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ARTICLE

PEACEKEEPERS, THE MILITARY AND HUMAN TRAFFICKING: PROTECTING WHOM?

KRISTI M. KIRBY, MA* & CLAUDE D'ESTRÉE, MTS, JD**

I. INTRODUCTION

The international human rights regime represents the ebb-and-flow of norms and shows the normative power of ideals. The international system of states (international actors with international obligations) has established standards and rules of conduct that are touted as “inalienable” and “essential.”¹ The Universal Declaration of Human Rights claims that it is:

[A] common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society . . . shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance²

Thus the obligation is set in both the international and domestic realms to promote and uphold human rights. International humanitarian law (IHL)³

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1. Universal Declaration of Human Rights, G.A. Res. 217A, at 71, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc A/810 (Dec. 12, 1948).

2. *Id.*

3. Formally known as International Humanitarian Law of Armed Conflict, IHL is also called the Law of War. The military still uses the older nomenclature, Law of Armed Conflict (LOAC). IHL may be the oldest codified form of international human rights law. The first modern code of warfare was constructed for the U.S. Civil War in the 1860s by Professor Francis Lieber. Although it only applied to U.S. forces (Union and Confederate), it became known internationally as the Lieber Code and used widely. Following the publication of Henry Dunant's *A Memory of Solferino* in 1862, General Henri Dufour and Henry Dunant's work led to the creation of the International Committee of the Red Cross (ICRC), now known by its three official symbols, the

adds another dimension to the protection of the rights of individuals in its wartime application to civilians.

If slavery and human trafficking are considered synonymous, then the practice of either is rightly considered a violation of human rights. Under the international regime that represents human rights, states have the responsibility to prevent the occurrence of human rights violations.⁴ Further, states have the responsibility to assure that the rules of IHL are followed during times of armed conflict. If one assumes that the rules of IHL also represent a concern for slavery and human trafficking, then it becomes a distinct responsibility of the state to concern itself with the education of military agents in the importance of human rights and their provision. The establishment of states as the actors in international law and IHL reinforced this responsibility, as militaries are, without question, state agencies.

In order to ensure the fullest consideration of international human rights standards and the rules of IHL, states must focus on individual military groups with the aim of establishing permanent cultural and attitudinal change. This change is distinguished from training, which is the process of bringing someone to a certain standard of function, and true cultural change would succeed in imparting skills and knowledge that would be applied without judgment.⁵ The difference lies in the fact that the traditional military cultural system will be the focus for change, rather than a focus on expanded training for soldiers.

red cross, red crescent, and red crystal. According to the ICRC, “international humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare.” International Humanitarian Law (IHL) in Brief, http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/section_ihl_in_brief (last visited Mar. 9, 2009). The first international instrument was the Geneva Convention of 1864 which was amended later in 1906, 1929, 1949 (I–IV), and the two 1977 Protocols. Originally formatted into two main areas—Geneva Law and Hague Law, Geneva Law dealt with those who were *hors de combat* (civilians, the wounded, and prisoners of war), and Hague Law dealt with the rules of armed conflict (methods and use or prohibition of certain weapons). Geneva Law and Hague Law are now collectively known simply as international humanitarian law and include numerous international conventions in addition to the main Geneva Conventions and Protocols. During the 26th International Conference of the ICRC in 1995, it was recommended and mandated that a report be made on customary international humanitarian law of armed conflict. The result of that study was published in 2005 and set forth 161 rules taken from the Geneva Conventions and the two 1977 Protocols that now constitute customary international humanitarian law. See LESLIE C. GREEN, *THE CONTEMPORARY LAW OF ARMED CONFLICT* (3d ed. 2008); JEAN-MARIE HENCKAERTS & LOUISE DOSWALD-BECK, *CUSTOMARY INTERNATIONAL HUMANITARIAN LAW* (2005); MARCO SASSOLI & ANTOINE A. BOUVIER, *HOW DOES LAW PROTECT IN WAR?* (2d ed. 2006); FRANÇOISE BOUCHET-SAULNIER, *THE PRACTICAL GUIDE TO HUMANITARIAN LAW* (Laura Brav & Clémentine Olivier trans., 2d ed. 2007); International Committee of the Red Cross, <http://www.icrc.org> (last visited Mar. 9, 2009).

4. TOM OBOKATA, *TRAFFICKING OF HUMAN BEINGS FROM A HUMAN RIGHTS PERSPECTIVE: TOWARDS A HOLISTIC APPROACH*, 147–72 (2006).

5. JAMES V. ARBUCKLE, *MILITARY FORCES IN 21ST CENTURY PEACE OPERATIONS: NO JOB FOR A SOLDIER?* (2006).

In a world that is evolving alongside an increased focus on human rights protection, the practices of war and peace have taken new directions. Armies are now being pulled away from their traditional focus on war-making toward a new concentration on peace-keeping and peace-making.⁶ The humanitarian functions of militaries (who often staff peace-keeping operations established by the United Nations) require that a continued and fortified focus on IHL and human rights law becomes an essential part of the preparation of militaries.

It has been suggested that “[u]ltimately, the goal is to produce soldiers who internalize the inherent depravity of rape and sexual slavery and who make decisions based on this knowledge.”⁷ Certainly, this is not a light task to be undertaken. The unique cultures of each military group or service as a subculture of the society that it serves must be considered.⁸ Thus, it is essential that each state be individually charged with the re-creation of military systems that better prepare soldiers for the changing nature of military service, in addition to effectively solving the problem of human rights violations by soldiers making use of commercial sexual services that contribute to human trafficking.

Military service has come to represent a more international interest—the case of Bosnia represents a distinctive shift in the function of the United States military from war fighting to peacekeeping.⁹ This evolution requires a shift in attention in the preparation of warriors to assure the allegiance of humanitarian soldiers. The difficulty here lies in the necessity of the peacekeeping soldier to retain the ability to act in the capacity of the traditional soldier while securing, protecting, and supplying populations with an eye for civilian liberty. In the words of Christopher Bellamy,

[t]he warrior ethos must remain, but it must be imbued with flexibility and humanity, and a willingness to mix with the locals It is possible to mix combat readiness with compassion, and that is the challenge for many of the armed forces in the first quarter of the 21st century.¹⁰

6. *Id.*; see CHALLENGE AND CHANGE FOR THE MILITARY (David Last, Franklin Pinch, Douglas L. Bland & Alan Okros eds., 2004).

7. Sarnata Reynolds, *Deterring and Preventing Rape and Sexual Slavery During Periods of Armed Conflict*, 16 LAW & INEQ. 601, 612 (1998).

8. Clementine Fujimura, *Integrating Diversity and Understanding the Other at the U.S. Naval Academy*, in ANTHROPOLOGY AND THE UNITED STATES MILITARY: COMING OF AGE IN THE TWENTY-FIRST CENTURY 135, 136 (Pamela R. Frese & Margaret C. Harrell eds., 2003).

9. John Garafano, *The United States in Bosnia-Herzegovina: Points of Tension and Learning for the U.S. Military*, in WARRIORS IN PEACEKEEPING (Jean Callaghan & Mathias Schönborn eds., 2004); James Gow & Christopher Dandeker, *The Legitimation of Strategic Peacekeeping: Military Culture, the Defining Moment*, in ASPECTS OF PEACEKEEPING 181 (D.S. Gordon & F.H. Toase eds., 2001).

10. Christopher Bellamy, *Combining Combat Readiness and Compassion*, 49 NATO REV., Summer 2001, at 9, 11.

A. *International Humanitarian Law: The Prohibition of Slavery*

*International humanitarian law can be said to be a branch of the international law of human rights that applies to situations of international armed conflict and, to a more limited extent, to internal armed conflict.*¹¹

The law of war overtly prohibits the practice of slavery. Concerned with conduct and practice during times of war, IHL reflects the importance of protecting civilians and other defined populations from the terrors that can accompany armed conflict. Thus it falls within the scope of individual militaries to consider the implications of the behaviors and actions of their members, especially in relation to legally prohibited activities.

According to Customary International Humanitarian Law (CIHL), as set forth by the International Committee for the Red Cross (ICRC), civilians, and women and children in particular, are to be protected from the trials and suffering of war to the fullest extent possible. This includes provisions that:

Rule 87: Civilians and persons *hors de combat* must be treated humanely.

Rule 90: Torture, cruel or inhuman treatment and outrages upon personal dignity, in particular humiliating and degrading treatment, are prohibited.

