints referral form issued by the Taskforce on Protection from SEA in Humanitarian Crises) are apparently unknown to the Members of the Task Force. And it is unclear if these are known to the Special Coordinator and her team either.

189. Therefore, the findings and recommendations of this report, and the material referred to therein should be shared with the Special Coordinator and with members of the Standing Task

What does this say about the Organization’s attitude towards the investigation of sexual offences?

Force. The Special Coordinator and the Standing Task Force may subsequently decide what works, what doesn't, and why, and, more importantly, how to adapt or update their policies and action plans accordingly.

Was this review ever shared with them?

190. Further, both the Special Coordinator and the Standing Task Force may consider recommending that, in addition to the latest measures announced in the most recent SG report on SEA, the Organization should shift its overall SEA strategy from pleading and suggesting, or rather, from being reactive and defensive (usually after fresh SEA public scandals), to being proactive and assertive, while fully engaging Member States and other relevant actors.

191. It is clear however, that the battle against SEA cannot be won without the active participation of Member States and the recognition of their responsibilities. But it is equally clear that the policy of only carrots and no sticks that seems to have prevailed until relatively recently must stop. Uniformed personnel serving in peacekeeping missions must act as if they're watched and must be certain that the Organization will not tolerate any additional act or attempted act of SEA and will continue to work to end impunity, most notably by enforcing measures in the reporting, investigation and follow-up on each case of SEA.

Investigations Director Ben Swanson

Must speak with **BS** on this; Given that the Task force hasn't done anything so far and that Lute's group hasn't done much either - besides the cards, etc. - I need to get a better understanding on what's expected.

192. It is therefore recommended that the findings and recommendations of this review should be shared with the Special Coordinator and with members of the Standing Task Force.

Integrity of the case files

193. As noted at the outset of this report, the review found incompleteness of both case files, in the sense that if the file purports to contain everything which is relevant to the case then there were documents referred to or later relied upon in the final case report which were not in the case file. It might be useful to recall here the dictum of the first Director of ID: "If it is not in the case file, it doesn't exist."

194. In this regard, the principle is clear: any reviewer of any ID case file should be entitled to conclude that there is no other document or information which would materially affect the findings, conclusions, or recommendations made in the case other than those reasonably drawn from documents or information contained in the file.

195. The review found an inconsistent practice in recording documents in both case files; the source of the documents filed was often not mentioned, and many documents appear to have been filed randomly.

196. It is recommended that OIOS ensures that all relevant probative material adduced during an investigation should be properly documented and filed per relevant OIOS

policies and procedures. This is especially important in cases of SEA where a military prosecutor or court may request evidence adduced for use in judiciary proceedings.

Conclusions and recommendations

197. OIOS will always be called upon at short notice to respond to politically sensitive matters and will divert resources in consequence. At the same time the most serious cases, those that have grave criminal, financial or reputational impact on the Organization, should not lose priority because of these sensitivities.

INCLUDE HERE SOMETHING ABOUT THE NEW SG REPORT AND OUR ROLE FURTHER. ALSO, SPEAK WITH BS ABOUT WETHERE TO INCLUDE ANYTHING ABOUT MORE RESSOURCES?

198. The fact that proper criteria were not applied in the cases reviewed is cause for alarm. If perpetrators are to be held accountable, investigations into their conduct must meet certain standards. Best practices suggest that not only must the evidence be gathered as soon as possible, and in a way, that respects the particular needs of the victims and witnesses, but it must also be preserved in a manner that will ultimately pass the scrutiny of a judicial process.

Recommendations

R1: It is recommended that OIOS engages in a collaborative approach with UNICEF and other UN and Non-UN partners to ensure they comply with SEA policies, guidance material, operating standards and their own SEA International Commitments. Unless they have already done so, these actors should be strongly encouraged to establish procedures that detail the actions to be taken and should allocate clear and specific roles and responsibilities to named post-holders following allegations of SEA; this would identify who should do what, within what timeframe, and the lines of reporting or consultation at each stage. OIOS can and should assist with doing that; If properly done, this would improve speed, accuracy and comprehensiveness in reporting serious allegations of SEA.

