

# “Accountability of UN civilian police involved in Trafficking of Women in Bosnia and Herzegovina”

## 1.1. Introduction

The main focus of this article is the accountability and immunity of United Nations Civilian Police monitors (hereinafter CivPol) involved in trafficking of women for the purpose of sexual exploitation. The emphasis is on Bosnia and Herzegovina (hereinafter BiH), but the issues and problems it raises have been seen in other peacekeeping missions as well. One of the key issues will lie on criminal responsibility of CivPol and the level of their accountability for alleged crimes. This issue is looked at in relation to the failure and lack of political will for prosecutions of those responsible for these crimes. While on missions, CivPol enjoy immunity from criminal prosecutions. Without a waiver of immunity from the U.N. Secretary-General (hereinafter SG), they cannot face charges in front of domestic courts for crimes they have been committed. The act of waiving immunity has not happened in BiH although some CivPol officers have been removed and repatriated for “exceeding their authority under the United Nations Mission in BiH (hereinafter UNMIBH) mandate.”<sup>i</sup> The United Nations (hereinafter U.N.) has failed to address allegations of involvement in trafficking activities committed by CivPol and, in some cases, to investigate those allegations thoroughly.

The present study explores the consequences of exercising absolute immunity in BiH and failing to waive immunity in cases where there existed all legal basis for doing so. Finally, I would like

to stress the fact that due to lack of law enforcement and political will of sending states to prosecute their own nationals for crimes committed while on peacekeeping missions, immunity very often led to complete impunity.

## 1.2. Background

On 14 December 1995, the Dayton Peace Agreement<sup>ii</sup> (hereinafter the Peace Agreement) was signed in Paris by the Republic of BiH, the Republic of Croatia and the Federal Republic of Yugoslavia after three years of peace-making efforts by the international community. In signing the Agreement, the three Balkan States undertook a broad commitment to, conduct their relations in accordance with the U.N. Charter,<sup>iii</sup> to fully respect the “sovereign equality of one another,” to settle disputes by peaceful means, and “to refrain from any action against the territorial integrity or political independence of Bosnia and Herzegovina or any other State.”<sup>iv</sup> The Peace Agreement with its eleven articles and eleven annexes covers a broad range of issues including, military aspects of the peace settlement, regional stabilization, delineation of an Inter-entity Boundary Line between the Federation of BiH and Republika Srpska, holding of democratic elections, protection of human rights, provision of assistance to refugees, overseeing civilian implementation of the Peace Agreement as well as the mandate of the International Police Task Force (hereinafter IPTF, UNMIBH’s police monitoring force).

The UNMIBH was established on 21 December 1995 by U.N. Security Council (hereinafter SC) Res. 1035<sup>v</sup> for an initial period of one year. The SC has renewed the mandate of on several occasions, most recently by passing SC Res. 1423 which extended the mandate until 31 December 2002.<sup>vi</sup> UNMIBH’s mandate was to contribute to the establishment of the rule of law

in BiH by assisting in reforming and restructuring the local police, monitoring and auditing the performance of the police and others involved in the maintenance of law and order, and by monitoring and investigating police performance on human rights.<sup>vii</sup>

To assist them in meeting their obligations, the Parties requested that the U.N. establish by a decision of the SC, as a CivPol operation, an IPTF to carry out a BiH-wide program of assistance.<sup>viii</sup> IPTF was created under Annex 11 of the Peace Agreement for the purpose of assisting, advising, monitoring and training local law enforcement personnel and advising governmental authorities in order to facilitate the creation of a democratic police force in BiH.<sup>ix</sup> Under the specific mandate given by SC Res. 1088 in 1996, the work of IPTF includes “investigating or assisting with investigations into human rights abuses by law enforcement personnel.”<sup>x</sup>

As of October 2002, the IPTF force had approximately 1,411 monitors comprised of police officers from 43 UN member states and worked under the auspices of UNMIBH.<sup>xi</sup> Within BiH, IPTF monitors could not be arrested or detained and had absolute immunity from criminal prosecution. Without a waiver of immunity from the SG, IPTF monitors can never face charges in Bosnian courts for crimes they may have committed.<sup>xii</sup>

### 1.3. The role of CivPol in the U.N. human rights system

In the process of building peace in post conflict societies and with the introduction of multifunctional peace operations, the importance of reforming local police forces has been

strongly emphasized. As a consequence, CivPol has played an important role in reforming local police forces.<sup>xiii</sup> CivPol is a part of the Department of Peacekeeping Operations (DPKO) and its members are under control and the authority of the U.N. CivPol officers are not part of a national contingent, they serve the U.N. in their own individual capacity and they are not under the control of their home State.<sup>xiv</sup> The role of CivPol officers is to train and advise domestic police forces in order to instill respect for human rights and the rule of law. By using internationally accepted human rights and criminal justice standards when monitoring the local police, CivPol serves as a promoter of human rights.<sup>xv</sup>

#### 1.4. Trafficking in Women in Bosnia: facts and reasons

The international crime of trafficking in women for forced prostitution in BiH has been recognized as such since 1995. However, the first night-clubs with women “dancers” from Eastern Europe have been opened in the early 1990s.<sup>xvi</sup> At that time, it was not clear whether women were trafficked or had arrived on their own to voluntarily work in prostitution.<sup>xvii</sup> The trade in so called “sex slaves” was relatively unknown in the region until the mid-1990s. The sex industry was fuelled by the arrival of tens of thousands predominantly male U.N. personnel, after the Peace Agreement was signed in 1995.<sup>xviii</sup>

BiH has become one of the main destination countries for women mainly from Moldova, Ukraine and Romania. According to information provided by non-governmental organizations (hereinafter NGOs) which specifically deal with the problem of trafficking in BiH, there are more than 900 brothels spread throughout the country.<sup>xix</sup>

Trafficking in persons (hereinafter THB) cannot flourish without the cooperation of state officials and law enforcement authorities.<sup>xx</sup> Some local police departments such as those dealing with foreigners have been involved in crime of trafficking from its beginning. They have been directly involved in trafficking, either as purchasers of women or as owners of night-clubs and bars, or indirectly by issuing false documents and working permits. For the most part, the police have engaged in these activities with complete impunity. Their involvement has been discovered through the testimony of women who escaped from brothels.<sup>xxi</sup>

### 1.5. Efforts undertaken by the international community to combat trafficking

Between 1999 and 2001, UNMIBH took action to protect the human rights of trafficked persons particularly through support of the International Organization for Migration (hereinafter IOM) program of victim protection<sup>xxii</sup> and creation of anti-trafficking law enforcement units. The objective of the Mission's Special Trafficking Operations Program (STOP)<sup>xxiii</sup> was to more effectively combat the problem of trafficking and at the same time increase public awareness.

