

## A Practical Plan to End Impunity for Peacekeeper Sexual Abuse

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**The UN declares one universal standard: zero tolerance for sexual exploitation and abuse. But in reality, each of the many people associated with UN peacekeeping missions can face different, ad hoc processes, different standards, and different consequences, none of which are predictable, fair, or objective. The Code Blue Campaign is advocating for a new, independent [special courts mechanism](#) to deal with sexual abuse by UN peacekeeping personnel. On-site, impartial criminal investigations and trials will ensure that every victim, each of the accused, and all the battered populations of peacekeeping countries have access to due process and impartial justice they deserve.**

Three facts imperil the United Nations, its global peacekeeping operations, and the vulnerable civilians who have no choice but to rely on them. **First**, documented cases of sexual abuse by peacekeeping personnel stretch back for decades, and they continue to this day.

**Second**, the system now in place permits almost all criminal perpetrators within peacekeeping missions—whether they are employed as UN staff, officials, consultants, soldiers or police—to escape prosecution. Numerous reports from their own commissioned experts have declared the UN Organization’s response to peacekeeper sexual exploitation and abuse a “gross institutional failure” that breeds a “culture of silence” and is sustained by a “culture of impunity.”

**Third**, the UN Organization accepts this grave diagnosis; during his tenure, former Secretary-General Ban Ki-moon pronounced it a ‘malignancy’ and a ‘cancer on the system’. But the United Nations continues to apply home remedies to its symptoms rather than undergo life-saving surgery. Mr. Ban’s blunt metaphor suggests one inevitable prognosis: without proper treatment, the UN’s culture of impunity for peacekeeper sexual abuse will metastasize to the Organization’s major organs.

There is a cure.

We have consulted worldwide with authorities on international law and human rights law; academics; past and current UN officials and staff, peacekeepers and police officers; diplomats and civil servants; human rights practitioners; victims’ rights professionals; and sexual violence experts. We have analyzed the problem, studied current practices and procedures in depth, and surveyed existing options. Those deliberations led to the 2015 launch of the Code Blue Campaign and, ultimately, to the solution we are proposing today. UN Member States must create a [special courts mechanism](#) to deal

with sex crimes in peacekeeping missions and to ensure impartial justice for everyone involved in or affected by them.

The [special courts mechanism](#) would be established as an international legal entity and funded directly by Member States through existing peacekeeping budgets. Its creation would end the current conflict of interest in which the UN Organization acts on behalf of both the accuser and the accused. The [special courts mechanism](#) would be established and run entirely separate from, independent of, and unconnected to the UN Organization.

For two reasons, at the outset, the [special courts mechanism](#) would focus exclusively on allegations of sexual offenses. **First**, sexual abuse can never be part of the official functions of a peacekeeper. With rare exceptions at the topmost ranks, UN personnel who otherwise enjoy privileges and immunities under a 1946 Convention have no immunity from legal process for sexual crimes. For that reason, sexual violence is unique among the examples of internal “misconduct” perpetrated by UN personnel. When non-military peacekeepers are accused of rape and other sexual abuses, the UN Organization has no legal right to shield them from the law. **Second**, these particular offenses have been recognized by the Organization as one of its most pervasive and self-destructive problems. As far back as 2003, then-Secretary-General Kofi Annan was compelled to declare a policy of “zero tolerance” focused solely on sexual exploitation and abuse.

The [special courts mechanism](#) would begin with jurisdiction over the category of offenders now escaping any semblance of justice: through 2015, the total number of allegations recorded by the UN was split almost evenly between military and non-military personnel. Whereas troop-contributing countries assume responsibility for investigating and prosecuting crimes committed by their soldiers, similar crimes committed by non-military personnel are rarely treated as criminal offenses. As a matter of practice, they are handled internally as administrative matters by the Organization.

The mechanism would assume full responsibility for non-military peacekeeping personnel at every step on the path to justice, from accepting reports made by victims and witnesses through to sentencing those found guilty. Staffed by impartial, centrally appointed international and national police investigators, lawyers and judicial professionals, this new, independent [special courts mechanism](#) would investigate, charge, prosecute, try, and sentence. Its trained professionals would carry out their functions in the peacekeeping countries where the crimes occurred, implementing the rule of law in full view of victims, witnesses, and communities. For would-be perpetrators, seeing the business of the courts conducted in-country would serve as an active deterrent. For UN personnel who currently remain silent, the possibility of reporting to authorities outside the UN system would liberate them from their roles as complicit bystanders. For victims, the new mechanism would build faith that the consequences of reporting are worth the risks.

The [special courts mechanism](#) would receive all reports of abuse, referring cases where appropriate to troop-contributing countries with jurisdiction, and handling the cases involving non-military personnel. Member States would give the mechanism full legal authority to investigate and try UN non-military personnel accused of sexual offenses. The [special courts mechanism](#) could fill another gap, by handing cases of accused soldiers sent by troop-contributing countries that can not or do not respond when allegations are referred. In the spirit of UN system-wide coherence, alleged perpetrators would be held to one common standard—an agreed international definition of what constitutes crimes of sexual abuse—and would submit to one system of due process.

Since the Code Blue Campaign was launched in May 2015, citizens of peacekeeping host countries, activists, journalists and the global public have followed this ethical and legal crisis with mounting anger and cynicism. The UN Organization will not regain the world's trust until it eliminates its double standards. The [special courts mechanism](#) will achieve that end by removing UN staff members from a range of conflicting roles—as paraprofessional “legal advisors” to both the accused and the accusers; as unauthorized, unqualified “investigators” in criminal cases involving their colleagues; as self-appointed “prosecutors” with no legal authority or credentials to assess, substantiate or dismiss evidence; and as self-appointed “magistrates” rendering private, extrajudicial decisions affecting the lives of victims and criminals.

Under pressure from the Code Blue Campaign, others within civil society, and some governments, and under the sustained glare of the global media, the UN Organization has slowly and reluctantly begun to pull back the curtain to reveal the way it handles allegations of sexual exploitation and abuse. Each new revelation begs further questions and reveals even greater gaps in how allegations are reported, recorded, investigated, prosecuted, and punished.

Overnight, our proposed special courts mechanism would correct two major defects in the current, improvised, illegitimate practices. It would end the intolerably unjust conflict of interest that occurs every time the UN's own staff step in as unauthorized intermediaries in criminal matters. And it would begin to repair the damage done when the UN preaches good governance without practicing it.

The Code Blue Campaign is built on a strong commitment to multilateralism. We believe that this increasingly complex world cannot survive and thrive without the United Nations. That's why we press hard for a strengthened, accountable, and transparent UN, and for a policy of 'zero tolerance for sexual exploitation and abuse' that truly lives up to its name.