

# International Development Committee

## Oral evidence: Sexual exploitation and abuse in the aid sector: next steps, HC 605

Tuesday 6 October 2020

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Members present: Sarah Champion (Chair); Theo Clarke; Mrs Pauline Latham; Navendu Mishra; Mr Virendra Sharma.

Questions 101 - 130

### Witnesses

**I:** Edward Flaherty, Founder and Senior Partner, Schwab, Flaherty & Associés; Professor Andrew MacLeod, Visiting Professor, King's College London, and Co-founder, Hear Their Cries; Sienna Merope-Synge, Human Rights Lawyer.

**II:** Shaista Aziz, Journalist, Specialist on VAWG and Co-Founder, NGO Safe Space; Alexia Pepper de Caires, Activist, Writer and Co-Founder, NGO Safe Space; Paula Donovan, Co-Director, AIDS-Free World's Code Blue Campaign; Lesley Agams, Writer, Lawyer and Social Entrepreneur.



## Examination of witnesses

Witnesses: Edward Flaherty; Professor Andrew MacLeod; Sienna Merope-Synge.

Q101 **Chair:** I would like to start the third oral evidence session of the International Development Select Committee's ongoing inquiry into sexual exploitation and abuse in the aid sector, looking at what the next steps should be. This is particularly pertinent, as last week we are very grateful to the *New Humanitarian* and the Thomson Reuters Foundation for releasing their year-long piece of investigative journalism into the DRC, looking at the abuse that continues to be perpetuated there during the Ebola outbreak. It is very frustrating to me that this happened a couple of years ago and that in February 2019 the issue was raised, but it still takes journalists to put the pressure on and try to get the changes that we need to see within organisations.

I am very grateful that today we have two separate panels of witnesses. Both panels have got hands-on experience of trying to bring to the public attention these atrocities that are carried out by aid workers to beneficiaries, and they also have relevant experience of what needs to change within those organisations to prevent this from happening once and for all. Can I say to all witnesses that we are pressed for time, so I am looking for quite succinct answers? We would be delighted to follow up in writing if there is more that you want to say. Also, can we please focus specifically on what organisations can do and what donors can do to make sure the aid workers do not abuse the beneficiaries? I know that you have a broad range of experience, which also includes working with aid-worker-on-aid-worker abuse and exploitation.

Can I ask the first panel to introduce yourselves and give us a little bit of background about what brings you here before I ask the first question? We have Edward Flaherty, Andrew MacLeod and Sienna Merope-Synge, if you could introduce yourselves in that order. Can I say a special thank you to Andrew? I know that you are joining us from Melbourne and it is very late at night or early in the morning, so thank you for your patience with us.

**Edward Flaherty:** It is a great honour and pleasure to be here with my distinguished panellists. I am an American lawyer practising in Geneva and representing whistle-blowers and sexual assault victims who primarily work for international organisations. I have litigated against the UN and other international organisations, both in their internal systems and in national court systems.

**Professor MacLeod:** My name is Professor Andrew MacLeod. I have been involved in raising the issue of sexual abuse by aid workers for some 11 years now. I wear three hats today, one as a visiting professor at King's College London, one as a chairman of Griffin Law and one as a founder of Hear Their Cries, a charity set up to stop the child abuse in the aid industry. I will focus my comments on some concrete steps forward



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we can take, and I will take it as read that the written evidence that I have put into the Committee has been read by each of the members.

**Chair:** It has. Thank you very much.

**Sienna Merope-Synge:** It is great to be here. Thanks for having me. My name is Sienna Merope. I am a human rights attorney based in New York and an adjunct professor of clinical law at NYU School of Law. I previously worked as legal director of the Institute for Justice and Democracy in Haiti, and in that role was involved in litigating child support cases on behalf of Haitian women who had had children to UN peacekeepers in Haiti. I look forward to speaking about some lessons learned and recommendations for change coming out of that process.

Q102 **Chair:** We look forward to hearing from you. Starting with Edward, could you tell us in your experiences the challenges that victims, survivors and indeed whistle-blowers have when they are trying to report abuses perpetuated specifically by UN, but also by other actors and agents?

**Professor MacLeod:** I think we might have lost Ed.

**Chair:** Oh no! How careless of me. While we try to get him back, Andrew, would you be able to answer?

**Professor MacLeod:** Ed is well placed to answer that question, but the main problem we have is just a sense of impunity, and since the whistle-blower scandal in Bosnia in 1995 we have seen no real change. The problem that we have had is whistle-blowers have been fired. Staff that raise complaints never work again. Kathryn Bolkovac, who raised the issue in the whistle-blower scandal in the mid-1990s, has never worked again. There is no equivalent of whistle-blower protection that is in any way meaningful.