Rule 93: Rape and other forms of sexual violence are prohibited.

Rule 94: Slavery and the slave trade in all their forms are prohibited.¹²

While these rules fail to directly target human trafficking *per se*, they certainly allude to its practices and make general prohibitions against it. Forced prostitution is considered during armed conflict: “[W]omen shall be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault.”¹³ Additionally, slavery and human trafficking can be seen in the practices of domestic servitude and conscripted soldiering (especially that of children). This article will focus on the practice of forced prostitution *qua* human trafficking, though it is notable that various other activities witnessed during times of conflict might be considered human trafficking. Further, it is not the view of the authors that prostitution *per se* constitutes human trafficking (except in the case of minor children), and for the purposes of this article, the dis-

11. THOMAS BUERGENTHAL & SEAN D. MURPHY, PUBLIC INTERNATIONAL LAW: IN A NUTSHELL 157 (4th ed. 1990).

12. 1 JEAN-MARIE HENCKAERTS & LOUISE DOSWALD-BECK, CUSTOMARY INTERNATIONAL HUMANITARIAN LAW 299–330 (2005).

13. Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War art 27, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287; Protocol Additional (I) to the Geneva Convention of 12 Aug. 1949, and Relating to the Protection of Victims of International Armed Conflicts art. 76.1, Jun. 8 1977, 1125 U.N.T.S. 3.

cussion centers on prostitution only as it relates to sex workers who have been trafficked.

During war, then, IHL directly bans torture, rape, sexual violence, and slavery. The law is also noted for its exceptional consideration of women and children as special and protected populations during times of armed conflict.¹⁴ This concern results from the recognition of the increasing potential for risk of harm to civilian populations as conflict becomes more strongly associated with attacks directed at civilians. The statute of the International Criminal Court—which entered effect in 1998—defines rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and any other form of sexual violence with comparable gravity as crimes against humanity and war crimes, and thus within the jurisdiction of the court.¹⁵ Because it is this definition of enforced prostitution that makes it a crime against humanity, it must be the driving force for militaries to change their treatment of prostitution as a necessary and acceptable part of warfare. Certainly, a similar shift in attitude is being seen among the international community regarding rape, which traditionally considered rape a spoil of war. Later, however, especially following conflict in the Balkans, rape came to be viewed as a genocidal tactic and was redefined as a crime against humanity.

B. States: Responsibility

It is especially troubling that soldiers of state militaries commit human rights violations even after swearing to protect and serve civilians and governments (of their own nations). These very abuses are even more concerning when soldiers acting as United Nations volunteer peacekeepers commit them. This article therefore aims to address the specific occurrence of peacekeeper participation in human trafficking, both directly and indirectly, as a byproduct of traditional military use of commercial sex services and its related focus on masculinity as seen in militaries worldwide. Further, it is suggested that State responsibility¹⁶ to the international system and, con-

14. BOUCHET-SAULNIER, *supra* note 3, at 27–35, 497–503.

15. *Id.* at 357; Alison Cole, *Reconceptualising Female Trafficking: The Inhuman Trade in Women*, 12 *CARDOZO J. L. & GENDER* 789, 812 (2006).

16. The rise of private military and security companies (PMSCs) gives further pause to State responsibility. Until recently, most PMSCs would have been deemed mercenaries, forbidden and outlawed under IHL. The primary loyalty of the PMSC individual contractor is to the financial incentive and not to the State. Though often hired by the State, the PMSC is not under State-controlled military command. Indeed the PMSCs who hire individual mercenaries assume no liability for their mercenaries. They are considered private contractors. The dramatic emergence of PMSCs following Operation Iraqi Freedom has caught most in the IHL field off guard (though they were present during the breakup of the former Yugoslavia). In a very real sense, the U.S. military and other Coalition forces have been outsourcing many traditional combat and quartermaster duties. Peter Singer noted in 2008 that “more than 100,000 private military contractors have been deployed in Iraq for almost five years, and not one has been prosecuted or punished for any crime of conduct on the battlefield.” Nor have any been prosecuted or punished for engaging

comitantly, the United Nations and human rights should take first priority in reshaping military culture. At the very least, states must reform attitudes toward the use of prostitution so as to avoid any possibility of complicity in human trafficking. It might also be that such an effort could be extended to address problems of peacekeeper abuses in other instances and an overall risk of loss of United Nations credibility while preparing state soldiers for the changing reality of modern militarism.

For the purposes of this piece, human trafficking, sexual slavery, and commercial sexual exploitation are treated as interchangeable concepts (assuming force, coercion, and fraud being used, except in the situation of minors). All are assumed to violate legal standards and international norms. Peacekeeping forces considered in this paper are United Nations mandated forces and are assumed to be largely composed of state military personnel. This article will address these types of missions and participants only. Individual biases and actions of soldiers are not exclusively guided by military culture or masculine behaviors, but the phenomena of both are assumed to have a general and extensive effect on the behaviors of trained soldiers. Also, enforcements of current military legislation and prosecution rates for crimes discussed here are beyond the scope of this article.

This piece suggests that peacekeeping troops are guilty of human rights violations, including those related to human trafficking for the purposes of commercial sexual exploitation. It also asserts that state militaries are guilty of the same behaviors and are, perhaps, responsible for the creation of military cultures that encourage the ability to readily separate oneself from nonpeers. Further, it proposes that states have a responsibility under their obligations to the United Nations and the international community to reshape military culture in a way that addresses modern realities of military service.¹⁷

in human trafficking, though there is ample evidence of systematic human trafficking involving PMSCs and Coalition forces. There has long been a demand by IHL experts and scholars for States to assume responsibility and formulate rules, including command responsibility, for PMSCs that until recent events with Blackwater Worldwide USA was ignored. Blackwater changed its name to Xe in February of 2009 in response to negative publicity and potential criminal liability associated with its name. In September of 2008, the ICRC produced the *Montreux Document*, outlining a model State responsibility and “good practices” relating to PMSCs. See P.W. SINGER, CORPORATE WARRIORS: THE RISE OF THE PRIVATE MILITARY INDUSTRY (2003); JAMES JAY CARAFANO, PRIVATE SECTOR, PUBLIC WARS: CONTRACTORS IN COMBAT—AFGHANISTAN, IRAQ, AND FUTURE CONFLICTS (2008); FROM MERCENARIES TO MARKET: THE RISE AND REGULATION OF PRIVATE MILITARY COMPANIES (Simon Chesterman & Chia Lehnardt eds., 2007); U.N. SCOR, 63d Sess., U.N. Doc. A/63/467 (Oct. 6, 2008); WarSlavery.org.

17. It is interesting to consider the impact and responsibility of states surrounding an increased reliance on private military companies, where states *qua* contractors can be argued to have responsibility for the actions of their agents.

II. THE PROBLEM: PEACEKEEPING AND SEX TRAFFICKING

*[T]he charges made against peacekeeping troops are particularly disturbing because of the unique nature of peacekeeping. The UN Security Council deploys military troops in order to protect vulnerable populations from the violence of warring parties.*¹⁸

Conflict destroys almost everything it touches. It leaves in its wake large numbers of displaced, destitute, and desperate people. War lays waste to local economies and endangers the survival of civilians long after the battles end. Now, the climate of war itself is changing. We see a disheartening and disturbing increase in the amount of civilian deaths compared to combatant deaths. In fact, since World War II, civilian deaths have exceeded combatant deaths in many major wars, sometimes doubling the amount of combatant deaths.¹⁹ Civilians are more frequently targeted in conflict, thus their safety and human rights are at risk for the duration of the armed struggle. This reality in itself is a violation of IHL. In addition, this change in the nature and targets of armed conflict has created a more tenuous and challenging mission for peacekeeping operations.