UNMIBH created special police units in each region of BiH which was composed of police officers selected by their demonstrated skills and experience. These specialized units are on call 24 hours a day throughout BiH and work along with the Ministries of Justice, Health and Finance. UNMIBH's involvement included participation of the Mission's IPTF component, the Human Rights Office, the Criminal Justice Advisory Unit, and the Legal Office, in coordination with the Office of the High Commissioner for Human Rights (OHCHR) and the IOM.<sup>xxiv</sup> The Office of the High Representative (OHR) has been mandated to ensure proper criminal

proceedings. One of the tasks for UNMIBH was also to closely monitor allegations of local police involvement, and to ensure that the local police internal investigations have been properly conducted. Where there is evidence of improper local police involvement, a recommendation is submitted to the IPTF Commissioner for the issuance of non-compliance reports, and if necessary, for de-authorization. If allegations or evidence is uncovered about UNMIBH civilian or IPTF involvement, the Mission would conduct its own internal investigation and, if necessary, take appropriate measures.<sup>xxv</sup>

As of April 2002, only six local police officers faced de-authorization as a result of UNMIBH investigations.<sup>xxvi</sup> However, in November 2002, UNIMBH gave a statement on the involvement of eleven police officers who were found to have violated codes of professional conduct when frequenting night clubs and for using sexual services in these establishments. These eleven cases of removal of provisional authorization are the result of the relentless efforts of the IPTF STOP team in their fight against human trafficking in BiH.<sup>xxvii</sup>

Although IPTF has contributed to a more organized and comprehensive approach in combating trafficking, there is evidence about their involvement in acts of trafficking as well. The following sections will focus on their complicity, existing international and domestic laws under which they can be charged and suggested reasons why they failed to be prosecuted.

## 1.6 CivPol complicity in trafficking

Local NGOs were aware of the problem of trafficking in BiH and the international peacekeepers role in it, as early as 1995. A lack of contacts led to delay in addressing the issue until 1998 and establishing concrete anti-trafficking programs until 2000. Such a gap is something that the U.N. should bear in mind before entering into a peacekeeping operation (hereafter PKO). This approach would assist in preventing establishing links between traffickers and local politicians but also between traffickers and peacekeepers.<sup>xxviii</sup>

NGO research showed that since 1995, 90% of brothel use in BiH can be attributed to PKO personnel. Evidence of use this practice is the sudden appearance of nightclubs in villages with proximity to bases for PKO personnel.<sup>xxix</sup> In 2001, the IPTF estimated that 30% of those using brothels were PKO personnel, yet 70% of the money earned in brothels in a year came from PKO personnel. While profit is a significant reason for continuation of trafficking in the region, another is that until 1998, UNMIBH did not consider the issue of trafficking as a priority.<sup>xxx</sup>

There are two types of PKO involvement in trafficking. First are those activities in which its personnel is actively engaged such as using the service of victims of trafficking in brothels (clients) or using them as domestic labour. The other form of involvement is through direct participation in organized crime activities such as transporting women from their countries of origin to brothels or purchasing women and their passports from traffickers and brothel owners.<sup>xxxii</sup> However, purchasing a human being is not the legal way to free a person from debt bondage, and is especially not appropriate for a police officer. IPTF has the ability and obligation to use legal methods such as raids and police investigations.<sup>xxxii</sup> IPTF officers should know through their work and training that the brothels have contained women victims of trafficking

and by visiting the brothels they have been violated the U.N. “zero tolerance” policy.<sup>xxxiii</sup> More importantly, according to local NGOs working with victims, the presence of IPTF monitors in the night clubs as clients discouraged women from seeking shelter in IPTF stations.<sup>xxxiv</sup>

### ***1.6.1. IPTF Officers as a clients***

In November 2000, twenty-five IPTF monitors with SFOR<sup>xxxv</sup> assistance, raided three brothels in the city of Prijedor. In these raids, they released thirty-seven women and girls who claimed that they had been victims of trafficking into BiH for forced prostitution.<sup>xxxvi</sup> The Prijedor case was the biggest scandal in BiH which led to the discovery of direct involvement of IPTF monitors in trafficking. After the raids, IPTF monitors transported women from Prijedor to Sarajevo IOM shelter. During their transportation as well as in later interviews, these women recognized among IPTF monitors men who had been their clients. The women identified eleven international officials who had visited the brothels. Nine of them had been clients and two went to the bar to drink.<sup>xxxvii</sup> As a result of this scandal, six IPTF monitors were repatriated for “exceeding the mandate” of IPTF.<sup>xxxviii</sup>

The CivPol missions had progressed the farthest in terms of creating a comprehensive code of conduct that bans criminal activities (which implicitly includes THB).<sup>xxxix</sup> In reality, U.N. personnel often ignore or flaunt codes of conduct,<sup>xl</sup> and “without an enforceable code of conduct, immunity often means impunity.”<sup>xli</sup>

### ***1.6.2. IPTF Officers as Purchases of Women***

Human Rights Watch (hereinafter HRW)<sup>xlii</sup> has published facts about the involvement of IPTF monitors in purchasing women. It is impossible to state how widespread it was. HRW has found out<sup>xliii</sup> that one of IPTF monitors used services of women, then bought them from the owners and sent them home. He did not face any disciplinary action. In another case, there were allegations that an IPTF officer purchased a woman as a sex slave.<sup>xliv</sup>

The most serious charges were that two Romanian police officers recruited Romanian women by using false documents and then sold the women to Bosnian brothel owners. Other Romanian police officers allegedly tipped off brothel owners about impending raids. Investigators in these events were bullied by U.N. police authorities who eventually stopped the investigation raids.<sup>xlv</sup>

David Lamb, a former police officer who served as a U.N. human rights investigator in BiH, said that he was looking into allegations against six Romanian, Fijian and Pakistani officers. His preliminary inquiry found evidence to justify a full-scale criminal investigation. But Lamb and his colleagues said they also faced physical threats and were repeatedly stymied in their inquiries by their superiors, including a senior Ukrainian police officer who ordered an end to the investigation of the Romanians' conduct.<sup>xlvi</sup> Lamb's investigation involved the most serious allegations that some members of the IPTF directly participated in trafficking in women for forced prostitution.