The system is set up to punish the whistle-blower, it is set up to shame the victim and it is set up to, as the International Development Committee's report last time said, protect the reputation of the agencies before the protection of the victims. There is nothing that has changed in the last 30 years, which is really distressing and, indeed, what we have seen come out in the last couple of weeks in the Thomson Reuters Annual Humanitarian Report is just the best example of that. To think that employees of Oxfam and WHO were abusing women in 2019 and 2020 immediately after the last Oxfam scandal blew is just symptomatic of what the problem is. Until we make a concrete and definitive game-changing change in policy in response, nothing will change.

Q103 **Chair:** Sadly, I agree with you. Sienna, I know that you were on the ground in Haiti. Could you tell us both your experiences and what are, in reality, particularly on the ground, the challenges that victims and survivors have when they are trying to report what is happening?

**Sienna Merope-Synge:** I would endorse that there is a strong culture of impunity and that is a key problem. These issues are generally treated as



ones that are in-house safeguarding issues or disciplinary issues within the UN or aid agencies, as opposed to matters of law, matters of legal right or matters of remedy. Legal systems are generally kept in the dark, whether that is of the perpetrators' state of nationality or the local justice system. All the evidence is handled in-house, and then it can be very hard for victims to get a hold of the information that would support their legal claims. Generally, I would say that the process continues to be very perpetrator-focused and organisational reputation-focused, as opposed to really focusing in on the needs of victims and survivors. You see that particularly in the lack of attention paid to civil remedies, including to paternity cases.

To give very concrete examples, in cases around paternity that we have tried to bring against UN peacekeepers in Haiti, years on the UN has not certified to the legal representatives or the Haitian court that immunity does not apply in these cases. We know it does not. UN policies are very clear that it does not, but in order for Haitian courts to have the jurisdiction to go forward—they do and they can handle paternity cases—they need a certificate from the Special Representative of the SG to be before that court. Four years after those cases have been initiated in the Haitian court we still do not have that certificate and the cases are stuck. That is one very concrete example of the kinds of practical challenges. I am happy to speak more about the dynamics that underlie why that happens.

Q104 **Chair:** Sienna, could I be more basic than that? While you were in Haiti, if I was a 14-year-old girl who had been orphaned, who was trying to get support and got raped by, say, a UN peacekeeper, how would I report that? What would I actually do?

**Sienna Merope-Synge:** First of all, you very likely would not even know how to report that and where to report it. To the extent that you did have that information, you would be told to report it directly to the United Nations, and you would know in that context that that is the same body that has been routinely involved in these same kinds of abuses over a number of years. We know from investigative journalism that many survivors, understandably, do not report, because they have no faith in the system or they are afraid.

Many people do bravely report that and, if you did report it, you would have your case taken down by the UN at conduct and discipline, and then you would likely not hear anything perhaps ever again, unless you were lucky enough to be able to access legal support and then you may have lawyers who are able to get dribs and drabs of information, as we have over the years through consistent pushing through both the legal system and policy and advocacy channels to get that information.

If you are very, very "lucky" over the last couple of years, you might have gotten some piecemeal assistance, such as assistance getting to health appointments and some lunchboxes for your child, if you had a child, with no justification or explanation of why, what the basis for



calculation for that support was, how long it would be ongoing and how it comports with your legal rights. Beyond that, you would have no access to the evidence in your case, you would have no access to information about confirming, for example, the full name, legal status and current location of the father, if that was within the UN's knowledge, and you would really have no transparency or engagement by the UN in supporting you to have a legal process.

That is the practical reality. It is usually a black hole of information; that is the standard. At best it may be some charitable crumbs to the victim that is not based on an acknowledgement of legal rights and responsibility.

Q105 **Chair:** A sharp intake of breath, because that is shocking, and then it seems that we blame the victims for not reporting. Andrew, I know that you have a particular take on this. If I was that aid beneficiary and I conceived as part of that rape, I know you have done quite a bit of work following on for how to get some form of justice for that.

**Professor MacLeod:** Let me take a step back and reinforce things that Sienna has just said, because she is exactly right. We have to remember the psychology of this. We have some degree of faith in our legal systems in the United Kingdom, Australia, the United States, et cetera. Even with the degree of faith we have in our legal systems, fewer than one in seven victims of rape report in the United Kingdom and less than one in 10 of those succeed to get a conviction. I am going to make the radical statement that far fewer people would report rape or sexual abuse against the UN or NGOs in the developing world than report in the United Kingdom.