The nature of modern conflict is also changing to include more intranational wars.²⁰ In a world system that upheld the strictest tenets of sovereignty, or nonintervention in the affairs of other states, intrastate wars were not a concern for other states. Now, following decades of increased global trade and the opening of markets and borders, civil wars threaten the security of many states both surrounding and removed from the state involved in

18. Sarah Martin, *Must Boys Be Boys?*, REFUGEES INT'L 4 (Oct. 2005).

19. Claude d'Estrée, Lecture at University of Denver, May 2007. An important factor may be the shift from international armed conflict (war between nations) to noninternational armed conflict (civil wars and armed conflicts between multiple internal parties). The First World War had an estimated 10,000,000 combat casualties and 50,000 civilian casualties, the Second World War had 26,000,000 combat casualties and 24,000,000 civilian casualties, the Korean Police Action had 100,000 combat casualties and 500,000 civilian casualties, and the Vietnam Conflict had 150,000 combat casualties and 3,000,000 civilian casualties. See SASSOLI & BOUVIER, *supra* note 3. Operation Iraqi Freedom, as of December 2007, has had 4,524 Coalition combat casualties, 7,492 Iraqi Security Forces casualties and 43,998 civilian casualties. The Iraq Body Count project estimates between 89,600 to 97,828 documented civilian deaths due to violence, and the controversial *The Lancet* 2006 report estimated 654,965 excess civilian deaths related to the conflict in Iraq. Gilbert Burnham, Riyadh Lafta, Shannon Doocy & Les Roberts, *Mortality After the 2003 Invasion of Iraq: A Cross-Sectional Cluster Sample Survey*, 368 LANCET 1421, 1421 (Oct. 26, 2006). Interethnic and intercommunal conflicts show an even higher disproportionate rate between combatant and civilian casualties. The rules of IHL are perceived to be less vigorous and less enforceable in noninternational armed conflict. This may be due to the fewer number of nations who have ratified Protocol II of 1977. The establishment of customary international humanitarian law (CIHL) attempts, in part, to correct this perception.

20. Tamara Duffey, *Cultural Issues in Contemporary Peacekeeping*, in PEACEKEEPING AND CONFLICT RESOLUTION 142 (Tom Woodhouse & Oliver Ramsbotham eds., 2000); ROBERT M. CASSIDY, COUNTERINSURGENCY AND THE GLOBAL WAR ON TERROR (2006); David Gairdner, *Peace Operations in Criminalized Environments*, 30 PEACEKEEPING AND INTERNATIONAL RELATIONS, Oct.–Dec. 2001, at 1.

conflict.²¹ Thus, members of the United Nations especially have become concerned with and dedicated to participation in peacekeeping and humanitarian efforts—directly participating in conflicts that are very dissimilar to the conditions of traditional warfare.

Further, the very nature of peacekeeping is changing. Missions are becoming less about maintaining an established peace following conflict and more about brokering a peace between two groups under their terms.²² This change means peacekeepers are increasingly exposed to situations that could result in a violent outbreak—they are, in fact, deployed while the war is being fought. Thus, peacekeeping troops must be prepared to act as soldiers when faced with dangerous activity, but they also have the responsibility to maintain the neutrality characteristic of peacekeeping.²³ Intra-national conflicts also regularly involve parties who are not state militaries, making it harder to identify participant loyalties and exposing troops to untrained combatants who do not operate under traditional military tenets.²⁴

United Nations peace-keeping missions are deployed into areas that have been affected by conflict. The United Nations Peacekeeping Operation (UN PKO) is given a mandate and is comprised of volunteer forces from member nations. The purpose of the UN PKO is to protect vulnerable local populations and uphold UN standards of human rights provisions.

Internal and regional conflicts can result in large populations of refugees and internally displaced persons (IDPs). Refugees and IDPs are more susceptible to exploitation because a large supply of potential victims is made vulnerable by many factors, including poverty, the attraction of a perceived higher standard of living, weak economic structures, the lack of employment opportunities, and the loss of family and community support networks. These factors leave displaced people vulnerable to a trafficker's demands and threats.²⁵

Following economic upheaval associated with lengthy fighting, a large portion of the population can be left with little opportunity for work. This atmosphere creates occasion for traffickers to prey upon the vulnerable.²⁶ They especially target women and children since they are regularly on the economic fringes and often left unprotected after conflict. Victims are often forced to work in the ever-growing sex industry, which is fueled by a rising

21. CASSIDY, *supra* note 20; Duffey, *supra* note 20.

22. Christopher Dandeker & James Gow, *Military Culture and Strategic Peacekeeping*, in *WARRIORS IN PEACEKEEPING*, *supra* note 9, at 11; James Gow & Christopher Dandeker, *The Legitimation of Strategic Peacekeeping: Military Culture, the Defining Moment*, in *ASPECTS OF PEACEKEEPING*, *supra* note 9, at 181.

23. ARBUCKLE, *supra* note 5, at 109–13.

24. CASSIDY, *supra* note 20; Duffey, *supra* note 20.

25. Jehan Khaleeli, *Conflict, Sexual Trafficking and Peacekeeping*, *REFUGEES INT'L* (2004), available at <http://www.peacewomen.org/un/pkwatch/News/04/RIsextraffickingpk.html>.

26. KATHRYN FARR, *SEX TRAFFICKING: THE GLOBAL MARKET IN WOMEN AND CHILDREN* 135–37 (2005).

demand for sexual services and fed by an increasing number of economically desperate people. As stated previously, individuals who make a conscious decision to engage in sex work fall outside the scope of this discussion.

Commercial sex services experience increased demand in areas of UN PKO missions.²⁷ This increase in demand can lead to a rise in trafficking activities that supply workers for local brothels. Use of such establishments by peacekeeping troops is considered at best complacency, at worst complicity for trafficking activities that feed the industry.²⁸ In many recent missions, peacekeeping forces have been accused of human rights abuses. In Liberia, for example, troops were cited for solicitation of sexual services in exchange for food in refugee camps.²⁹ PKO forces moved into a country that had suffered grave human rights abuses and were soon accused of being a part of the problem.

While peacekeeping missions were stationed in Liberia, the UN was well aware of the potential problems associated with the accusations of human rights violations on the part of its agents. The Department of Peacekeeping Operations (DPKO) addressed allegations and the embarrassment that the UN suffered. Yet, Liberia experienced continued trafficking activities and no evidence could be found to support effective training and education of Liberian peacekeepers. So, the DPKO could not adequately address the problem of peacekeeping and human trafficking *qua* forced prostitution.

The United Nations was established with a promise to promote and uphold human rights throughout the world. It is therefore contemptible that agents of the United Nations Peacekeeping were accused of human rights abuses. The UN peacekeeping mission in Bosnia-Herzegovina had already addressed accusations of human rights abuses and created a countertrafficking unit.³⁰ Past experiences in dealing with trafficking issues involving UN PKO missions did not prove effective in combating the problems experienced during deployment in Liberia.

The UN DPKO has a responsibility to uphold international law (and now IHL). Because prostitutes are being utilized and because large numbers of sex workers are trafficked in response to increased demand for sex services, it can be inferred that engaging in the use of commercial sex services carries a high risk of being complicit in sexual slavery, forced prostitution, and human trafficking. In addition, international and domestic laws forbid

27. Barbara Crossette, *Peacekeeping's Unsavory Side*, U.N. WIRE, June 9, 2003, available at http://www.unwire.org/unwire/20030609/34125_story.asp.

28. *Id.*

29. Clar Ni Chonghaile, *Sex-for-Food Scandal in West African Refugee Camps*, 359 LANCET 860, 860–61 (2002).

30. SARAH E. MENDELSON, BARRACKS AND BROTHELS: PEACEKEEPERS AND HUMAN TRAFFICKING IN THE BALKANS (2005).

both slavery and trafficking. Furthermore, sex slavery—and one could argue human trafficking—violate IHL. Therefore, peacekeepers (and militaries in general) must be acutely aware of their behaviors as contributing to a crime against humanity and in violation of international legal standards.

In Subsection A, we will briefly look at peacekeeper involvement in sex trafficking; in Subsection B, we will consider the case of Liberia as an example of peacekeeping and its relationship to forced prostitution and human trafficking. Importantly, the Liberian conflict embodies the changing nature of global peacekeeping. Forces were comprised of nonregular militaries, and peacekeepers were deployed into an ongoing and dangerous intranational war. Human rights abuses were common among combatants and became common among deployed peacekeeping units.

Peacekeeping forces in Liberia allegedly involved in any aspect of human trafficking and the use of commercial sexual services represent a base failure of the DPKO in addressing the prevention of and responsibility to combat human trafficking. Programs aimed at training and increased police action were ineffective in dealing with the problem. Thus, it is suggested that more complete programs would consider the causes of the behaviors associated with the use of prostitution that drive human trafficking in conflict zones.