R2: It is recommended that in any case where the initial information which could lead to an investigation is manifestly insufficient and requires assessment and follow-up, these activities should be done promptly and properly.

R3: It is also recommended that the requirement for all investigators to submit an investigation plan before commencing an investigation be enforced; the plan must be reviewed and approved by a supervisor.

R4: It is recommended that when similar large or complex SEA investigations with multiple subjects or victims are conducted by OIOS, an operations manager possessing the right skills, experience, and expertise, should be appointed and assigned specific (and measurable) duties and tasks commensurate with the scope of the investigation.

R5: It is recommended that no OIOS staff deploys in hazardous or dangerous areas until proper security and safety measures are taken, and that, when deployed, all OIOS staff benefit from appropriate security protection throughout the duration of their mission.

R6: It is also recommended that the few OIOS staff who demonstrated particular dedication and professionalism throughout this mission be formally commended by the Director and USG/OIOS.

R7: It is recommended that interpreters assigned to assist with SEA investigations should be properly trained for such activities.

R8: It is also recommended that OIOS enforces the requirement that investigators comply fully with the OIOS policy on interviewing.

R9: It is recommended that in future cases, any and all information which is relevant for the investigation is properly explored and is included in final reports of investigation. This is particularly important when such information is potentially mitigating and suggest that one or more victims may have been induced into provide false accounts.

R10: It is recommended that interviews of vulnerable victims are only conducted by interviewers who are properly trained; that these interviews are conducted in a safe and supportive environment; that victims receive the support required from those assigned to do that, and that, all necessary action is taken for the protection of the victims and witnesses during the interview and investigative process.

R11: It is recommended that OIOS revises its procedure on interaction with the TCC and its protocols of interviews accordingly. The first should be made consistent with the revised MOU and the reference to joint-investigations should be eliminated. As to the second, OIOS should issue a separate procedure for witnesses, victims and other persons who do not fall within the remit of OIOS.

R12: It is recommended that all relevant information - especially that which could be deemed as mitigating or potentially exonerating - should be included and discussed in the final reports of investigation. If OIOS took no action over it, and referred it instead to another organization, this must also be reflected in the report.

R13: It is recommended that in future cases, OIOS ensures from the outset that all photographic arrays used during the investigation are consistent, and are properly filed so that they can be provided to TCCs if required.

R14: It is recommended that a voluntary database for DNA be created from all deployed personnel deployed in a peacekeeping mission. This will assist not only in proving an SEA incident occurred, when DNA is the means to do that, but also to exonerate any and all individual who might be wrongly accused of such offenses.

R15: It is recommended that OIOS ensures that only trained investigators collect DNA specimens, and that once collected, these specimens are stored properly in specially designated locations to avoid contamination. OIOS also should revise its protocol on DNA collection, to make it simpler and clearer.

R16: It is recommended that OIOS ensures that all relevant probative material adduced during an investigation should be properly documented and filed per relevant OIOS policies and procedures. This is especially important in cases of SEA where a military prosecutor or court may request evidence adduced for use in judiciary proceedings.

.....

“As an organization driven by and accountable to state interests, which does not have the authority over the conduct of uniformed peacekeepers contributed by member states to PKOs, the UN not only is structurally limited in its capacity to effectively enforce accountability for SEA, but also has an incentive to demonstrate that existing policies are working in order to justify funding allocations by member states. The pressure to report on successes operates at both UN and individual level.”

CONFIDENTIAL DRAFT

Annex B

**Identification of the Dekoa investigations
and
OIOS/ID's previous investigative experience of
'Sexual Exploitation & Abuse' in the MINUSCA Mission.**

Identification of the Dekoa investigations & OIOS/ID's previous experience of Sexual Exploitation & Abuse in the MINUSCA Mission.