The fundamental problem that we have, which was outlined in the first IDC report, is we have no real idea at all what the scale of the problem is. The real baseline of where we need to work on now in my view is we need to have an academically defensible study into the scale of the problem—that is, how many victims we really think there are, how many people report, and the percentage report is the multiplier you can use to get the sense of scale, and then what the preventative measures are that stop people reporting. Actually, it is not that difficult, in the sense that you know in Haiti, Democratic Republic of Congo or Central African Republic people do not trust people in uniforms, people do not trust government, people do not trust the structures and they are certainly not going to report to an organisation that they perceive as the perpetrator of the crime. It is like asking the victim of rape to report to the rapist—at least structurally, that is what it is.

We cannot come from the cultural perspective that we might come from here—that you trust lawyers, lawmakers and police forces—because that is not what is going through the victims' heads. Many of them will not perceive themselves as victims. If you are a 14-year-old girl who has been encouraged by their mother to sell themselves in order to get some money to pay for food for the rest of your family, a) you are unlikely to



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perceive yourself as a victim, and b) if you did perceive yourself as a victim, you are not going to go forward if you perceive that you are going to be getting your mother into trouble.

One initial change that I would make from everything is to stop waiting for victims to come forward and to set up an independent organisation at the international level that has the mandate to proactively, with the right psychological and legal protections, go out to seek and find victims in every context where there are international humanitarian workers and peacekeepers, and it has to be permanent.

To go to your direct question, Sarah, it builds on the work Sienna has done, because one of the things Sienna has said that is exactly right is the mentality is not to think of individual civil rights that a victim might have in front of courts. If you look at what the UN's response is, it sets up a victims' fund to fund international development in the victim's village—a new school, a new hospital or something. I do not call that victim's redress; I call that your job. That is what you are supposed to do.

What we are working on now is building on the Golden State Killer case in California, which in short took DNA from the crime scene, put it through the publicly available databases and found the perpetrator. We treat children who are born of rape, sexual abuse or transactional sex as crime scene DNA. We have done a sample in the Philippines with six women who have worked in the sex industry in relation to sex-tourist fathers. We have taken DNA from six children and we have tracked five fathers out of the six—one in the UK, one in Canada, one in California and two in Australia.

We got a consent order through the Family Division of the High Court in the UK for the British father, going on exactly what Sienna has said, getting the civil remedies and getting the father to pay his due. In the case where British men are fathers, the children are entitled to British nationality, so it is not just about victims of aid work. For British politicians where the aid worker has been British, it is about getting rights for British-citizen children, who may not even know they are British citizens.

We have a consent order for the Californian as well and he has done exactly the right thing all the way through. We have done three preliminary hearings for the Canadian father and we have a fourth one next week. One of the Australian fathers is still locked down in the Philippines because of Covid, having his evil way in Angeles city, and we are waiting for him to come back before we can serve him with papers.

What we have shown at King's College, to build on what Sienna has said, is that you now can take the DNA from children born of the abusers. This is a small subset of victims, so females between the age of puberty and menopause who got pregnant and kept the child. We now have the technology to find the individual father and hold the individual father to



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account for civil orders for child support, for passports for the children where law of the perpetrator allows that to happen and, in the case where the mother is under the age of 16 at time of procreation, we can now get a criminal conviction against the child sex tourism legislation, which in the UK is section 72 of the Sexual Offences Act.

It is something I will come back to over and over again. We are not going to get real change unless we start taking away organisations' money and individuals' liberty. Those who have committed crimes we must send to jail.

Q106 **Chair:** I do not disagree with you. Edward, I am afraid the connection we had got a little bit crooked. We have been talking about the challenges that victims and survivors have in reporting abuse, "challenge" being an understatement, but I wonder if you could comment on whether you have seen any improvements in protections around victims, survivors and, indeed, whistle-blowers from retaliation if they try to report, and also if you think there has been any improvement in general in the way the aid organisations respond to these reports.

**Edward Flaherty:** Apologies. I lost my Ethernet completely, so I am on my 4G; I hope it holds up. To respond to your question, within international organisations, no, it has gotten worse—

**Chair:** I cannot believe he has left us on that cliff-hanger. While we hope for his 4G to reboot, I will pass to Virendra.

Q107 **Mr Sharma:** My question is to Sienna. Once a recipient of aid reports a case of SEAH, what kinds of psychological, legal and financial support might they require, and is that support readily available?

**Sienna Merope-Synge:** Thank you for the question. To answer the second part first, the top line is no, that support is not readily available, and it is not available on a consistent and well-explained basis. What types of support might a survivor of SEA require? That is, to some extent, quite context-specific in the same way that any victim and survivor of sexual violence will have different kinds of needs based on the circumstances of the assault and their own pre-existing situation.