A. *UN Peacekeeping: Sex Trafficking*

*It is almost a truism that wherever sizable groups of men congregate away from their homes and families—whether to fight or to seek refuge from fighting, to keep the peace, to work, or to play—demand for prostitution increases.*³¹

The above-mentioned effect has certainly been apparent in the recent history of UN peacekeeping missions. During the early 1990s, peacekeepers in Cambodia were accused of sexual misconduct relating to their patronage of local “Thai-style” massage parlors for sexual services. To these allegations, the mission’s Special Representative to the Secretary-General replied, “Boys will be boys.”³²

Peacekeepers’ involvement in the sex industry is well established in the history of UN missions. Long before sex trafficking became an overt concern of the UN and the international community, peacekeepers were intimately involved in fueling a demand for sex workers on the ground. It seems natural that the world began to express concern that peacekeeping missions affected the sex trafficking industry following the advent of sex trafficking as a major international concern.

31. FARR, *supra* note 26, at 204.

32. Martin, *supra* note 18, at 4.

In 2000, peacekeeping forces in Bosnia-Herzegovina were implicated in a sex trafficking scandal.³³ Peacekeepers there made such regular use of local brothels that women were trafficked from the former Soviet Union and other locations to fulfill the growing demand. Trafficking activities occurred on such a large scale that the United Nations and international media could not ignore the problem.

Ironically, the media and the UN countertrafficking response became inextricably tied. Following allegations that PKO troops were associated with trafficking activities, UN leadership in Bosnia took up countertrafficking measures. Jacques Paul Klein, mission leader, appointed journalist Celhia de Lavarene head of the anti-trafficking program.³⁴ According to Refugees International, this UN Civilian Police (CIVPOL) agent conducted sting-like raids on brothels, drawing considerable media and public attention; left women “rescued” by the missions in higher risk of danger; and forced trafficking activities further underground.

History might hold some lessons for the willing student. Following decades of accusations that UN peacekeeping troops were responsible for human rights abuses, the UN sent a mission to Liberia in 2003. The country was a hotbed of human rights violations and appalling violence. It also had a long history of conflict that created the conditions conducive to human trafficking for commercial sexual purposes. One might have hoped that earlier allegations of human rights abuses would have been more effective in urging a solution to the problem of human trafficking for sexual exploitation. No such success was witnessed.

*B. Liberia: Peacekeeping*³⁵

The atmosphere of war and the vulnerability of the local populations in Liberia prompted a peacekeeping response at two separate times. In 1990,

33. *Id.*; MENDELSON, *supra* note 30.

34. Crossette, *supra* note 27.

35. The Liberian conflict has a long and gruesome history. In the first half of the nineteenth century, freed slaves and free blacks from America were sent to colonies in Liberia. These settlers created a rift between themselves and native populations by refusing to include natives in their American-style constitution. Decades of civil strife culminated in more than fourteen years of civil war and a history replete with horrible tales of religious torture, forced conscription, forced labor, and other human rights violations.

The first civil crisis (1989–1997) “resulted in unprecedented humanitarian crisis and claimed the lives of an estimated 150,000 civilians and forced 700,000 to flee into neighboring countries.” The hostilities ended in 1997 and were followed by the election of Charles Taylor. Taylor was responsible for the rebellion in 1989 that set the stage for the horrific civil war. People who had long suffered elected him in hopes of restoring peace to the country as a result of his political activities. Even neighboring Nigeria became a Liberian ally. “Like the Liberian people, Nigeria came to the conclusion that peace in Liberia was solely dependent on the will of one man and his war machine.”

Peace was not long lived in Liberia. Political opposition to Taylor began mounting in 1999. In 2003, the rebel groups Liberians United for Reconciliation and Democracy (LURD) and Movement for Democracy in Liberia (MODEL) attacked the capital, Monrovia, in an attempt to

Operation Liberty entered Liberia in order to “[keep] the peace, [restore] law and order and [ensure] that the cease fire is respected.”³⁶ This mission was initiated by the Economic Community of West African States (ECOWAS) Monitoring Group (ECOMOG). In July of 1993, with the signing of the Cononou Accord, the UN became involved for the first time in a “peacekeeping mission already set up by another organization.”³⁷ The United Nations Observer Mission in Liberia (UNOMIL) was on the ground until 1997, disarming and demobilizing the fighting forces in Liberia.

Civil war erupted again in 1999. After the siege of Monrovia in 2003 that forced Taylor into exile, the international community once again saw fit to send mediating troops. The Security Council adopted Resolution 1509 in September and deployed peacekeeping forces to Liberia in October 2003.³⁸ The United Nations Mission in Liberia (UNMIL) had its mandate extended until 2006 in order to further assure a more successful rebuilding of the economic and social structure of the country.³⁹

C. Liberia: Trafficking

Along with reporting that Liberia regards human trafficking as a human rights abuse, the U.S. Department of State pronounced that

[p]overty, unemployment, and illiteracy were widespread, and the country’s infrastructure was severely damaged as a result of the war. The education system barely functioned and the country had no public electricity, potable water, sewer system, or postal service.⁴⁰

The 2005 Country Reports on Human Rights Practices similarly suggests that prostitution, while illegal, is widespread and that child prostitution and trafficking are a problem. It also stated that while children were still reportedly forced into soldiering and sex slavery, there was evidence of a slight decline.

overthrow Taylor. The insurgency was successful, and Taylor went into exile in August 2003. An interim government was established, with elections planned for 2005 to appoint new government officials to take office in 2006.

In October 2005, elections were held in hopes of establishing a permanent government that would maintain peace and successfully rebuild Liberia. In a landmark 60 percent electoral victory, Ellen Johnson-Sirleaf was the first elected female president in African history. She took office in 2006, assuming control of a country that had been devastated by war. The economy of the country is in utter disaster, as Taylor had sold off much of the country’s natural resources at bargain prices and left Liberia in critical national debt. *See* AMNESTY INT’L, 2005 ANNUAL REPORT FOR LIBERIA; DAVID FRANCIS, MOHAMMED FAAL, JOHN KABIA & ALEX RAMSBOTHAM, DANGERS OF CO-DEPLOYMENT: UN CO-OPERATIVE PEACEKEEPING IN AFRICA (2005).

36. FRANCIS ET AL., *supra* note 35, at 122.

37. *Id.* at 124.

38. *Id.* at 132.

39. AMNESTY INT’L, *supra* note 35.

40. U.S. DEP’T OF STATE, 2005 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES (2006), available at <http://www.state.gov/g/drl/rls/hrrpt/2005/61577.htm>.

The 2005 Country Reports on Human Rights Practices mentions that trafficking occurred into, from, and within Liberia.⁴¹ Likewise, the 2004 Trafficking in Persons Report (TIP Report) states, “Liberia is a source country for men, women and children trafficked for sexual exploitation, soldiering, and domestic and commercial labor.”⁴² It is clear that human trafficking remains an issue into 2006, but the scope of the problem in Liberia reaches further into history.

Before UNMIL involvement in Liberia, the conflict climate included trafficking and forced labor, clear violations of IHL. Early in the conflict, fighting groups abducted girls and women for use as “bush wives” or sex slaves for the soldiers and commanders.⁴³ In 2004, one year after peacekeepers were deployed to the country, the TIP Report listed child soldiers and trafficking, including sex slavery and forced marriage, as problems in the country.⁴⁴

Trafficking activities coexisted with UN peacekeeping initiatives in Liberia. Although prostitution was illegal in the country, it remained an issue in 2005.⁴⁵ Peacekeepers reportedly engaged in sexual abuses and the patronage of prostitutes while on missions in the country.⁴⁶ The Refugees International noted that “[t]he ‘wild west’ environment of post-conflict countries is particularly conducive to trafficking, especially when international peacekeepers are present, as in Liberia.”⁴⁷ The UN was certainly aware of the trafficking problem and the involvement of peacekeepers in the industry since the organization of a countertrafficking initiative was seen in Liberia as it had been in Bosnia.