In 2000, the site manager of DynCorp corporation<sup>xlvii</sup> reported a rise in disciplinary repatriations within the United States (hereinafter US) contingent related to THB and prostitution. The memorandum enunciated a “zero tolerance policy,” forbidding U.S. IPTF officers from visiting

the nightclubs. It seems that memorandum have launched a “zero tolerance policy” specially directed to the U.S. continget because this policy was enunciated by the U.N. in mid-1999.<sup>xlviii</sup>

Further more, the U.S.State Department has initiated the same policy with respect to immoral, unethical and illegal behavior. This includes involvement in trafficking or in prostitution.<sup>xlix</sup> Involvement in this kind of activities will result in immediate termination of an officers contract. Failure on the part of U.S. CivPol officers to report such activity will result in his/her termination as well. When an officer is terminated, he/she must pay their own airfare home, loses their completion bonus, and is not eligible to participate in any future missions. Starting in 2001, the Office to Monitor and Combat Trafficking in Persons began to participate in pre-deployment briefings for U.S. police personnel. Upon conclusion of these briefings, all CivPol candidates sign a DynCorp letter of agreement stating that they understand what trafficking is, pledge not to engage in trafficking, and know that they will be dismissed if they violate the agreement.<sup>1</sup> As of October 2002, no American CivPol officer has been prosecuted due to lack of jurisdiction in U.S. courts.<sup>li</sup>

### 1.7. International instruments for combating trafficking

The U.N.MIBH has estimated that between 750 and 1,000 trafficked women and girls remain trapped in brothels around the country. NGOs place the figure at 2,000 or more.<sup>lii</sup>

International law prohibits THB and requires states to take all measures in order to combat this gross violation of human rights. Some of the relevant international instruments which are widely ratified contain provisions on various human rights violations that take place in the context of

trafficking, namely, the International Covenant on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966), the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment (1984), the Convention on the Rights of the Child (1989), the Convention on Elimination of All Forms of Discrimination Against Women (1979).

The complete set of commitments made by governments regarding trafficking are found in the U.N. Convention Against Transnational Organized Crime (hereinafter the U.N. Convention),<sup>liii</sup> the Protocol to Prevent, Suppress and Punish Trafficking in Persons (hereinafter the Trafficking Protocol), Especially Women and Children, which supplements the U.N. Convention, and the Interpretative Notes (Travaux Préparatoires) to the Trafficking Protocol. Taken together, these three documents comprise a set of international obligations specifically addressing the THB.<sup>liv</sup> The Trafficking Protocol encourages states to provide human rights protection for victims of trafficking, including temporary residence, appropriate shelter, legal assistance, medical and psychological care. However, the U.N. Convention has not yet entered into force as it has received only 24 ratifications two years after its signing.<sup>lv</sup>

## 1.8. Domestic laws on trafficking in human beings

The Peace Agreement divided BiH into two entities: Republika Srpska (hereinafter RS) and the Bosnian-Croat Federation (hereinafter the Federation). Each entity has its own government, legislation and parliament. The Federation is divided in ten cantons that also have their own

organs and legislation.<sup>lvi</sup> The Brcko District, territory previously disputed by the Federation and RS, enjoys a special status within the BiH.<sup>lvii</sup>

Each entity, RS and the Federation has a separate body of criminal law. The Brcko District has adopted a separate criminal code and criminal procedure code that came into force in January 2001 which does not recognise a crime of trafficking as such but contains provisions that are relevant to trafficking prosecutions.<sup>lviii</sup>

In October 2000, RS amended its criminal code and adopted an explicit provision which prohibits THB for the purpose of prostitution. It is irrelevant whether or not the person has ever been a prostitute before. The provision contemplates criminal penalties of up to five years for perpetrators who traffic adult victims and up to twelve years for trafficking children.<sup>lix</sup>

The criminal law in the Federation does not explicitly recognize the crime of THB, but courts have read anti-trafficking content into existing law.<sup>lx</sup> Prosecutors usually use Article 228 (pandering and procuring) and Article 229 (mediation in or promoting prostitution) when prosecuting trafficking cases. In 2002, Draft Law on changes and amendments of criminal law within the Federation went in parliamentary procedure. According to Draft Law, Article 228 shall be changed and explicitly prohibit THB for the purpose of prostitution. It is copied from RS criminal law with the exception of criminal penalty up to fifteen years for trafficking in children.

Article 5 of the Trafficking Protocol requires states to adopt legislative and other measures in order to criminalize the conduct set forth in the Protocol's definition of trafficking. The

government of BiH ratified it on 24 April 2002, but authorities have made no real effort to implement the laws.

Although there are no specific laws at the state level which explicitly prohibit THB, provisions which do exist in current domestic laws, make legal ground for prosecuting crimes of trafficking. Therefore, the act of trafficking is treated as a criminal offence at both the national and international level. Existing laws and provisions, can and should be used to bring to justice all of those involved in it, including CivPol in BiH.

### 1.9. Immunity for U.N. peacekeeping personnel

The main purpose of granting immunity to international organizations is to protect them against the unilateral interference by the individual governments of the states in which they are posted.<sup>lxi</sup> It gives them a necessary space for fulfilling their functions independently from any kind of interference by host governments. The principles of immunity from process and personal inviolability are enshrined in the Vienna Convention.<sup>lxii</sup> Immunity protections are particularly important in peacekeeping missions where the U.N. is often acting in an unstable political environment and where normal institutions of law are not functioning.<sup>lxiii</sup> In recent years, there has been a number of publicized cases of misbehaviour<sup>lxiv</sup> and the U.N. has taken some steps to make peacekeeping personnel more accountable, including issuing an executive order requiring peacekeeping troops to abide by the Geneva Conventions,<sup>lxv</sup> and denying immunity protection when a serious breach of law is implicated. While some senior U.N. officials enjoy the benefits of full diplomatic immunity, the majority of U.N. staff are protected by a more ambiguous

“functional capacity” immunity from prosecution. This kind of immunity is valid only to those acts related to their official duties and has become the basis for U.N. staff immunities, reflected in the U.N. Charter and the Convention on the Privileges and Immunities of the United Nations (hereinafter Immunities Convention).<sup>lxvi</sup>

### ***UN Charter***

Immunity protections are not meant to benefit any particular individual.<sup>lxvii</sup> Under Article 105 of the UN Charter the organization enjoys immunities “as are necessary for the fulfillment of its purpose” and its members enjoy immunity “necessary for the independent exercise of their functions.”

### ***Immunities Convention***

The Immunities Convention defines the scope of the functional immunity enshrined in Charter. Article II of Section 2, states that “The United Nations...shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity...” Under Article VI, Section 22, “experts on missions for the U.N.” which include CivPol personnel,<sup>lxviii</sup> are immune “from personal arrest or detention” as well as “in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind.” In addition to the immunities granted to the experts under the Convention, individual agreements for CivPol are often negotiated between the sending State and the U.N., which grant them additional immunity protections up to absolute immunity.<sup>lxix</sup>

The Convention actually undermines the functional necessity standard of the Charter by granting absolute immunity from both civil and criminal suits. Therefore, in cases against the experts on mission, prosecution is only possible if immunity is waived by the SG.<sup>lxx</sup> According to the Convention, the SG is the only one who has ability to waive the immunity of U.N. personnel. Under Sections 20 and 23, the SG “shall have the right and the duty to waive the immunity of any official (expert) in any case, where *in his opinion*, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations.”