To speak to some common needs that our clients in Haiti experienced, all were extremely poor prior to having a child to a UN peacekeeper. The peacekeeper then left and they were single mothers with a child that they did not have the resources to raise, and so their primary needs were what you would expect: housing for themselves and their child; child support to allow the child to be able to go to school and to have their medical needs met—several had children who had quite extreme medical needs; some ability to pay for their child's food, clothes and leisure time; and for themselves, support for both their psychological and physical health. These are not revolutionary or unexpected asks. They are the core needs of very vulnerable women who have been left with a child and very little support to care for themselves.



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The UN now does say that it provides some type of assistance to victims, and in some of our cases we saw that there were bits and pieces of assistance. I mentioned school lunchboxes before. That was one that was particularly confusing as to why that was chosen. For our clients there was really no explanation of why they had been given what they had been given or how it mapped on to their needs. There is no transparency from the UN, despite repeated urgings by us of, "How long will this assistance continue? How have you determined what is this appropriate assistance?" It certainly did not map on to the actual real needs of our clients or what had been requested in their legal cases.

To say a word about legal assistance, it has been held up as a standard, in particular by the UN and by aid agencies, that victims need legal assistance. That is correct, but having been, effectively, that legal assistance, if you do not have a system that actually allows lawyers to do their job and pursue civil remedies, and if the UN is not willing to communicate with lawyers when they send repeated letters and file cases formally requesting the disclosure of evidence, participation, support and co-operation in claims like paternity claims, then your legal assistance is just window-dressing. You can provide all the legal assistance you want, but if you do not have a system that is willing to provide accountability and remedies, then you are just throwing money at the wall and essentially hiding behind a fig leaf of legitimacy.

**Q108 Mr Sharma:** You have covered my next question, but I still feel you should give us more information. As you said, it is not the culture of the organisation that is automatically providing the services. You have to demand it or claim it, or you have to struggle about it. If we look at the culture of the UN and NGOs generally, in your experience, how many cases do they automatically accept, in terms of an average percentage, or do you have to struggle in the majority? I just want a general view of the workings of these two organisations when that situation arises.

**Sienna Merope-Syngé:** If I understand the question correctly, it is what percentage of complaints to the United Nations will be proactively accepted versus what you have to struggle for.

**Mr Sharma:** Yes.

**Sienna Merope-Syngé:** I cannot give a good answer to that, because the UN is not transparent, and we do not have good data on these points. What I can say is when a complaint goes to the UN, my understanding is what the UN is checking is whether it is criminally substantiated. That is a different thing to whether there is sufficient evidence to support civil redress and remedies for victims. Those are two different standards and, even within that, I could not tell you what the overall percentage is, although I see Andrew waving his hands, so perhaps he has some numbers. Again, there are some statistics on UN peacekeeping frameworks about overall substantiated and non-substantiated, but we know that there is underreporting, so there is that.





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Where the rubber hits the road is what happens after it is substantiated. Even if you have a decent proportion that are substantiated, if that is then just referred off to states of nationality for prosecution and then nothing happens, then it can be substantiated within the UN system, but you are still in a situation where you would have to struggle to get rights for victims. So I am not sure that asking how much the UN system substantiates or not actually unlocks to us in what proportion of cases victims are getting a just response, if that kind of distinction makes sense.

**Chair:** It does.

Q109 **Mr Sharma:** In terms of individuals accessing all the forms of support they need, in a nutshell, we take it that both organisations—the UN and the NGOs—are not straightforwardly accepting and providing it. There is a delay, the individuals have to struggle, and organisations like yours also have to struggle to get that support to the individuals.

**Sienna Merope-Synge:** Yes, absolutely. The UN's victim assistance policy says that complainants should receive support, even before there is substantiation within the UN's internal processes. Based on my experience on the ground, that is not the case in terms of what occurs. Again, to return to an earlier point, even when there is assistance, it is piecemeal, it is not transparent, and it is not sufficient. That is within the UN.

Again, I am much more of an expert on the UN than the aid sector, but it seems that there is even less standardisation and less clarity around the kinds of support that are provided in the aid sector. To answer your question, yes, it is overwhelmingly a struggle to meet even the most basic needs of victims, let alone their legal rights and remedies.

Q110 **Chair:** While we have Ed, I am determined to hear from him, but I am also going to be a hard Chair and say I do need all of you to be briefer in your answers. We are more than halfway through our time and we are only on question 2. Ed, if I could come back to you, you left us at the perfect moment when I asked whether there had been any improvements in support to victims and survivors and you said no, which is probably all you needed to say, but you could expand a little bit on that.

