

# PRESS RELEASE

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## UN Peace Operations Panel: Comes Close, Falls Short

**June 16, 2015 (New York)** — The single most important step that must be taken to end sexual exploitation and abuse in UN peacekeeping operations is the complete removal of immunity for UN non-military personnel involved in such offenses.

With the report it handed to the Secretary-General today, the High-Level Independent Panel on Peacekeeping Operations had an opportunity to make history. It came close, but it fell short. The Panel repeated the UN Secretariat's mantra that immunity has never been a problem and that there has never been immunity from prosecution for UN civilian peacekeeping personnel accused of sexual exploitation or abuse. What the panel did not address is this decisive point: UN immunity does indeed apply—until it's removed. Because of immunity, the UN feels it has the right to intrude on a normal "legal process" from the instant it learns that an accusation has been made against a member of its staff. Because of immunity, the UN—not the police, not the local judiciary—takes into its own hands the role of deciding whether an accusation is or is not credible. The UN—not the police, and not the local judiciary—decides whether there is enough "credible evidence" against the accused to proceed to trial. The UN justifies this interference by invoking UN immunity. And it is precisely that automatic, instantaneous interference that makes successful prosecutions nearly impossible.

The High-Level Panel did express a desire for UN staff involved in sexual exploitation or abuse to be held to the same standards and subjected to the same legal processes as the rest of the world. But the panel failed to recognize that if this wish is to become reality, immunity must never enter the equation. Victims should be free to report to local law enforcement, who should be free to respond exactly as they would if the accused were a member of the general population.

There is a second decisive point that was overlooked by the panel: the 1946 Convention that established UN personnel's immunity from "legal process" is being applied far more broadly than just to alleged perpetrators. The UN applies immunity from "legal process" to everything that occurs from the moment an accusation of sexual exploitation or abuse is made, straight through to trial, sentencing, and incarceration. For example, it uses the principle of immunity from "legal process" to exempt UN employees who witness sexual offenses from cooperating with investigators. This meddling in the name of immunity was evidenced in recent revelations about child sexual abuse in the Central African Republic: when a team of French investigators asked to speak with UN staff who had collected testimonies and descriptions from young victims of abuse by French soldiers, the UN refused to allow its staff to be interviewed. The same principle of immunity is used to shield UN

employees from furnishing crucial evidence; it is used to exempt UN employees from testifying in courts of law. There is no question that immunity is indeed mis-applied at various stages and in various ways in countless cases of sexual exploitation and abuse. As a result of applying UN immunity to reports of sexual offenses, two parallel worlds exist: one occupied by UN staff, experts, and police, and another by the rest of humankind.

When the High-Level Panel briefed media today about their soon-to-be-released report, a memorable moment occurred. The Chair of the Panel, *former President and Nobel Peace laureate José Ramos-Horta*, departed from his formal text to state, unequivocally, that, in his view, all non-military personnel serving with the UN anywhere in the world should know that the UN has zero tolerance for sexual exploitation and abuse, and immunity will never apply in those cases, not even for a moment. What the Chair personally underscored is exactly what the Code Blue campaign advocates: the end of immunity, at all stages, in all its forms, in each and every case of sexual exploitation or abuse.

By its own admission just this week, the Office of Internal Oversight Services reported that when it learns that a staff member has been accused of a sexual offense, the UN moves in with its ‘complex architecture’ to appropriate law enforcement’s investigative role. “Procedural delays inherent in this architecture can not only jeopardise the quality of evidence gathered, but also affect the chances of justice being served and seen to be served, both to the perpetrators and for the victims.”

Member States and the public have been led to believe that from the moment a victim comes forward to report a sexual offense by someone in the UN’s employment, immunity never applies. If that sweeping statement were indeed true, why not declare it explicitly? Because, as we know, as things stand today, immunity does, in fact, apply. And its very presence conveys the impression—to personnel working for the UN, to everyone involved in peacekeeping, and to the population at large—that anyone associated with a UN peacekeeping operation is somehow above the law, free to commit sexual offenses with impunity.

This parallel system, with unique law enforcement measures, unique investigative procedures, and unique judicial processes for UN employees accused of sexual offenses, makes a mockery of ‘zero tolerance for sexual exploitation and abuse.’ It does great damage to the reputation of the United Nations. And it weakens the legitimate and crucially important purpose of UN immunity.

It must be remembered that the principle of immunity is rooted in the 1946 Convention on Privileges and Immunities. It was meant to ensure that UN officials could function without fear that governments angered by the UN might retaliate by arresting its officials. Immunity was never intended to shield non-military peacekeepers accused of sexually violating the civilians they are meant to protect. The question that must be asked is this: if immunity never applies in such cases, why is it being used to provide the UN with complete control of the investigative process?

In 2003, the then Secretary-General issued a Bulletin proclaiming ‘zero tolerance for sexual exploitation and abuse.’ Clearly, and by all accounts, that policy alone has failed.

In 2015, the current Secretary-General should issue a parallel Bulletin to clarify that immunity for sexual exploitation or abuse will never be a consideration at any point in the legal process, from the initial investigation to the point when justice is served.

It is our conviction that once the UN lifts the protective shield of immunity for non-military UN peacekeeping personnel involved in sexual offenses, the groundwork will be laid. If it becomes clear that UN staff, experts, and police are accountable, like everyone else, to the rule of law, the UN will finally be able to confront sexual offenses by military personnel as well. Exempting all sexual offenses from UN immunity is an absolute necessity. It is the surest way to achieve 'zero tolerance for sexual exploitation and abuse' for anyone operating under the blue banner of the United Nations. That's the objective of our global Code Blue campaign. We are determined to achieve it.

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***AIDS-Free World** is an international advocacy organization that exposes injustice, abuse and inequality. We apply high-level advocacy, targeted legal strategies and creative communication to work for a more just world. AIDS-Free World's Code Blue campaign aims to end immunity for sexual exploitation and abuse by UN peacekeeping personnel. [www.codebluecampaign.com](http://www.codebluecampaign.com)*

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