Some observes that international human rights law constitutes a “superior norm” to the law on immunity of international organizations, and for that reason, a waiver is required in all cases of serious human rights violations.<sup>lxxi</sup> The International Court of Justice (hereinafter ICJ) stated that the SG “has the primary responsibility and authority to assess whether its agents, *including*

*experts on mission*, acted within the scope of their functions and, where he so concludes, to protect these agents by asserting their immunity.”<sup>lxxii</sup> Furthermore, the U.N. Office of Legal Affairs (hereinafter OLA) has acknowledged that ICJ as the authority to review the SG’s waiver decisions. However, there is a reason to believe that the ICJ would interpret the Convention’s provisions to provide maximum protection.<sup>lxxiii</sup> In *Mazilu*, the Court interpreted Article 105 and Section 22 of the Immunities Convention as protecting all “tasks entrusted to the person” regardless of whether they occurred on an official mission.<sup>lxxiv</sup>

Article VIII, Section 29 (b) of the Immunity Convention comes after a request for a waiver has been denied. It states that the UN “shall make provisions for appropriate modes of settlement” in cases in which official immunity “has not been waived by the SG.”

While there has been no comprehensive statement from the SG’s office about when a waiver is obligatory, recent rhetoric in SG reports and in the General Assembly suggests that in cases of “serious breaches” of international law, refusal to waive immunity would violate Sections 20 and 23.<sup>lxxv</sup>

### ***Dayton Peace Agreement***

Under Annex 11, Article 2, para. 6 of Dayton Peace Agreement, the IPTF Commissioner, IPTF personnel, and their families will enjoy the privileges and immunities described in Sections 18 and 19 of the Immunities Convention. In particular, they shall enjoy inviolability, shall not be subject to any form of arrest or detention, and shall have absolute immunity from criminal

jurisdiction. IPTF personnel shall remain subject to penalties and sanctions under applicable laws and regulations of the U.N. and other states.<sup>lxxvi</sup>

***Model Status-of-Forces Agreement for Peacekeeping Operations (Model SOFA)***<sup>lxxvii</sup>

Model SOFA has an aim to serve as a basis for the drafting of individual agreements which will be concluded between the U.N. and countries on whose territories PKO are deployed. Under para. 46 of model SOFA “all members of the U.N. PKO...shall be immune from legal process in respect of words spoken and all acts performed...in their official capacity. Such immunity shall continue even after they cease to be members or employed by the U.N. PKO...”

If a member of the PKO has committed a criminal offence, para. 47. invokes host governments to inform the Special Representative of SG (hereinafter SRSG) and present to him any evidence available to it. Para 47 (a) reads “if the accused is a member of the civilian component or a civilian member of the military component, the SRSG shall conduct any necessary supplementary inquiry and then agree with the Government whether or not criminal proceedings should be instituted.”

Finally, para. 48. put an obligation on the SG of the U.N. to obtain assurances from governments of participating states that they will be prepared to exercise jurisdiction with respect to criminal offences which may be committed by members of their national contingents serving with the PKO.

## 1.10. Lack of accountability for CivPol involved in trafficking

Although the main aim of international forces is to establish a stable security environment, it happens that some of its personnel commit acts of misconduct. While Bosnian domestic laws regulate the acts of citizens of BiH and of ordinary individuals from other states present in the country, foreign nationals serving with UNMIBH and on civilian contract to NATO peacekeeping forces enjoy almost complete immunity from prosecution.<sup>lxxviii</sup> On the other hand, subjecting the U.N. staff to local courts could have a devastating impact on staff recruitment and, in particular on recruitment of CivPol.<sup>lxxix</sup> One of the reasons for denying jurisdiction of the local courts is due to questions as to whether the courts are capable of implementing international standards of due process. There is also a fact that every peacekeeping mission is the result of political negotiation, compromise and dependent on the largesse of member states.<sup>lxxx</sup> At present, proposals to limit immunity are likely to be opposed by many member states with consequences for troop contributions. Any limitation of this kind and narrowing of immunity protections could seriously disturb the U.N.'s ability to maintain sufficient police presence in the field.<sup>lxxxi</sup>

It was assumed that countries of origin of IPTF and SFOR personnel would discipline and prosecute their nationals upon their return home for crimes committed in BiH.<sup>lxxxii</sup> In its Recommended Principles and Guidelines on Human Rights and Human Trafficking,<sup>lxxxiii</sup> the U.N. High Commissioner for Human Rights (UNHCHR) talks about the direct or indirect involvement of peacekeepers, civilian police and diplomatic personnel in trafficking while on missions. States, intergovernmental organizations and NGOs *are responsible* for the actions of those working under their authority and are therefore under an obligation to take effective

measures *to prevent* their nationals and employees from engaging in trafficking. They are also required to investigate thoroughly all allegations of trafficking and *to apply appropriate sanctions* to personnel found to have been involved in trafficking.<sup>lxxxiv</sup>

In practice, either the U.N. or their home nations often times do not hold personnel in the military, civilian, and IPTF civil and police monitors accountable for their criminal actions.<sup>lxxxv</sup>

The U.N. does not have the legal authority to take punitive measures against CivPol monitors made available by Member States for PKO, and the disciplinary follow-up for their misconduct is the responsibility of the contributing countries. The options available to the U.N. in such cases are limited, therefore, to the administrative action of repatriation with the recommendation to the national authorities concerned to take the appropriate action against the individual in question. There is now a procedure in place to make the results of internal investigations routinely available to contributing countries for follow-up action. However, the mechanisms for ensuring follow-up by the authorities of the contributing countries need to be strengthened.<sup>lxxxvi</sup> In some cases, a CivPol member who is serving as a police officer can be subject to domestic disciplinary and criminal law. In others, even whilst still being serving as a police officer, he/she may not be subject to the domestic disciplinary code whilst serving abroad and may not be subject to domestic criminal jurisdiction in relation to acts committed abroad. If a police officer is retired, he/she may no longer be subject to the domestic disciplinary code. States need to examine their current laws and administrative procedures to ensure that they can discipline and/or prosecute their own nationals for acts committed while serving as a member of CivPol.<sup>lxxxvii</sup>

Some states, like the U.S. lack jurisdiction over crimes committed by civilian personnel. Existing U.S. laws do not permit the prosecution of U.S. IPTF officers from criminal offenses committed while part of a U.N. mission. Moreover, since U.S. members of the IPTF do not originate from a national police force, there is no real possibility of disciplinary sanctions once they return from overseas.<sup>lxxxviii</sup> The gap over the status of NATO civilian personnel has been interpreted into impunity through immunity from prosecution in BiH for those who do commit crimes.