**Edward Flaherty:** Particularly with whistle-blowers, what happens particularly in the UN is they simply come up with new policies, but nothing ever changes and there is no real protection. The problem is that the victims or the whistle-blowers have to go back to the organisation for protection that is, in fact, retaliating against them. It is a vicious cycle and it will not change.

There are a number of potential solutions. One is dealing with the immunity of international organisations. The US government now has implemented a funding mechanism that means that, if international organisations that receive funding from the US government do not meet



best practice with regard to whistle-blower protection, the US can withhold up to 15% of the US appropriation to that organisation, and that is something that the UK government might consider as well. Although it has been used sparingly and probably not enough, there have been a couple of organisations—WIPO and the Universal Postal Union—where 15% was withheld because of their failure to live up to best practice. No, it is not getting better. There are ways to improve it, but it is bleak for whistle-blowers and for victims as well.

**Q111 Chair:** Ed, in the UK after each scandal, we will get more safeguarding policies implemented as though that is the solution, which is just more paperwork. In terms of beneficiaries on the ground, are you aware of any practicable help or change in process that has happened to protect them?

**Edward Flaherty:** No. Partly it depends on the bias of the investigations. I do not find the investigators in international organisations to be neutral or component in many cases. They actually take their lead from the administrations. If it is in the interest of the administration to not find in favour of the victim or the whistle-blower, it will not happen. If it is, then it changes. That is another issue: the independence and the competence of the investigations themselves.

That is what happens on the ground, and often you get an aggressive, adverse investigator and that puts off the victim and it puts off the whistle-blowers. Again, at least within the UN's system, there is absolutely no protection for whistle-blowers. They get crushed, and there are numerous cases of that. It is sad and it has to change, or else the victims will continue to be victimised.

**Q112 Theo Clarke:** Edward, you talked then about whistle-blowers having a really difficult time, but at the other end, what is the legal liability, both civil and criminal, that the UN and other aid organisations have for their employees and volunteers when they have committed such abuses?

**Edward Flaherty:** The UN and most of the specialised agencies of the UN enjoy immunity from local and national laws, so their legal liability on a national basis is zero. The aid organisations are not generally immune from the local laws, so they would be subject to those laws, but in many of the cases where aid is needed, you often have a breakdown in civil society in the legal system, so there is also a lack of accountability for the actors, even when they are working not for the UN but for the aid sector—the private organisations. Again, with the UN you have to go back to the UN effectively.

Andrew's organisation, which I also assist with, is looking at the sex tourism laws, to use those against both the perpetrators and the organisations with the aiding and abetting. That is something that can be used, but with the UN you still have the issue of the absolute immunity in those cases. Despite the UN's repeated claims that they will lift the immunity, it is a case-by-case basis, and they just do not do it very often, if at all.



Q113 **Theo Clarke:** That is very helpful. Can I just clarify what factors would affect an organisation's culpability? For example, does adequacy of staff conduct procedures or measures in place prevent the use of aid supplies in committing exploitative acts?

**Edward Flaherty:** Within the organisation they might punish someone for that, but because they essentially enjoy absolute immunity from any local and national laws it does not really matter. Certainly with the private organisations, that may well come into play, but again, it depends on what the local law is. That is another lacuna. Most of the laws, with the exception of the sex tourism laws, are not extraterritorial, so you are dealing with the law of the place where the crime is happening, and it is very spotty and varies.

Q114 **Theo Clarke:** Andrew, how should local justice mechanisms be engaged once a criminal offence involving sexual exploitation and abuse has been reported to the UN or another aid agency?

**Professor MacLeod:** That is very complicated, because it depends on the system of justice in the country of perpetration. To be frank, in some countries you could not rely upon that at all. Can you rely on the system of justice in the Central African Republic or Democratic Republic of Congo? The answer is no.

We also have to recognise why immunity is there. Even though I do not like immunity in this context, immunity is there to stop an unfavourable government making an unfounded accusation against the United Nations because the UN might be saying something it does not like. Right from the very start I have looked at the sex tourism laws and said, "Actually, your first bout of accountability should be in the perpetrator's home country", to get around that problem, because by definition most of the places where peacekeeping forces or aid workers are placed are countries where civil society has broken down and the legal system has broken down. While it sounds attractive to look to the local law enforcement mechanisms and systems of justice as your first course of remedy, in practice that is really not going to work.

The UK, unlike most other jurisdictions, is looking at making adult sex offences extraterritorial as well. There is a draft Bill in front of Parliament at the moment. I am not exactly sure where that is at at the moment, but if you had adult sex offences that were extraterritorial as well as child sex offences, that would be a bit of a game-changer, if you enforce the law. We have had child sex tourism laws in place in the UK for a couple of decades, and the grand total number of aid workers prosecuted under that law between Australia, the United States, the United Kingdom, Belgium, Germany and France combined is two. We know there are far more perpetrators than that.