The first challenge here was identifying the Dekoa investigations from all the other SEA investigations.

OIOS Annual Reports on their activities in peacekeeping operations for the calendar years 2016¹, 2017² and 2018³, OIOS refers to a large number of investigations involving military personnel in the MINUSCA mission initiated in 2016.

OIOS case numbers are assigned in numerical order, so any case number lower than 203 from the year 2016 must pre-date the initial reports of the rapes in Dekoa.

This leaves only 24 reports, two of which (203/16 and 204/16) relate to the allegations of sexual misconduct by the Burundian and Gabonese contingents in Dekoa. Those were not, however, the *only* SEA complaints from the MINUSCA mission investigated by OIOS in 2016.

Taken together, therefore, the statistics suggest that of all the allegations received⁴, including the 163 allegations from Dekoa - only 22 resulted in the conduct of specific individuals being established to be misconduct.

Of those 163 allegations, of course there is no indication of how many (if any) turned out to relate to French 'Sangaris'

troops who were entirely outside OIOS (and indeed UN) jurisdiction.

Table A

| OIOS Annual Reports for Peacekeeping activities; Contingent Reports re SEA in MINUSCA Mission reported in 2016, broken down by Calendar Years | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-------------------------------------------------------------------------------|
| 2016 | 2017 | 2018 |
| 0001/16 | 0007/16 | Addendums to: 0204/16* 0349/16* 0411/16* |
| 0034/16 | 0008/16 | |
| 0036/16 | 0042/16 | |
| 0075/16 | 0113/16 | ← Case numbers shaded in grey pre-date initiation of the Dekoa investigations |
| 0076/16 | 0116/16 | |
| 0077/16 | 0118/16 | |
| 0078/16 | 0119/16 | |
| 0079/16 | 0120/16 | |
| 0080/16 | 0121/16 | |
| 0081/16 | 0128/16 | |
| 0203/16 | 0196/16 | |
| 0204/16 | 0197/16 | |
| 1) 0216/16 | 2) 0208/16 | |
| 3) 0349/16 | 4) 0210/16 | |
| 5) 0350/16 | 6) 0211/16 | |
| 7) 0373/16 | 8) 0212/16 | |
| 9) 0411/16 | 10) 0213/16 | |
| 11) 0412/16 | 12) 0217/16 | |
| 13) 0413/16 | 14) 0414/16 | |
| | 15) 0504/16 | |
| | 16) 0525/16 | |
| | 17) 0525/16 | |
| | 18) 0527/16 | |
| | 19) 0570/16 | |
| | 20) 0578/16 | |
| | 21) 0600/16 | |
| | 22) 0676/16 | |

1 OIOS Annual Report for Peacekeeping activities for 2016. UN Document No. A/71/337 (Part II) dated 21 February 2017. (Online at: [https://www.un.org/ga/search/view_doc.asp?symbol=A/71/337\(PARTII\)&Lang=E](https://www.un.org/ga/search/view_doc.asp?symbol=A/71/337(PARTII)&Lang=E)) Para 55

2 OIOS Annual Report for Peacekeeping activities for 2017. UN Document No. A/72/330 (Part II) dated 19 February 2018. (Online at: [https://www.un.org/ga/search/view_doc.asp?symbol=A/72/330\(PARTII\)&Lang=E](https://www.un.org/ga/search/view_doc.asp?symbol=A/72/330(PARTII)&Lang=E)) Para 46

3 OIOS Annual Report for Peacekeeping activities for 2018. UN Document No. A/73/324 (Part II) dated 13 February 2019. (Online at: [https://www.un.org/ga/search/view_doc.asp?symbol=A/73/324\(PartII\)&Lang=E](https://www.un.org/ga/search/view_doc.asp?symbol=A/73/324(PartII)&Lang=E)) Para 67

In their Annual Report, OIOS does not identify the nationality of the subject, whereas the Conduct and Discipline website always does so - but trying to correlate the two is very difficult.