In November 2002, Congress passed the Military Extraterritorial Jurisdiction Act of 2000 (hereinafter MEJA).<sup>lxxxix</sup> MEJA established federal jurisdiction over offenses committed outside the U.S. by persons employed by or *accompanying* the armed forces.<sup>xc</sup>

In April 2002, the Criminal Division was drafting a proposed amendment to the MEJA that would extend federal jurisdiction to include all U.S. government employees and contractors who work in a law enforcement capacity abroad. This would enable the Justice Department to prosecute any criminal offenders identified among the U.S. CivPol cadres serving abroad.<sup>xcii</sup>

### 1.11. UNMIBH internal investigations in BiH

Accountability relies on available law mechanisms and their full enforcement. The UNMIBH Discipline and Internal Investigation Section undertook investigations of allegations of general misconduct by U.N. personnel. Individual investigators submitted their reports to the chief of staff in BiH, who determined what disciplinary action, if any, should be taken.<sup>xciii</sup> In July 2001, UNMIBH spokesman said that twenty-four officers, including eight Americans, had been fired for offenses ranging from bribery to sexual impropriety.<sup>xciii</sup> According to a report submitted to

the U.S. Congress by the U.N. in April 2002, eighteen IPTF personnel were implicated in “incidents of sexual misconduct” and repatriated.<sup>xciv</sup>

Despite numerous public statements by SRSB emphasizing his commitment to disciplining IPTF monitors for misconduct, internal affairs investigators described investigations that withered or disappeared as they moved up the chain of command.<sup>xcv</sup> One of internal affairs officers who was assigned to the investigation in trafficking case said that when he told his supervisor that he had a shovel and asked how deep he should dig, he was told “only to scratch the surface.”<sup>xcvi</sup> One of the IPTF monitors, who chose voluntary repatriation rather than dismissal, told HRW “We took the option to go home voluntarily. I would have gotten kicked out anyway.”<sup>xcvii</sup>

The U.N. and PKO missions do not administer proper measures after repatriation of monitors to their home countries. They do not make any follow up of repatriation cases. Furthermore, this action is often met with resistance due to fears of offending the accused’s Member States.<sup>xcviii</sup>

### ***1.11.1. Monitoring and supervision of CivPol in the U.N. system***

In the U.N., several organizations monitor and investigate misconduct by CivPol officers serving abroad. They include the Office of Internal Oversight Services (hereinafter OIOS) and internal affairs investigative units within the CivPol missions. In the case of CivPol issues, OIOS has a mandate to get involved only if it seems that the internal affairs units need particular supervision or oversight. If the evidence made from an OIOS investigation of a CivPol officer shows that someone has violated laws or standards of ethical conduct or has been responsible for

misconduct, waste, abuse, or mismanagement, OIOS makes recommendations to the concerned program manager. Proposed recommendation may include consideration of referral to a national jurisdiction for criminal prosecution and/or to the Office of Human Resources Management for consideration of disciplinary action. OIOS has become a highly effective oversight body in the U.N., helping to instill a culture of accountability and management effectiveness.

The penalty for violating the law or a U.N. rule or regulation depends upon the severity of the violation. A CivPol officer may be reprimanded or repatriated and discharged. Any criminal prosecution is usually the responsibility of the accused officer's own country. In some cases the U.N. has waived the accused officer's immunity and enabled the host country where the criminal act was committed to bring criminal charges.<sup>xcix</sup>

### **1.12. Impunity of CivPol involved in trafficking in BiH**

In May of 2000, the Washington Post reported that in the five years since international police officers were sent to help restore order in Bosnia, the U.N. police mission has faced numerous charges of misconduct, corruption and sexual impropriety. But in nearly every case, U.N. officials handled the allegations quietly by sending the officers home, often without a full investigation.<sup>c</sup>

UNMIBH officials admitted that repatriation served as the only punishment for involvement in trafficking-related misconduct. They could not point to any cases where the SG had waived immunity, nor could they point to any prosecutions in home countries. In February 2002, the U.N. reported that twelve international police officers in Bosnia were expelled or voluntarily left

the country after facing allegations of involvement in trafficking.<sup>ci</sup> It would appear that IPTF monitors who break code of conducts and violate the laws, enjoy complete impunity. BiH courts do not have jurisdiction to prosecute them according to the terms set up in the Peace Agreement and it is not likely they will face liability under the criminal laws of their home country.

In addition, there is evidence that some police officers were laid off after reporting that their colleagues are complicit in the trafficking of women in BiH. HRW found that some IPTF officers, both human right officers and internal affairs investigators, faced retaliation when they looked into allegations of IPTF involvement in trafficking.

One of the cases most closely followed by media was that of Kathryn Bolkovac, a former IPTF gender officer from the U.S. and a former DynCorp employee.<sup>cii</sup> On October 9, 2000 after reviewing transcripts of interviews with more than thirty women victims of trafficking, she sent an e-mail to over fifty members of the UNMBiH, including the SRSG.<sup>ciii</sup> She had revealed U.N. peacekeepers went to night clubs where young girls were forced to prostitution and that U.N. personnel and international forces were linked to trafficking links in the Balkans.<sup>civ</sup>

Bolkovac was fired after blowing the whistle on trafficking in women and girls in BiH. In 2001, she brought a lawsuit in the United Kingdom (UK) against Dyncorp, alleging she was fired for investigating allegations of sexual misconduct in Bosnia by her fellow officers. Bolkovac filed the lawsuit before an employment tribunal in the UK for alleged wrongful dismissal, sex discrimination and breach of contract.<sup>cv</sup> She won the case on August 1, 2002.

### **1.13. Some possibilities for increasing Accountability**

In light of the information detailed above, one option for increasing the level of accountability for U.N. personnel is *narrowing immunities definition* to acts committed as part of “official duty.” This definition should exclude serious violations of human rights and criminal law, only invoking immunity in cases when failing to do so would endanger the success of a particular mission. If a violation occurs during the performance of official duties, the SG must consider waiving of immunity. If he fails to do so, there should exist an independent forum in which issues of criminal offences and immunity can be adjudicated.<sup>cvi</sup>

One of the possibilities to have a better overview of abuses committed by peacekeepers could be through establishment of independent, *mission based Ombudsman’s office*.<sup>cvi</sup> This might include giving the office a limited form of judicial review of administrative decisions, establishing a direct line of communication between the office of the Ombudsman and the OLA, encouraging dissemination of public reports and providing the Ombudsman’s office itself with access to its own source of funding. The office could be empowered to conduct its own investigations into allegations of abuse by civilians as well as CivPol. While it will not have the power to criminally prosecute, it could have possibility of making both private and public recommendations to OLA and the Member States on the scope of immunity, the existence of a duty to waive immunity and the suitability of prosecution.<sup>cvi</sup>