D. DPKO: Activities During UNMIL

Kofi Annan’s special adviser on gender issues and the advancement of women released a “briefing note” to the Security Council four months before the deployment of UNMIL troops to Liberia. She reminded members of their “commitment to put women and girls at the center of peace efforts” as they prepared to send a mission into West Africa.⁴⁸ This reminder was prompted by some of “the uglier stories surrounding international peacekeeping . . . that U.N. operations too often fuel booms in local prostitution, frequently involving women abducted or duped by criminal trafficking gangs to be forced into brothels.”⁴⁹

41. *Id.*

42. U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 252 (2004).

43. Martin, *supra* note 18, at 3.

44. U.S. DEP’T OF STATE, *supra* note 42, at 252.

45. U.S. DEP’T OF STATE, *supra* note 40.

46. Ni Chonghaile, *supra* note 29, at 860–61.

47. Refugees Int’l, *Liberia: UNMIL’s Crackdown on Trafficking Puts Women at Risk*, May 10, 2004.

48. Crossette, *supra* note 27.

49. *Id.*

Refugees International chronicles an increase in reports of incidences of prostitutes trafficked into bars and brothels in Monrovia, the capital of Liberia.⁵⁰ These allegations, though evidence that they occurred is difficult to locate, were numerous enough to warrant a UN response. Several months after the deployment of UNMIL, the CIVPOL forces in Liberia assigned the same officer to the countertrafficking unit that had been in charge of the initiatives in Bosnia-Herzegovina. A former journalist, de Lavarene implemented police-style raids on brothels in Bosnia that led trafficking activities to be moved further underground.

In Liberia, Jacques Paul Klein once again headed the UN response to trafficking allegations. “Klein side-stepped DPKO and assigned the same woman to head up his trafficking unit in Liberia.”⁵¹ She carried out initiatives in Liberia similar to those performed in Bosnia and, once again, succeeded in driving trafficking further underground.

In addition to carrying out anti-trafficking activities specific to Liberia, the UN worked to address trafficking in all of its missions. The 2004 DPKO Policy Paper treated human trafficking as it occurred in peacekeeping operations. The paper suggests that peace operations are generally not well suited to handle anti-trafficking⁵²—a statement well supported in the evidence that illuminates the failures of Klein’s trafficking unit in Bosnia and in Liberia.

The 2004 DPKO paper also suggests that the reporting of abuses carried out by peacekeeping personnel are difficult to substantiate and investigate.⁵³ Evidence of peacekeeper abuses is largely anecdotal; no systematic method of recording and reporting complaints exists. Without the proper procedures, the UN DPKO has failed to promptly address public concerns surrounding missions as complaints are lost in the hectic atmosphere of the operation.

Along with the policy paper, the DPKO called for a training initiative in 2004. Specifically focusing on gender, trafficking, and the responsibility of UN member countries to administer training, the training program appeared to be a well-thought-out and progressive objective. The DPKO issued a professional-looking brochure outlining the 2004 policy paper and training intentions. It cited the United Nations Office on Drugs and Crime’s training program as the one to be used. Unfortunately, it is almost impossible to find evidence that such training is effective. Moreover, because states are responsible for initiating training, suggested programs are not necessarily used.

50. REFUGEES INT’L, *supra* note 47.

51. Martin, *supra* note 18, at 13.

52. U.N. DEP’T OF PEACEKEEPING OPERATIONS, HUMAN TRAFFICKING AND UNITED NATIONS PEACEKEEPING: DPKO POLICY PAPER 1 (2004).

53. *Id.*

Sadly, the trafficking issues in Liberia continued throughout the PKO mission, indicating that any training that may have been done was insufficient. Peacekeeping troops reported that training occurs just after arrival when troops are tired. The training bombards the troops with information and thus little is retained.⁵⁴ Another problem is the general lack of training itself. “According to the trainers that RI [Refugees International] spoke to in West Africa, there is very little pre-deployment training on non-technical issues, such as preventing sexual exploitation and abuse.”⁵⁵ Perhaps future efforts should aim at understanding the behaviors associated with peacekeepers, prostitution, and human trafficking.

E. Peacekeepers: Need for Greater Attention

The deployment of UN peacekeepers is supposed to relieve the suffering of local populations following conflict. Thus, peacekeeper involvement in atrocities such as sexual abuse and human trafficking are most disturbing as they add to preexisting distress. In Liberia, as in various preceding missions, peacekeepers behaved in ways that have become common to UN peacekeeping missions. Prostitution services were frequently utilized, and local trafficking efforts increased.

While the UN was aware of accusations and had previously responded to allegations, it failed to take proper action against peacekeeper abuses. Identical methods to those used in Bosnia again encouraged trafficking activities to retreat further underground. Training initiatives were scarcely implemented, and peacekeepers continued to add to the problem of human trafficking in Liberia.

Because peacekeeping troops are increasingly deployed into situations of ongoing armed conflict,⁵⁶ a concomitant increase in attention should be paid to the human rights dimension of IHL—especially in the case of sexual slavery and human trafficking. If IHL and international human rights law are combined, a comprehensive framework can be employed to create more realistic modern standards for peacekeeping troops. Ideally, they will internalize the values inherent in these systems of law.⁵⁷ Only then can the international community and system of states take confidence that the human rights of civilians, both during conflict and immediately following, are better assured.

Because states are charged with supplying volunteer forces and the training provided to these forces, it must be the states that are directly responsible for initiating and ensuring change within peacekeeping missions. By addressing the underlying roots of the behaviors associated with illegal

54. Martin, *supra* note 18, at 20.

55. *Id.* at 19.

56. GORDON & TOASE, *supra* note 9, at xxiii.

57. See ARBUCKLE, *supra* note 5, at 37.

activity, states can effectively ensure that their responsibilities to the international system are upheld and that the protection of civilian populations is achieved. An analysis of the roots of military involvement in prostitution and the use of “other” might help us to better understand why state efforts should focus on addressing peacekeeping and prostitution, perhaps looking at military culture and its potential for change.

III. ANALYSIS: MILITARIES & MASCULINITY

Throughout the history of organized military institutions, sexual service has been accepted as a legitimate and important need. Early soldiering groups made use of camp followers, mainly women, who provided some service, mostly sexual. In fact, these followers were only allowed to remain attached to military groups so long as they provided some service to soldiers that kept them from defecting.⁵⁸ Prostitution is the modern result of this traditional acceptance of the need to provide sexual services for enlisted men.

This traditional focus on state militaries providing systems of sexual outlet for soldiers dates back centuries. “One reason was the release of sexual desire, especially for the Samurai caste, because of their own anxiety and psychological instability, which was explosive because of the continued situation of war.”⁵⁹ It was a hallmark of the Japanese occupancies during World War II. Here, the Japanese military set up state-regulated systems of prostitution in the Philippines, China, Japan, Hong Kong, Indochina, Malaysia, Singapore, Borneo, the East Indies, Burma, Thailand, Papua New Guinea, Saipan, Guam, and the Coral Sea Islands Territory.⁶⁰ This system, today known as the “comfort woman” system, was set up distinctly to serve the sexual needs of Japanese soldiers. Japan provided the comfort women as an assurance that soldiers would direct their aggression and sexual appetites on approved sources and not on the local population.⁶¹

In addition to the comfort woman system, military prostitution is regularly practiced and commonly witnessed as a subculture of military bases around the world. It is not unique to any military, but regular to all national services (and peacekeeping operations, as well).⁶² Prostitution services for military men everywhere are claimed to deter the possibility of unbridled

58. CYNTHIA ENLOE, DOES KHAKI BECOME YOU? 2 (1983).

59. Chung Hyun-Kyung, “*Your Comfort Versus My Death*”: Korean Comfort Women, in WAR’S DIRTY SECRET 13, 20 (Anne Llewellyn Barstow ed., 2000).

60. Anne Llewellyn Barstow, Introduction to WAR’S DIRTY SECRET, *supra* note 59, at 1, 11–12; Saundra Pollock Sturdevant, *Okinawa Then and Now*, in LET THE GOOD TIMES ROLL 251 (Saundra Pollock Sturdevant & Brenda Stoltzfus eds., 1992).

61. Vera Mackie, *Sexual Violence, Silence, and Human Rights Discourse*, in HUMAN RIGHTS AND GENDER POLITICS: ASIA-PACIFIC PERSPECTIVES 37, 45–47 (Anne-Marie Hilsdon et al. eds., 2000); JOSHUA S. GOLDSTEIN, WAR AND GENDER 345–46 (2001).