Table A above (extracted from OIOS Annual Reports) shows 22 cases, all of described as 'sexual exploitation and abuse by Peacekeepers' and all from the MINUSCA mission alone, that were reported after the Dekoa reports about the Burundian and Gabonese peacekeepers in March 2013 and, more importantly; **a further 22 (shaded) which pre-date 203/16.**

If the UN's statistics were consistent, and the figures from the Conduct & Discipline website can be relied upon, one would expect the Conduct & Discipline website to reflect OIOS having investigated 22 cases involving 'sexual exploitation and abuse by peacekeeping troops in MINUSCA in 2016 before 203/16 was opened on 30 March that year.

Testing that hypothesis by reference to the figures from the Conduct & Discipline website however shows something different.

Table B

| OIOS and joint OIOS/TCC Investigations into sexual misconduct by peacekeeping troops in MINUSCA reported January to March 2016. (Source: Conduct & Discipline website) | | | | | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------------|-------------|-----------|--------------|---------------|-------------------|
| Date | | Subjects | | Victims | Allegation | Investigation | |
| Reported | (Incident) | Number | Nationality | | | | |
| 1. | 3/2016 | Mar 16 | 4 | Burundi | Child | Rape | Joint (534 days) |
| 2. | 3/2016 | Feb 16 | 1 | Morocco | Adult | Exploitation | Joint (609 days) |
| 3. | 2/2016 | Nov 15 | 1 | Congo DRC | Child | Rape | OIOS (392 days) |
| 4. | 2/2016 | ??? 2015 | 1 | Congo DRC | Child | Rape | OIOS (452 days) |
| 5. | 2/2016 | ??? 2015 | 1 | Congo DRC | Child | Rape | OIOS (452 days) |
| 6. | 2/2016 | Dec 14 - ?? 2015 | 1 | Congo DRC | Child | Rape | OIOS (337 days) } |
| 7. | 2/2016 | Nov 15 | 1 | Congo DRC | Child | Rape | OIOS (337 days) } |
| 8. | 2/2016 | June 15 | 1 | Congo DRC | Child | Rape | OIOS (337 days) } |
| 9. | 2/2016 | 2014 - 2015 | 1 | Congo DRC | Child | Rape | OIOS (337 days) } |
| 10. | 1/2016 | May - Aug 15 | 1 | Congo DRC | Child | Rape | OIOS (429 days) |
| 11. | 1/2016 | Jan 14 | 1 | Morocco | Child | Rape | Joint (707 days) |
| 12. | 1/2016 | Jul – Oct 14 | 4 | Niger | Children (2) | Rape | OIOS (702 days) |
| 13. | 1/2016 | 2014-15 | 10 | Morocco | Children (5) | Rape | Joint (286 Days) |

How 13 investigations, involving what appears to be 28 individuals and 18 victims can result in 22 contingent reports is not clear.

There is also another anomaly, which relates to whether one complaint results in one report regardless of the number of individuals accused, or one report relates to allegations against one individual.

In the author's experience in OIOS the normal practice was always the latter, but there were instances where a number of similar allegations against the same individual, all of sexual misconduct, were

4 Annex A. Footnote 3

investigated separately and not as a pattern of behaviour, resulting in a number of reports.

OIOS's investigated the allegations from Dekoa, which involved numerous allegations against numerous individuals, as two cases because the subjects were from two different military contingents.

Such inconsistencies only help obfuscate the statistics and misrepresent the extent of the sexual exploitation and abuse problem in the UN.

Table A above also indicates there were 22 OIOS contingent reports relating to the MINUSCA Mission from 2016 that are numbered *after* 203/16.

Once again however, the statistics do not correlate. Table C below, extracted from the Conduct and Discipline website, indicates there should be 14 investigations involving (probably) 27 subjects and 19 victims.

How that could result in 22 OIOS reports is not clear.