It leads into another point, which builds on what Sienna has been saying. When you are making a paternity claim, many jurisdictions, including the UK and Australia, often require you to have local courts rule on the



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paternity claim first in the country where the child is living and then seek to have that ruling enforced by the courts in the country where the father is living. In the case of an aid worker procreating a child with a beneficiary in the Democratic Republic of Congo, you would first have to go to the DRC courts and then have to go to the British courts. We are trying in Canada at the moment to get the Canadian courts to overturn that precedent and say your first port of call could possibly be in the habitual residence of the father.

That would make a lot more sense, because the legal systems are set up, but it also feeds back into one of the earlier questions based on the work that Sienna has been doing. One of the first things that victims should be given once they have reported, as well as encouraging them to report and proactively going out and finding them, is the equivalent of legal aid, because this area of law is extremely complicated internationally by very definition. We are trying to seek the rights of a child in the Democratic Republic of Congo, for example, against a father sitting in the United Kingdom, and to have essentially volunteers like Ed, me or Sienna as the only places that some of these children can go is ridiculous.

**Q115 Theo Clarke:** That is an interesting point. Finally, Sienna, to pick up on Andrew's points, in your view what challenges might be encountered when working with local justice systems around the world?

**Sienna Merope-Synge:** We have to nuance between criminal cases and civil cases, and we need to nuance between different types of jurisdictions. As a starting point, if I am in another country, I am subject to that country's laws. That should be the starting basis. There may be immunity for certain categories of personnel, but if I am an aid worker in Haiti, the same as if I am a civilian in Haiti, the starting point should be that if I break Haitian law, there may be some expectation that I come before the Haitian justice system. That is a principle of rule of law and state sovereignty.

Where possible, and with the victim's or survivor's consent, there should be engagement with local justice systems. I agree with Andrew that there are places where that may not be appropriate or where it may not be possible in terms of the local justice system, and that should be something that is determined by particular agencies in terms of their MOUs and the understanding that they have with their staff on entering that country. Then there is also a separate consideration as between process and prison if we are looking at criminal cases. It may be appropriate to try someone in a local jurisdiction, but you may not be willing to have them serve a prison sentence there. That is on the criminal side.

On the civil side, there may still be some places where it is impossible, but you do not have the same kinds of considerations about justice and fair trials as in criminal proceedings. For example, it is entirely appropriate that, as we have, the court of the host state—the state of Haiti—should be engaged for paternity. It is smart and it is right to also



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allow that those cases should be brought in another jurisdiction. However, we need to be very careful about thinking that it is going to be possible to have transnational cases as a response that is structurally adequate for these kinds of cases. The reality is evidence, language and visas, very simply. It is very hard for victims in Haiti to get a visa to even be able to testify in a court proceeding elsewhere. There are differences in legal systems and differences in procedural laws. We have to take seriously engagement with host states.

We also need to think about different kinds of structures to allow victims' needs to be met. I actually see a lot of value in something like the victims' trust fund, where, if a case is substantiated as against a contingent of a UN peacekeeping force—you have sufficient evidence to say that the father is from Uruguay—the UN should be proactively paying the child support out of a victims' trust fund, and then they can deduct that money from the contributing contingent. They can deduct it from Uruguay's payment, and Uruguay can then turn around, find out which of its soldiers was responsible and deduct it from their soldier. That puts the responsibility structurally on the institution that has the power and the information to do it, as opposed to requiring a woman in rural Haiti to somehow track down someone in Uruguay and engage a multiyear transnational litigation process to have child support paid.

**Chair:** That is a really interesting point, Sienna.

Q116 **Navendu Mishra:** I will come to everyone with this question, but if I could go to Edward first, what experience do you have of taking legal cases against the United Nations and other aid organisations, and what are the challenges that you faced?

**Edward Flaherty:** I have brought cases before the European Court of Human Rights and then in the US federal courts. In the US federal courts, it was a sexual assault case against the UN High Commissioner for Human Rights at the time, Ruud Lubbers. Before the European Court of Human Rights it is a number of different types of cases.

Generally, at the European Court of Human Rights the obstacle is that unless you go through the full legal system of the national courts, which takes time and money, you will probably get thrown out in Strasbourg for the case not being admissible because you did not exhaust your national remedies, but the problem is that it is a foregone conclusion. If you are litigating against the UN or an international organisation, they are immune from the local laws, so it is a waste of time and money, but the European Court in recent years has become very tough on that, so you have to go through that process. Right now it is taking about seven years to get a judgment out of the European Court of Human Rights in Strasbourg, so that is one issue.