62. Isabelle Talleyrand, Note, *Military Prostitution: How the Authorities Worldwide Aid and Abet International Trafficking in Women*, 27 SYRACUSE J. INT’L L. & COM. 151, 153–54 (2000).

sexual violence among men who are encouraged to act as warriors and “real men” when they are living in almost completely same-sex conditions, separated from their families and society, and enduring the stress of military life and/or war.⁶³

“Rest and relaxation” is provided to soldiers as a break from combat activities and an opportunity to rejuvenate the body and morale of the warrior. For American forces in Vietnam, one of the favorite “R & R” locations was Thailand. There, soldiers were surrounded by the availability of commercial sex. A constant flow of desperate local and trafficked women supplied prostitution.⁶⁴ Now, the commercial sex industry and sex trafficking to, from, and within Thailand is one of the most well-known foci of research on sex trafficking and commercial sexual exploitation.⁶⁵ Some responsibility for the growth and maintenance of the industry lies in the tradition of military “R & R” and the insistence that soldiers require a sexual outlet.

Commercial sex establishments frequently border regular military installations and military bases in the home state, further providing state military men with the opportunity to express their declared need for sexual release. In fact, one of the most noticeable economic activities around U.S. military bases is prostitution.⁶⁶ The military bases once located in the Philippines were characteristic of so many similar locations and surrounded by “little brown fucking machines fueled by rice” who were available for the soldiers.⁶⁷ Perhaps it should come as no surprise that a thriving commercial sex industry remains in the Philippines, the existence of which is touched upon in the sensationalized made-for-television movie *Human Trafficking*.⁶⁸

In addition, South Korea remains a classic case of military demand for services that has resulted in a thriving sex industry. Following the Japanese surrender in WWII, the entire comfort system was offered to the American military occupants as a transferred service.⁶⁹ This long-standing tradition of prostitution was maintained as an “R & R” benefit through the 1970s. More recently, the U.S. soldiers in South Korea utilized the system while stationed there. As late as 2002, this commercial sex location was a hub of

63. Mackie, *supra* note 61, at 45; GOLDSTEIN, *supra* note 61, at 345–46.

64. Jennifer S. Butler, *Militarized Prostitution: The Untold Story (U.S.A.)*, in *WAR'S DIRTY SECRET*, *supra* note 59, at 204, 207.

65. KEVIN BALES, *DISPOSABLE PEOPLE* (2004); KEVIN BALES, *UNDERSTANDING GLOBAL SLAVERY* (2005); ENLOE, *supra* note 58.

66. Aida F. Santos, *Gathering the Dust*, in *LET THE GOOD TIMES ROLL*, *supra* note 60, at 37–38.

67. Hyun-Kyung, *supra* note 59, at 21.

68. *HUMAN TRAFFICKING* (Lifetime Television 2005).

69. GOLDSTEIN, *supra* note 61; OBOKATA, *supra* note 4; Talleyrand, *supra* note 62.

international sex trafficking.⁷⁰ Further, Korean prostitution is an anomaly within the larger society: “The culture of camp towns, as a way of life, and sex tourism has nothing to do with Korean culture. It is an integral part of Korea’s subordination to Japanese and American interests through most of this century.”⁷¹

Even nonregular and revolutionary military forces make some provision for the sexual appetites of soldiers. Serbian forces kept houses of prostitution filled with sex slaves for the regular use of fighting forces.⁷² Liberian fighters sometimes kept “bush wives” as sexual slaves. Prostitution and the use of sexual slavery has therefore become a regular part of military functioning. Perhaps it is likewise a regular part of military culture that encourages the use (and sometimes abuse) of local commercial sex services. As Anne Llewellyn Barstow puts it: “Behind all of these customs lies the training of soldiers.”⁷³

A. *Masculinity: The Warrior Group*

*The principle of exclusivity unites the members of a combat unit by dehumanizing members of so-called socially subordinate groups in preparation for dehumanizing the enemy.*⁷⁴

Currently, militaries across the globe are trained to act in ways that are associated with a hypermasculinized warrior ideal.⁷⁵ A soldier is taught to respond in ways that are tough and hardened, thus saving him (traditionally male) the consideration of emotion. This masculine culture crosses international borders and is apparent everywhere within the military realm. After all, soldiers face the possibility of witnessing and participating in war. This includes the possibility that any soldier might be required to kill someone or act in a way otherwise contrary to normal social rules of behavior. Sometimes, this masculine indoctrination and training process goes beyond the boundaries of toughening males and leads them to act in ways that are sexually aggressive or violent.

Soldiering is certainly not the most benign of occupations. “Armies differ from other institutions in that their primary mission entails a readiness to take life and destroy property.”⁷⁶ Because soldiers must perform

70. Donna M. Hughes et al., *Modern Day Comfort Women*, 13 *VIOLENCE AGAINST WOMEN* 901 (2007).

71. Bruce Cumings, *Silent but Deadly*, in *LET THE GOOD TIMES ROLL*, *supra* note 60, at 174.

72. Talleyrand, *supra* note 62.

73. Anne Llewellyn Barstow, *Introduction to WAR’S DIRTY SECRET*, *supra* note 59, at 1, 9.

74. Deborah Harrison, *Violence in the Military Community*, in *MILITARY MASCULINITIES* 75 (Paul Higate ed., 2003).

75. Anne Llewellyn Barstow, *Introduction to WAR’S DIRTY SECRET*, *supra* note 59, at 1; TOD ENSIGN, *AMERICA’S MILITARY TODAY* (2004); Pamela R. Frese, *Guardians of the Golden Age*, in *ANTHROPOLOGY AND THE UNITED STATES MILITARY: COMING OF AGE IN THE TWENTY-FIRST CENTURY*, *supra* note 8, at 45.

76. Peter H. Wilson, *Defining Military Culture*, 72 *J. MIL. HIST.* 11, 22 (2008).

occupational duties that might otherwise be illegal, immoral, or disdainful, militaries must ensure that the professional warrior remains on task and willing. In essence, they must deliberately instill combativeness.⁷⁷ Doing so includes indoctrination into a culture where loyalty to the group and an unwavering dedication to being a warrior are key characteristics.

Militaries exist as subcultures that are part of and distinct from the larger culture.⁷⁸ By providing a separate culture, which exclusively provides for all of the needs of its members, the military succeeds in giving surety that soldiers will look inward for identity and support.⁷⁹ Despite the overt policy to remain a distinct subgroup within society, militaries and their subsequent militarized masculinity are celebrated as a part of the larger society.⁸⁰ This celebration is a further impetus to continue on a track based on the definition of the warrior as an entity outside the normal limits of society.

The initial disjuncting of warrior from society occurs at the time of boot camp or similar training initiative. Soldiers in the armed forces of the United States are given identical haircuts and trade in their civilian clothes for a common uniform—thus, they abandon their civilian identity. Recruits' civilian existence is further torn from them during preliminary indoctrination when they are feminized and shamed by commanding officers and peers.⁸¹ They are routinely humiliated and criticized, especially for acting in ways that are feminine or individualistic.⁸²

Further training focuses on the necessity for group cooperation and action. This training instills soldiers with a permanent and resolute dependence on maintaining the ability and dedication to function as a single unit.⁸³ This creates a tightly operating unit that is unquestioning in its performance of orders. Additionally, the repeated focus on the importance of acting as a group, in order to ensure the survival of the unit, helps to relieve some of the uncertainty of facing war and the possibility of death.⁸⁴

As the groups of soldiers continue through training and into more routine occupational roles, the separation from society is maintained. Thus, it is not only the weak man and the woman who are outside the norm of soldiering—rather, anyone outside of the military organization is upheld as the

77. See Marcia Kovitz, *The Roots of Military Masculinity*, in *MILITARY MASCULINITIES*, *supra* note 74, at 7.

78. See Fujimara, *supra* note 8, at 136; ARBUCKLE, *supra* note 5, at 35–36.

79. See Harrison, *supra* note 74, at 76.

80. John Hopton, *The State and Military Masculinity*, in *MILITARY MASCULINITIES*, *supra* note 74, at 12.

81. SANDRA WHITWORTH, *MEN, MILITARISM, AND UN PEACEKEEPING: A GENDERED ANALYSIS* 156 (2007).

82. See Harrison, *supra* note 74, at 74–75; GOLDSTEIN, *supra* note 61, at 374–76.

83. See Claudia J. Kennedy, *Redefining the Warrior Mentality: Women in the Military*, in *SISTERHOOD IS FOREVER: THE WOMEN'S ANTHOLOGY FOR A NEW MILLENNIUM* 409, 411 (Robin Morgan ed., 2003); Harrison, *supra* note 74, at 73–74.