Finally, I would like to raise question about *possibility to bring peacekeepers* who have committed acts of THB *before the International Criminal Court* (hereinafter ICC). The Statute of ICC<sup>cxix</sup> defines trafficking as a crime against humanity.<sup>cx</sup> There are a couple of issues which should be considered here. Firstly, the Court has jurisdiction only with respect to States which become a Party to the Statute.<sup>cxii</sup> It means it can exercise its jurisdiction over the nationals of the State Party in question. Although the ICC Statute explicitly recognizes THB as a “crime against humanity,” it may be prosecuted only if “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of that act.”<sup>cxiii</sup>

Assuming that peacekeepers in question are nationals of a State Party to the Statute, the next question is clarification of the definition of “widespread” and “systematic” and when an act of THB can be considered as such. However, the Statute does not define these terms. In the 1998 decision by the International Criminal Tribunal for Rwanda (ICTR) the concept of “widespread” was defined as a “massive, frequent, large-scale action carried out collectively with considerable seriousness and directed against a multiplicity of victims.” The concept of “systematic” was defined as “thoroughly organized and following a regular pattern on the basis of a common policy involving substantial public or private resources.”<sup>cxiiii</sup>

For a crime to be characterized as a crime against humanity, the criminal act must meet either standard, not both to qualify as such.<sup>cxv</sup> Furthermore, although the criminal act must be widespread or systematic, a single act would suffice to constitute a crime against humanity and could be prosecuted if his act was of an organized nature or committed against a number of victims.<sup>cxvi</sup> This act must be pursuant to or in furtherance of a State or organizational policy to

commit such an attack.<sup>cxvi</sup> Here it has to be proved that a peacekeeper involved in the crime of trafficking is linked with an organized political group (systematic practice) and that such crime is the manifestation of a policy or a plan that has been drawn up, or inspired by that group<sup>cxvii</sup> (i.e. the organization could be part of a trafficking network in the region).

Article 27 (2) states that “immunities...which may be attached to the official capacity of a person...shall not bar the Court from exercising its jurisdiction over such a person.”

In addition Article 28 (b) (a) (i) held superiors criminally responsible for crimes committed by subordinates under his/her effective authority and control as a result of his/her failure to exercise control over such subordinates where he/she knew, or consciously disregarded information which clearly indicated that the subordinates were committing or about to commit such crimes.

I would argue that it could be possible to bring charges against peacekeepers involved in trafficking, after accounting all facts noted above. As I attempted to explain, it is theoretically possible to bring these individuals before the ICC. However, the future jurisprudence will be instructive in determining the next steps to be taken.

## **Conclusion**

Effective human rights investigations require deploying a proper combination of police and non-police professionals with adequate policies, training and accountability.<sup>cxviii</sup> If a CivPol officer is allegedly involved in misconduct, the U.N. must take complaints seriously and thoroughly

investigate them. It has to apply all appropriate criminal, civil and administrative sanctions to personnel complicit in THB and deal with the complaint in an open and transparent way.

After an investigation and even during it, the U.N. should inform the complainant about development as well the final outcome of the investigation. This is crucial to instilling the notion of accountability and the rule of law in a post conflict society.<sup>cxix</sup> These societies, like BiH, are particularly sensitive and it is important that there should be neither the fact nor the appearance of impunity or arbitrariness.

In cases where criminal charges are proved, the U.N. system must operate to ensure that either immunity from the jurisdiction of local criminal courts is waived by SG or that the accused is subjected to criminal proceedings in his/her own country. The U.N. should enforce laws and make sure that prosecutions and appropriate penalties happen in practice. It should develop mechanisms to ensure that if international forces commit misconduct or crimes while serving abroad there are enforced disciplinary or prosecutorial procedures in place to ensure there impunity is not applied.

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- <sup>i</sup> M. S., “Six IPTF monitors de-authorized: Exceeded their mandate over nightbar raids,” *Glas Srpski*, Banja Luka, 30 November, 2000, at. 5.
- <sup>ii</sup> The General Framework Agreement for Peace in Bosnia and Herzegovina, initialled in Dayton on 21 November 1995 and signed in Paris on 14 December 1995, see: <<http://www.oscebih.org/essentials/gfap/eng/home.asp>>, accessed 5 February 2003.
- <sup>iii</sup> Charter of the United Nations signed at San Francisco on 26 June 1945., entry into force 24 October 1945.
- <sup>iv</sup> Ibid. Article 1.
- <sup>v</sup> UNSC resolution 1035 (1995) on establishment of a UN civilian police force to be known as the International Police Task Force (IPTF) and a U.N. civilian office for the implementation of the Peace Agreement for BiH.
- <sup>vi</sup> On 1 January 2003 the European Union Police Mission (EUPM) replaced UNMIBH. 500 police officers from more than thirty countries make up the mission: the fifteen EU Member States as well as eighteen other countries. The EUPM was established by a decision of the Council of the EU on 11 March 2002. see: <<http://ue.eu.int/eupm/homePage/index.asp>>, accessed 7 February 2003
- <sup>vii</sup> Mandate of UNMIBH, see:< <http://www.unmibh.org/unmibh/abutus.asp>>, accessed 8 February 2003
- <sup>viii</sup> The Peace Agreement, *supra* n. 2, Annex 11, Article I, para. 2.
- <sup>ix</sup> Ibid. Annex 11, Article III, para. 1 (a-g)
- <sup>x</sup> U.N. Doc. S/RES/1088 (1996)
- <sup>xi</sup> International Police Task Force (IPTF), see < <http://www.unmibh.org/unmibh/iptf>>, accessed 10 February 2003
- <sup>xii</sup> Human Rights Watch (HRW), “Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution,” November 2002, Vol. 14, No. 9 (D), at. 14
- <sup>xiii</sup> H Hartz, “CIVPOL: The UN Instrument for Police Reform,” in International Peacekeeping (special issue 6.4: Peacekeeping and Conflict Resolution), see:< [http://www.frankcass.com/jnls/ip\\_6-4.htm](http://www.frankcass.com/jnls/ip_6-4.htm)>, accessed 11 March 2003
- <sup>xiv</sup> E/CN.4/Sub.2/2001/WP.1
- <sup>xv</sup> H Hartz, *supra*, n. 13
- <sup>xvi</sup> M Radovanovic, A Kartusch, “Report on the Combat of Trafficking in Women for the purpose of Forced Prostitution in Bosnia and Herzegovina,” Ludwig Boltzman Institute of Human Rights (Bijeljina/Vienna, January 2001), at. 10.
- <sup>xvii</sup> Ibid.
- <sup>xviii</sup> D Hipkins, “Bosnia sex trade shames UN,” *Scotland on Sunday*, 9 February 2003, see:< <http://www.scotlandonsunday.com/index.cfm?id=160672003>>, accessed, 15 February 2003
- <sup>xix</sup> UN Interregional Crime and Justice Research Institute (UNICRI), A Conference Report: “Trafficking, Slavery and Peacekeeping,” (Turin, 2002) at. 11
- <sup>xx</sup> M E Vandenberg, “Testimony on Trafficking of Women and Girls to Bosnia and Herzegovina for Forced Prostitution,” 24 April 2002, see:< <http://www.hrw.org/background/wrd/trafficking-testim-april.pdf>>, at.4
- <sup>xxi</sup> HRW, *supra*, n. 12, at. 27.
- <sup>xxii</sup> IOM provides for the safe return home of trafficked girls and women entrapped in the sex industry in BiH. IOM offers shelter, counseling, medical care, and transportation home for these women. To implement this project, IOM co-operates with IPTF, the OHCHR, local NGOs and many governments. see: <<http://www.iom.ba/Programs/OnGoing/trafficking.htm>>, accessed 25 February 2003
- <sup>xxiii</sup> Between July 25, 2001 and October 2002, STOP teams conducted 720 raids. Out of 2,120 women and girls they had been interviewed in the clubs, 230 requested assistance. HRW, *supra*, n.12, at. 4.