For national courts and suing in the US, it is the immunity again. The UN particularly has absolute immunity and the other specialised agencies have a different type of immunity provided by a different statute. There is



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some hope that that might be a way to get at some of the organisations to get some kind of accountability, but the UN itself still, under US law, has absolute immunity. It is really just getting a day in court.

**Sienna Merope-Synge:** I would endorse what Ed has said, having had the experience of trying to sue the UN in its institutional capacity. In US courts, immunity barriers are extremely strong.

Let me just add a couple of words about the experience of trying to get the UN to co-operate in paternity cases. I mentioned before that while the UN peacekeepers do not have immunity, the UN must certify that fact before a local Haitian court. Four years on, despite multiple requests, the UN has not done that. It has apparently sent a note verbale to the Haitian Ministry of Foreign Affairs, but it has refused to respond to a direct request by the Haitian court. There may be all kinds of diplomatic niceties about communication between the UN and part of the Haitian government, but, as has been raised repeatedly, you are dealing often with situations where countries have weak rule of law and institutional structures, so to be unwilling to communicate directly with plaintiffs' lawyers and the local court completely undermines the ability of these cases to go forward.

The second point is that, because the UN is the one that conducts investigations, the evidence that is needed to sustain a civil case is largely in the hands and only in the hands of the UN. For over three years, my legal colleagues in Haiti and my former colleagues on the US side have been trying to have the UN hand over that evidence to us as legal representatives to present it in Haitian court. The UN has not done so, short of some DNA results that were eventually certified after years of advocacy, but other internal investigation results have still not been.

Just to break it down to the micro, these are the kinds of very real challenges that come with the UN, and the UN also will simply not accept that it has any responsibility to engage with lawyers. It does not accept service of documents at its headquarters. It does not accept any responsibility to engage in a legal process or to respond to legal correspondence. It simply sees itself as above the law, and that is terrible when it comes to the macro cases of liability at the organisational level and makes it impossible to litigate cases on the day-to-day.

Q117 **Navendu Mishra:** That is very interesting about servicing documents to the headquarters. Andrew, do you have anything to contribute on the challenges that you might have faced taking legal action against the UN or other aid organisations?

**Professor MacLeod:** Again, I endorse everything that Edward and Sienna have said. In short, there is no incentive for the UN to play ball in the interest of the victims, nor is there incentive for the smaller NGOs that do not have the same legal immunities that the UN did. If you go back to the evidence in front of this Committee in the Oxfam scandal, Oxfam's response was, "Yes, we knew this for 10 years". "Why didn't you



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report it to the Haitian police?" "We didn't think they would do anything."  
"Why didn't you report it to Scotland Yard when there was still some question where one of the prostitutes may have been legally underage?"  
"We didn't really think of that."

The truth is the entire industry believes they are above the law, whether that is criminal law, civil law or the procedures involved in the law. That is the problem, and guess what? They have called your bluff; they have called the US's bluff; they have called Australia's bluff; they have called every politician's bluff since 1995 when this first came up. At the end of the day, you have to cut their funding or send people to jail or nothing will change.

I will just give one rebuttal to those who say, "You cannot punish all the other beneficiaries in need by cutting funding," to which my response is that you do not cut the funding to aid; you cut the funding to individual agencies. One thing that everyone here will agree on is there is no shortage of agencies. If you cut all of Oxfam's water and sanitation funding, there are plenty of other agencies that will pick it up. If you cut UNICEF's education funding, there are plenty of other agencies that will pick it up. If you cut IOM's funding for emergency camps, there are plenty of other agencies that will pick it up.

I do not mean this 10% or 15% withholding rubbish. It is a question of, "A sexual abuse claim—that's it. 100% of your funding is gone until it is either disproved or you have given justice to the victim," and then you refocus that funding to a completely different agency or organisation. Unless we go that radical, nothing will change. We will come back here in five years, 10 years and 20 years and have the same discussion over and over again.

The UN and the NGOs believe they are above the law, and every single sexual encounter between an expatriate and a beneficiary, regardless of their age, is abusive at the very least because of the imbalance of power, let alone the horrendous number of child abuses that take place—in the National Crime Agency's own words, not mine—on a scale larger than international sex tourism. Predators now target the aid industry to join because they know they get away with it.

**Q118 Navendu Mishra:** I will come to Sienna with this question, but on that point, Andrew, can the country of origin of the perpetrator and the organisation implicated seek to prosecute in relation to an offence committed by an aid worker in a foreign country?