84. Harrison, *supra* note 74, at 73–76.

“other.” Otherness becomes essential to group identification, which is necessary for the creation of

a warrior spirit that is based upon a sense of brotherhood, fraternalism—which, obviously, excludes women When a military organization is called to war, the mission is to kill and to dominate the opposing force. And domination is generally associated with a masculine thing. There’s very little remorse. That’s where the manliness thing comes into play.⁸⁵

Defining a distinct other, whatever its form may be, has been an integral part of military existence. It serves the purpose of creating a stern boundary between the in-group, soldiers, and the out-group, everyone else. “People establish positive social identities through normative comparisons between favorable ingroups and unfavorable outgroups.”⁸⁶ This distinction is inherent in group dynamics and especially in hate group systems.⁸⁷ It is a reaction that is taught to military initiates.

Soldiers are inculcated with a response scheme that automatically separates noncomrades, thereby creating “enemies.”⁸⁸ Enemies are propagandized and attributed with nonsoldierly qualities. In Somalia, “the reviled and hated racialized and sexualized ‘other’ all looked the same, treated ‘their’ women badly, and were a bunch of homosexuals.”⁸⁹ Consequently, going to battle and potentially killing another human being can be rationalized as fulfilling a duty to protect the group from a common enemy.

A side-effect of imbibing military culture in its masculine tone is that any member of the warrior’s or another society becomes classified as less important than the soldier’s immediate unit, or clan. Women must be protected. Weak men are not warriors. The enemy embodies all that is not manly and must be fought against (and, if need be, killed).⁹⁰

Masculinity, in its militant form, reflects the core beliefs:

a) that armed force is the ultimate resolver of tensions; b) that human nature is prone to conflict; c) that having enemies is a natural condition; d) that hierarchical relations produce effective action; e) that a state without a military is naïve, scarcely modern and barely legitimate; f) that in times of crisis those who are feminine need armed protection; and g) that in times of crisis any man

85. Madeline Morris, *In War and Peace: Rape, War, and Military Culture*, in *WAR’S DIRTY SECRET*, *supra* note 59, at 167, 183–84.

86. Volker C. Franke, *The Social Identity of Peacekeeping*, in *THE PSYCHOLOGY OF THE PEACEKEEPER* 31, 36 (Thomas W. Britt & Amy B. Adler eds., 2003).

87. See generally MELANIE KLEIN & JOAN RIVIERE, *LOVE, HATE AND REPARATION* 3–53 (1964).

88. *Id.*

89. WHITWORTH, *supra* note 81, at 102.

90. Reynolds, *supra* note 7, at 611; Donna Winslow, *Misplaced Loyalties: The Role of Military Culture in the Breakdown of Discipline in Peace Operations*, 35 *CANADIAN REV. SOC. & ANTHROPOLOGY* 345, 350–59 (1998).

who refuses to engage in armed violent action is jeopardizing his own status as a manly man.⁹¹

In addition, masculinity provides a *raison d' être* for military separatism. It creates an easy division between loyalty to the military unit and responsibility to other members of society.

B. Behavior: Are They Boys Being Boys?

*But a person is not a momentary being: His life extends in time, and the past is 'present' in his mind in the form of 'traces left behind': acquired dispositions, beliefs, and memories.*⁹²

Masculinity has become a definitive tool for the militaries of the world. It is a cultural program constructed and taught for centuries to the warrior men of the state.⁹³ This tradition is effective in providing for a set of beliefs and norms that reinforce the espoused military value for group cohesion as necessary for survival.⁹⁴ Moreover, the system creates a well-defined sphere of operation unique to the military and its members.

The militaries of the world are overwhelmingly guided by systems of masculine behavior. Likewise, the majority of military institutions utilize and encourage the use of prostitution and sexual release as a way of expressing manliness and maintaining high levels of soldier morale and cohesiveness.⁹⁵ Of course, not all soldiers will be compelled or forced to make use of the readily available commercialized sex provided to them, and, certainly, not all men express masculinity to the same degree, even when it is imparted from the same source.

Learning a meaning system does not result in automatically and involuntarily following the rules, but requires a directive force in the form of

91. Cynthia Enloe, *Demilitarization—or More of the Same?*, in *THE POSTWAR MOMENT: MILITARIES, MASCULINITIES, AND INTERNATIONAL PEACEKEEPING* 23–24 (Cynthia Cockburn & Dubravka Zarkov eds., 2002).

92. Zeno Vendler, *Understanding People*, in *CULTURE THEORY: ESSAYS ON MIND, SELF, AND EMOTION* 200, 211 (Richard A. Shweder & Robert A. LeVine eds., 1984).

93. See ARBUCKLE, *supra* note 5, at 38–48; Karen Dunivin, *Military Culture: Change and Continuity*, 20 *ARMED FORCES & SOC'Y* 531 (1994); GOLDSTEIN, *supra* note 61, at 251–301; Sara Mackmin, *Why Do Professional Soldiers Commit Acts of Personal Violence that Contravene the Law of Armed Conflict?*, 7 *DEFENCE STUD.* 65, 70–73 (2007).

94. GOLDSTEIN, *supra* note 61, at 194–203; Harrison, *supra* note 74, at 74–75; Kennedy, *supra* note 83, at 411; cf. Leora N. Rosen, Kathryn H. Knudson & Peggy Fancher, *Cohesion and Culture of Hypermasculinity in U.S. Army Units*, 29 *ARMED FORCES & SOC'Y* 325 (2003) (expanding upon the belief that “hypermasculinity” is a core military value by including considerations of military wives and families); Ivan Yardley & Derrick J. Neal, *Understanding the Leadership and Culture Dynamic Within a Military Context: Applying Theory to an Operational and Business Context*, 7 *DEFENCE STUD.* 21, 28–30 (2007) (discussing military-style cohesiveness in business settings).

95. See Enloe, *supra* note 91; GOLDSTEIN, *supra* note 61, at 335; ELIZABETH LUTES HILLMAN, *DEFENDING AMERICA: MILITARY CULTURE AND THE COLD WAR COURT MARTIAL* 102–08 (2005); Hughes, *supra* note 70, at 901–16 (2007); Hyun-Kyung, *supra* note 59, at 13–21; Mackie, *supra* note 61, at 37–42; Talleyrand, *supra* note 62, at 151–61.

need or obligation.⁹⁶ Because military culture—and its characteristic masculinity—is a well-established, yet created, system, it is possible that the behaviors associated with it might not be representative of the direct needs and desires of the individual, but encouraged by a want to be accepted as an integral part of the unit. In fact, it is suggested that military culture is a system of meanings and symbols that guides behavior rather than a necessary force that dictates behavior.

“Meanings represent the world, create cultural entities, direct one to do certain things, and evoke certain feelings.”⁹⁷ As a system of meaning and representation invoked to ascribe a particular identity and associated behaviors, military culture has been chosen as a means of ensuring effective warrior-like behavior. As an optional system, it is suggested that military culture can be subject to reform and revision in light of state responsibility to uphold international human rights standards and those of IHL.

The availability of military prostitution reinforces the maleness of soldiers: “The sex trade in which so many servicemen indulged broadcast norms of female sexual availability and male sexual aggression.”⁹⁸ That the state allows and even regulates this system of sexual services makes it complicit in the violation of international human rights standards and IHL.

“Military prostitution supports, helps maintain, and even encourages trafficking in women worldwide.”⁹⁹ Because militaries carry a market-like demand for sexual services, brokers in women’s bodies and sexual services are sure to offer the supply of women. Women, like the Japanese “comfort women,” might be transported from other countries.¹⁰⁰ Because, in fact, the actual condition of any given sex worker is not advertised, servicemen and peacekeepers everywhere must assume that their participation in prostitution (in general) will likely be a violation of international law. During times of war, this awareness should be heightened under the tenets of IHL, where sexual slavery and forced prostitution is defined as a crime against humanity.

IV. CONCLUSION: THE NEED TO CHANGE

*Militarism and sexism are the twins that have been created in the bowels of patriarchy, and through time, they have littered the histories of human kind in the name, ironically of peace and progress.*¹⁰¹

Globalization has been a driving force in international change for the past century. Borders open and trade barriers dissolve while technology and

96. Roy G. D’Andrade, *Cultural Meaning Systems*, in *CULTURE THEORY: ESSAYS ON MIND, SELF, AND EMOTION*, *supra* note 92, at 88, 97.

97. *Id.* at 96.