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- <sup>xxiv</sup> UNMIBH launches STOP (Special Trafficking Operation Programme), see: <<http://www.unmibh.org/stories/view.asp?StoryID=2>>, accessed 25 February 2003
- <sup>xxv</sup> Ibid.
- <sup>xxvi</sup> According to a letter received by HRW from the UN Headquarters, *Supra*, n. 11, at. 4.
- <sup>xxvii</sup> K Haupt, UNMIBH, Press Conference, 17 October 2002, see: <<http://www.nato.int/sfor/trans/2002/t021017a.htm>>, accessed 11 March 2003
- <sup>xxviii</sup> M Radovanovic, A Kartusch, *supra*, n. 16, at. 22
- <sup>xxix</sup> Ibid. at. 13
- <sup>xxx</sup> Ibid. at. 14
- <sup>xxxi</sup> Ibid. at. 49
- <sup>xxxii</sup> Ibid.
- <sup>xxxiii</sup> Police raids and interviews of women by international personnel indicate that about 25% of the women found in these premises claim to have been the victims of trafficking. see: <<http://www.unmibh.org/stories/view.asp?StoryID=2>>, accessed 11 March 2003
- <sup>xxxiv</sup> M E Vandenberg, *supra*, n. 20, at. 5.
- <sup>xxxv</sup> Stabilisation Force in BiH (SFOR) was authorised to implement the military aspects of the Peace Agreement. see: <<http://www.nato.int/sfor/docu/d981116a.htm>>, accessed 16 March 2003
- <sup>xxxvi</sup> SRNA (Srpska Novinska Agencija), “Thirty-seven prostitutes found out in nightbar raids in Prijedor,” *Nezavisne Novine*, Banjaluka, Novembar 16, 2000, p. 16.
- <sup>xxxvii</sup> Internal IPTF Report on Prijedor case, examined by HRW investigators, Sarajevo, 9 April 2001. HRW, *supra*, n. 11, at. 49
- <sup>xxxviii</sup> HRW interview with deputy commissioner, IPTF, Sarajevo, 9 April 2001. HRW, *supra*, n. 12, at. 49
- <sup>xxxix</sup> One weakness of the present study is the vacuum of information about IPTF code of conduct. According to information given to author of research, the code is not available to public. Lack of possibility to get the code demonstrate the problem of transparency which obviously still exist although IPTF mission is terminated in December 2002.
- <sup>xl</sup> UNICRI, *supra*, n. 19, at. 16.
- <sup>xli</sup> Madeleine Rees, the UN High Commissioner for Human Rights in BiH, in D Hipkins, *supra*, n. 17.
- <sup>xlii</sup> HRW is the largest human rights organization based in the United States. HRW researchers conduct fact-finding investigations into human rights abuses in all regions of the world. see: <<http://www.hrw.org/about/howweare.html>>, accessed 7 March 2003
- <sup>xliii</sup> HRW, *supra*, n. 12, at. 52.
- <sup>xliv</sup> Ibid.
- <sup>xlv</sup> Author unknown, “UN denies Bosnian sex racket chages,” *The Washington Post*, 28 December 2001, see: <[http://www.hri.org/news/balkans/rferl/2001/01-12-28\\_rferl.html#83](http://www.hri.org/news/balkans/rferl/2001/01-12-28_rferl.html#83)>, accessed 16 February 2003
- <sup>xlvi</sup> C Lynch, “U.N. Halted Probe of Officers' Alleged Role in Sex Trafficking,” *The Washington Post*, 27 December 2001, see: <<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A28267-2001Dec26&notFound=true>>, accessed 22 March 2003
- <sup>xlvii</sup> DynCorp Aerospace Operations, Ltd, a U.S. contractor was contracted with the US.. Department of State to provide all U.S. IPTF personnel. See: <<http://www.dyncorp.com/About/abouthome.htm>>, accessed 16 March 2003
- <sup>xlviii</sup> HRW, *supra*, n. 12, at. 53.
- <sup>xlix</sup> N Ely-Raphel, “The UN and the Sex SlaveTrade in Bosnia: Isolated Case or Larger Problem in the UN System,” Washington, DC, 24 April , 2002, see: <<http://www.state.gov/p/io/rls/rm/2002/9777.htm>>, accessed 28 February 2003
- <sup>l</sup> Ibid.
- <sup>li</sup> HRW, *supra*, n. 12, at. 48.
- <sup>lii</sup> M E Vandenberg, *supra*, n. 19, at. 1.
- <sup>liii</sup> U.N. Doc. A/45/49 (Vol.) (2001)
- <sup>liv</sup> A D Jordan, “Annotated Guide to the Complete UN Trafficking Protocol,” International Human Rights Group, Washington DC, May 2002, see: <[http://www.hrlawgroup.org/resources/content/Traff\\_AnnoProtocol.pdf](http://www.hrlawgroup.org/resources/content/Traff_AnnoProtocol.pdf)>, accessed on 22 February, 2003
- <sup>lv</sup> It was opened for signatures in December 2000 in Palermo, Italy. As of 18 March 2003, the Protocol has 117 signatures and 24 ratifications. The Protocol will enter into force ninety days after it accumulates forty ratifications.
- <sup>lvi</sup> M Radovanovic, A Kartusch, *supra*, n. 16, at. 6.