Table C **OIOS and joint OIOS/TCC Investigations into sexual misconduct by peacekeeping troops in MINUSCA reported after Dekoa allegations** (Source: Conduct & Discipline website)

| | Date | | Subjects | | Victims | Allegation | Investigation |
|----|----------|-----------------|----------|----------------------|--------------|-------------------|------------------|
| | Reported | (Incident) | Number | Nationality | | | |
| 1 | 10/2016 | Oct 15 – Mar 16 | ? | Unknown ⁵ | Adult | Rape | |
| 2 | 9/2016 | May 16 | 1 | Morocco | Adult | Sexual assault | Joint (132 days) |
| 3 | 11/2016 | Sep 16 | 1 | Congo (the) | Adult | Soliciting | Joint |
| 4 | 10/2016 | Aug 16 | 1 | Mauritania | Child | Rape | Joint (68 Days) |
| 5 | 7/2016 | Sep-Oct 14 | 4 | Morocco | Adults (2) | Transactional sex | Joint (154 Days) |
| 6 | 6/2016 | Oct 15 | 1 | Burundi | Adult | Transactional sex | Joint (51 days) |
| | | ??? 2015 | 3 | | ? (2) | rape | |
| | | ?? 2015 | 3 | | Child | Exploitation | |
| | | ?? 2015 | 3 | | Child | Sexual activity | |
| 7 | 6/2016 | May 16 | 2 | Burundi | Children (2) | Rape | Joint (81 days) |
| 8 | 4/2016 | 2014 / 2015 | 1 | Congo (the) | Adult | Transactional sex | OIOS (245 days) |
| 9 | 4/2016 | Nov 14 – Nov 15 | 1 | Congo DRC | Child | Rape | OIOS (219 days) |
| 10 | 4/2016 | ??? 2105 | 1 | Congo DRC | Child | Rape | OIOS (253 days) |
| 11 | 4/2016 | Nov 14 – Nov 15 | 1 | Congo DRC | Child | Rape | OIOS (253 days) |
| 12 | 4/2016 | ??? 2015 | 1 | Congo DRC | Child | Rape | OIOS (253 days) |
| 13 | 4/2016 | ??? 2015 | 1 | Congo DRC | Child | Rape | OIOS (253 days) |

5 This is one of very few instances where the Conduct & Discipline website has listed an allegation against an unknown perpetrator. The practice appears to be that if the victim is unable to identify her assailant, the UN considers there is insufficient evidence to warrant an investigation. This, obviously, enables the Organization to conceal the total number of allegations that are received – and which they are therefore obligated to investigate and report to the General Assembly under A/Res/57/306. Para 10. (<http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/57/306>)

| | | | | | | | |
|----|--------|--------|---|-------------|-------|------|-----------------|
| 14 | 4/2016 | Mar 16 | 1 | Congo (the) | Child | Rape | OIOS (365 days) |
|----|--------|--------|---|-------------|-------|------|-----------------|

Obfuscation may not be the Organization's official policy towards the scale of the rape crisis in peacekeeping missions, but it is certainly not discouraged either.

What is notable, however, is that Table B shows a total of 18 victims, of whom 17 were children, and Table C show a total of 19 victims, of whom at least 11 were children.

OIOS had conducted investigations into sexual misconduct by 28 military peacekeepers in the MINUSCA mission *alone*, and all *prior* to the 98 rape cases in Dekoa reported at the end of March 2016, so it was therefore clear at the time that the group at most risk from sexual abuse by UN peacekeepers in the Central African Republic were **children**.

A total of 21 professional grade investigators were deployed to the Central African Republic and rotated in and out of Dekoa between April and September 2016.⁶

Clearly, not all were rushed in on the very first day. There was therefore sufficient time for OIOS management to ensure that any of those investigators who had little prior experience of interviewing victims of sex crimes – particularly child victims – could be rushed through some basic training on the subject. This was patently not done, which is a further indication of negligence on the part of OIOS.

Criticisms of the competence, poor investigative skills and general lack of experience of OIOS investigators in the review document must therefore be considered in the context of what was clearly a significant amount of previous experience.

6 Annex A. Para 38