98. HILLMAN, *supra* note 95, at 108.

99. Talleyrand, *supra* note 62, at 153.

100. See Hughes, *supra* note 70, at 901–16.

101. Aida F. Santos, *Gathering the Dust*, in *LET THE GOOD TIMES ROLL*, *supra* note 60, at 39.

communication mediums spread across the globe at increasing speeds.¹⁰² People can travel to new places and access information, goods, and services that were rarely available in the past.

Concomitant with the “expansion” of the global culture is the increased focus by the UN on creating and maintaining international order and normative standards. States have become intimately involved in the stability concerns of one another in a way that has traditionally been prohibited by the norm of sovereignty. Today, militaries are involved in a nontraditional role of brokering and maintaining peace. For the well-cultured (militarily, that is) soldier, the very idea of nonuse of force and providing conditions for peace goes against the intrinsic values of the warrior ethos. It is difficult for a well-trained soldier to essentially “switch off” his deeply ingrained training and value system.¹⁰³

As actors in global peace brokering, troops must be responsible for individually and cooperatively upholding UN standards. Abuse and human rights violations cannot become accepted parts of peacekeeping missions. While large numbers of soldiers participate as peacekeeping troops, it is essential that they maintain the utmost respect for civilians and locals—including a refusal to participate in commercial sex patronage that supports human trafficking.

Because the United Nations and its agencies are founded on principles of human rights, activities that carry the United Nations name must follow international normative standards concerning human rights. The participation of peacekeepers in the commercial sex industry, further compounded by first-hand trafficking activities, is a damaging contradiction that must be addressed by member states acting from concern for their individual commitments to the principles of the United Nations. Each sending state must address the unique challenges of its own military participation so as to best ensure the safety and dignity of populations being protected.

A. *Military: Demands for Sex*

Peace-keeping personnel should receive information on local cultural traditions and should respect the inherent rights and dignity of women at all time.

Rule 12. The gender dimension. The UN should ensure all troops participating in international peace-keeping operations are fully trained in those standards and understand their obligation to adhere to them.

102. See generally JOSEPH E. STIGLITZ, *GLOBALIZATION AND ITS DISCONTENTS* (2003).

103. See Harrison, *supra* note 74, at 74.

*Rule 13. Adherence of international peace-keeping forces to human rights and humanitarian law standards.*¹⁰⁴

In 1995, “the UN . . . declared that forcing women to render sexual services is sexual slavery, a violation of their human rights, and that sexual slavery imposed by the military is a war crime.”¹⁰⁵ Certainly, the DPKO has not been complacent in creating a possible solution to the problem of the commercial sex industry and its implications. The UN has, indeed, made the effort to consider the negative effects that trafficking activities and the use of commercial sexual services has on the credibility of the United Nations peacekeeping programs. It has gone so far as to issue statements on the topic and recommend possible training initiatives.¹⁰⁶ However, there is a problem with the length of training and little retention of material is witnessed. Further, the content of trainings is ineffective in addressing the causes of gender and human rights abuses among masculine soldiers acting as peacekeeping troops.

The suggested training initiatives focus on the gender dimensions of peacekeeping. Designed by the UN DPKO, Training and Evaluation Service (TES), this particular curriculum is in line with popular feminist claims that increased education and training on gender issues will sufficiently provide peacekeeping troops with a frame of reference with which to consider their behaviors and interaction with local civilians. On the surface, these training programs seem to consider all aspects of the peacekeeping mission—designed to inform soldiers at the onset of their mission and as ongoing training while also considering the different levels of the military leadership hierarchy with modules designed for different professional levels.¹⁰⁷

A grave issue with existing training programs is that they are both quick and inconsistent. Soldiers are given a number of short sessions designed to train them on much more information than any person might hope to incorporate in the given time.¹⁰⁸ Sending states are also given the express duty of training their own units for peacekeeping deployments—with the offering of DPKO-designed programs and support, but no requirements.¹⁰⁹

104. AMNESTY INT’L, 15 POINT PROGRAM FOR IMPLEMENTING HUMAN RIGHTS IN INTERNATIONAL PEACE-KEEPING OPERATIONS, http://www.amnesty.org.in/downloads/15Point_Program_for_International_Peacekeeping.pdf

105. Anne Llewellyn Barstow, *Introduction to WAR’S DIRTY SECRET*, *supra* note 59, at 1.

106. See United Nations Department of Peacekeeping Operations, *Human Trafficking and United Nations Peacekeeping: DPKO Policy Paper* (2004); United Nations Department of Peacekeeping Operations, *Gender Equality in UN Peacekeeping Operations* (Nov. 3, 2006).

107. United Nations Department of Peacekeeping Operations, *Human Trafficking and United Nations Peacekeeping: DPKO Policy Paper 2* (2004); United Nations Department of Peacekeeping Operations, *Gender Equality in UN Peacekeeping Operations 6* (Nov. 3, 2006).

108. Annika H. Norberg, *Challenges of Peace Operations*, 10 INT’L PEACEKEEPING 94, 94–95 (2003).

109. United Nations Department of Peacekeeping Operations, *Human Trafficking and United Nations Peacekeeping: DPKO Policy Paper 9* (Mar. 2004).

This allows for complete disregard of the approved programs by states with no repercussions.

In keeping with the espoused claims of feminist scholarship and reports such as those prepared by the U.S. Institute for Peace,¹¹⁰ the DPKO-sponsored training design is ineffective in addressing the root causes for complacency in abusing women and, more generally, human rights. Gender-focused training, while valuable as a tool used for ongoing training, will not successfully ensure that soldiers and peacekeepers are able to differentiate their behavior as inappropriate or illegal. This is reinforced by the practice of separating the “other,” which is essential to military culture and its characteristic focus on tight group cohesion as necessary to survival.¹¹¹

Likewise, human rights training of peacekeeping forces will not sufficiently address the causes of abuse rooted in cultural and social misunderstandings. Amnesty International has suggested various activities for better assuring that peacekeepers are not human rights abusers—initiatives include gender training, revision of reporting systems, and increased prosecution rates, among others.¹¹² The problem remains, however, that soldiers are acting out of a deeply rooted value and meaning system that has been painstakingly imbued upon them.

B. *Changes in Global Participation*

*Caring, emotive human beings who feel a connection with other human beings are not, it seems, what most militaries are looking for. The ultimate irony, of course, is that these may be the very qualities that are required of anyone involved in missions aimed at keeping, creating, promoting, or maintaining something called peace.*¹¹³

As the world becomes more reliant on international systems of trade, norms, and politics, nations must be prepared to embrace all of the challenges of globalization. States that are members of the United Nations and involved in UN peacekeeping must follow suit in meeting the obstacles included in expanded global military initiatives. Because existing initiatives are falling short of their goals of providing peacekeeping troops who are better suited to consider human rights dimensions of conflict, new options must be explored. While avoiding any direct suggestions of how to create such change, it is proposed that the only effective method of ensuring that peacekeeping soldiers protect and promote human rights, especially in the area of human trafficking and sexual slavery, is to redefine the culture of

110. See Donna Ramsey Marshall, *Women in War and Peace: Grassroots Peacebuilding*, 34 PEACEWORKS 12 (2000).

111. Kennedy, *supra* note 83, at 411; GOLDSTEIN, *supra* note 61, at 194–203, 218.

112. AMNESTY INT’L, *supra* note 104.

113. WHITWORTH, *supra* note 81, at 172.

the military soldier to include automatic consideration of the human rights and legal implications of one's actions.

As military culture creates and maintains behaviors associated with human rights abuses and human trafficking for the purpose of commercial sex, military culture must be approached as a problem. Because militaries are the main providers of peacekeeping forces, it can be assumed that military tendencies that support human rights abuses and human trafficking activities are present in peacekeeping missions. While the DPKO is concerned with the issue of human trafficking for commercial sex and the accompanying human rights dimension of such abuses, it has not been entirely successful in creating effective programs that solve the problem.¹¹⁴

State responsibility for the training and sending of peacekeeping troops must reflect the current realities of global involvement. Thus, militaries must seriously consider the commitment that is a part of UN membership, as well as state responsibility to the global community. Anachronistic traditions found in military culture are no longer effective for peacekeeping participants—just as it is no longer acceptable for the state militaries that cling to them. Accordingly, military culture must be examined, redefined, and relearned to ensure proper considerations of state responsibility to human rights, international law, and IHL. This need is particularly evident in the case of human trafficking *qua* military prostitution.

114. Reynolds, *supra* note 7.