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- <sup>lvii</sup> By the Brcko Arbitration Award of March 5, 1999, the district is technically a “condominium” of both entities, but has its own separate administration.
- <sup>lviii</sup> The law include provisions on rape (Article 206), forced sexual intercourse (Article 207), sexual abuse of a juvenile (Article 209), sexual intercourse through abuse of official position (Article 210), pandering (Article 211), mediation in performing prostitution (Article 212) and slavery (Article 161).
- <sup>lix</sup> Article 188, Trafficking in Persons for the Purpose of Prostitution
- <sup>lx</sup> HRW, *supra*, n. 12, at. 24.
- <sup>lxi</sup> F Rawski, “To Waive or not to Waive: Immunity and Accountability in UN Peacekeeping Operations,” (2002) Vol 18, No.1. Connecticut Journal of International Law, at. 103.
- <sup>lxii</sup> 1961 Vienna Convention on Diplomatic Relations (7310 U.N.T.S. 96)
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- <sup>lxiv</sup> U.N. Doc. A/57/465
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- <sup>lxvi</sup> 1946 Convention on the Privileges and Immunities of the United Nations (1 U.N.T.S. 15)
- <sup>lxvii</sup> The Preamble to the Vienna Convention: “Realizing that the purpose of such privileges and immunities is not to benefit individuals, but to ensure the efficient performance of the functions of...missions...”, *supra*, n. 62.
- <sup>lxviii</sup> 1990 Model Status-of-Forces Agreement for Peacekeeping Operations, (UN Doc. A/45/594), clasifies military observers, UN civilian police and civilian personnel as “experts on mission within the meaning of article VI of the Immunity Convention.”
- <sup>lix</sup> The Peace Agreement gave to UNCivPol, who were part of International Police Task Force (IPTF), “absolute immunity from criminal jurisdiction.” Annex 11, Article II, *supra*, n. 2.
- <sup>lxx</sup> F Rawski, *supra*, n. 61, at. 111.
- <sup>lxxi</sup> *Ibid.* at. 114.
- <sup>lxxii</sup> Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, April 26, 1999, see: <[http://www.icjci.org/icjwww/ipresscom/iPress1999/ipresscom9916\\_inuma\\_19990429.htm](http://www.icjci.org/icjwww/ipresscom/iPress1999/ipresscom9916_inuma_19990429.htm)>, accessed 11 March 2003
- <sup>lxxiii</sup> F Rawski, *supra*, n. 61, at. 112.
- <sup>lxxiv</sup> Advisory Opinion of 15 December 1989 on the applicability of Article VI, Section 22, of the Immunities Convention at: <[http://www.un-paris2.fr/cij/icjwww/idocket/inuma/inumapleadings/inuma\\_ipleading\\_981007\\_writtenstatement\\_CostaRica.htm](http://www.un-paris2.fr/cij/icjwww/idocket/inuma/inumapleadings/inuma_ipleading_981007_writtenstatement_CostaRica.htm)> accessed 21 February 2003
- <sup>lxxv</sup> F Rawski, *supra*, n. 61, at. 114.
- <sup>lxxvi</sup> The Peace Agreement, *supra*, n. 2, Annex 11, Article II, para. 6.
- <sup>lxxvii</sup> *Supra*, n. 68.
- <sup>lxxviii</sup> HRW, *supra*, n. 12, at. 46.
- <sup>lxxix</sup> F Rawski, *supra*, n. 61, at. 129.
- <sup>lxxx</sup> *Ibid.* at. 127.
- <sup>lxxxi</sup> *Ibid.* at. 128.
- <sup>lxxxii</sup> The official IPTF and UNMIBH Policy on Trafficking states, "As regards subsequent action taken by sending state, it is up to the country concerned to initiate disciplinary action against the sanctioned police monitor." HRW, *supra*, n. 11, at. 46.
- <sup>lxxxiii</sup> E/2002/68/Add.1
- <sup>lxxxiv</sup> *Ibid.* Guideline 10: Obligations of peacekeepers, civilian police and humanitarian and dipolmatic personnel
- <sup>lxxxv</sup> UNICRI, *supra*, n. 19, at. 16.
- <sup>lxxxvi</sup> HRW, *supra*, n. 12, at. 60.
- <sup>lxxxvii</sup> E/CN.4/Sub.2/2001/WP.1
- <sup>lxxxviii</sup> HRW, *supra*, n. 12, at. 48.
- <sup>lxxxix</sup> 18 U.S.C. 3261-3267 (2000)
- <sup>xc</sup> During a hearing before the House Judiciary Committee's Subcommittee on Crime, Brigadier General Joseph Barnes, the assistant judge advocate general for the U.S. Army, was asked specifically whether MEJA would apply to civilians participating in military operations in Bosnia. He answered affirmatively. In HRW, *supra*, n. 11, at. 48
- <sup>xci</sup> N Ely-Raphel, *supra*, n. 48.
- <sup>xcii</sup> HRW, *supra*, n. 12, at. 56.

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- <sup>xciii</sup> William Kole and Aida Cerkez-Robinson, "U.N. Police Accused of Involvement in Prostitution in Bosnia," *Associated Press*, 26 July 2001.
- <sup>xciv</sup> UNMIBH, "The IPTF and Policy on Trafficking," submitted to the U.S. House of Representatives International Relations Committee, 23 April, 2002. Of these, six were U.S. citizens, two of whom had purchased women and their contracts. HRW, *supra*, n. 12, at 56.
- <sup>xcv</sup> *Ibid.*
- <sup>xcvi</sup> HRW, *supra*, n. 12, at. 59.
- <sup>xcvii</sup> *Ibid.*
- <sup>xcviii</sup> UNICRI, *supra*, n. 19, at. 17.
- <sup>xcix</sup> N Ely-Raphel, *supra*, n. 48.
- <sup>c</sup> C Lynch, *supra*, n. 45.
- <sup>ci</sup> M E Vandenberg, *supra*, n. 20, at. 6.
- <sup>cii</sup> HRW, *supra*, n. 12, at. 54.
- <sup>ciii</sup> *Ibid.*
- <sup>civ</sup> D Hipkins, *supra*, n. 17.
- <sup>cv</sup> C Lynch, "Ex-U.N. Officer Sues U.S. Firm Over Dismissal," *The Washington Post*, 23 June 2001, see: <http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A36025-2001Jun22&notFound=true>, accessed 12 March 2003
- <sup>cvii</sup> F Rawski, *supra*, n. 61, at. 128.
- <sup>cviii</sup> *Ibid.* at. 129.
- <sup>cix</sup> *Ibid.*
- <sup>cix</sup> UN Doc. A/CONF.183/9 (1998), Rome Statute of the International Criminal Court, entered into force July 1, 2002.
- <sup>cx</sup> *Ibid.* Art. 7 (g)
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- <sup>cxiv</sup> D Robinson, "Defining 'Crimes against Humanity,' at the Rome Conference," Vol. 93-1, *The American Journal of International Law* at. 43- 47, 1999
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- <sup>cxvi</sup> *Supra*, n. 109, Art. 7 (2) (a)
- <sup>cxvii</sup> A. Cassese, *International Criminal Law* (New York, Oxford University Press, 2003) p. 64.
- <sup>cxviii</sup> C Cordone, "Police Reform and Human Rights Investigations: The Experience of the UN Mission in Bosnia and Herzegovina," *supra*, n. 13
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