**Professor MacLeod:** That depends on the age of the victim. At the moment most western countries have the equivalent of section 72 of the Sexual Offences Act in the UK—the child sex tourism laws. It is unlawful to have sex with a child under the age of 16 anywhere in the world, and they can be prosecuted in their home countries. Australia has world-leading law on this. At the moment they also make it a criminal offence to fail to report an overseas child sex offence. If I am aware of an



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Australian who commits a child sex offence and I do not report it to the Australian federal police, I am guilty of a crime. The person who brought in that law, the Australian Attorney-General, is now the Australian High Commissioner in London, and he is prepared to give evidence, if asked, to this Committee. He cannot volunteer, given the nature of him being a High Commissioner, but if asked he would be very happy to talk to you about how he steered that legislation through Australian Parliament.

The draft legislation in front of the UK Parliament on making an adult sex offence extraterritorial would be world-leading legislation, and I strongly urge that. What I say to people is, "You are starting to understand this is a huge area with so many problems and you are not sure which avenue to go down first. Let's go for the lowest hanging of low-hanging fruit. You already have the law to criminally prosecute someone who commits a child sex offence overseas, so let's start prosecuting those people as a start."

Q119 **Navendu Mishra:** I am sure, with the permission of the Chair, the Committee would love to hear more, perhaps in writing, about world-leading legislation in Australia. I am afraid we are quite limited on time, but thank you, Andrew. Could I come to you, Sienna, because you are a human rights lawyer and this question is about litigation, so perhaps you have something to say?

**Sienna Merope-Synge:** As Andrew said, it largely depends on the extraterritoriality of the relevant provision, but in considering low-hanging fruit, we need to think about what the greatest need of victims and survivors is. When we think about prosecution in countries of nationality, let us think about whether that will actually be accessible to victims and survivors, and let us be sure to remember that a big hole here is lack of accessible complaint reporting mechanisms, support for victims in their immediate needs and in their civil remedies, child support, compensation and immediate material support. That is something that can be provided through quasi-judicial processes in the host countries and through having better reporting and support services and access to remedies in the host country or otherwise.

I want to just make a note on the question of funding. I agree with Andrew that there are times when cuts in funding are very necessary to consider, but there is a perverse incentive that comes with cutting funding in response to allegations coming to light that incentivises aid agencies and the UN to hide these materials. That is a pattern that we see now, and it is a pattern that we will see continue. We also know that the things we are talking about cost money. Having support for transnational legal processes costs money. Providing victim support assistance costs money. What I mentioned earlier about the UN being directly willing to pay out child support and then recoup requires the UN to actually finance these things. It is terrified of that because it thinks it might have some effect on its immunity and that, in turn, could mean that it is on the hook for civil remedies and that its donors will not pay.





As much as there may be times when we need to consider aid cuts, donors, including the UK government and others, need to be willing to put the money behind the kinds of processes and the kinds of support for civil remedies that will actually allow these agencies to turn these ideas into reality, and that includes the United Nations. Aid funding cuts can be considered, but they should be done in a way that is not reactive and that does not undermine and disincentivise the kinds of reforms that we are talking about right now.

**Q120 Navendu Mishra:** Your point about setting up a United Nations fund for victims and placing the responsibility structurally on to the organisation is quite interesting. Andrew, I know your hand is raised, but can I just ask you briefly whether you have any sense of how many perpetrators of sexual exploitation and abuse have been successfully prosecuted by the criminal justice system in the country where the incident took place or by the criminal justice system in the country of origin of the perpetrator? If you want to add something briefly to the previous question, you can.

**Professor MacLeod:** Less than a handful is the answer. The number of successful prosecutions, either in country of perpetration or country of origin, is pitifully small—and I mean it. It is less than a handful. We can name them: Peter Dalglish and a couple of others.

I agree with everything Sienna has said, and it is an extremely complicated area. Where do we start from? This new DNA technology we are developing allows us to start from the victim. Take the DNA of the victim, find the father and then start to ask what the best remedy is in the victim's best interests now. Is it a child support order? Is it a criminal prosecution? Is it to go to the agency for support? Is the victim going to be re-victimised if it becomes public, et cetera.? We have really got to wrap our minds around a victims-first focus but also get a sense of scale.

One of the three things that I am really pushing is an academically defensible study on the underreported nature of sexual abuse by the aid industry. We have no real idea how big this problem is. We know it is big, but we do not know how big. Let us put some funds into finding out how big. Secondly, we now have the DNA technology, in the case where children have been born from these abuses, to find the fathers. Let us start finding the fathers and then ask the questions that Sienna has been putting out: what is the right thing to do now in the best interests of the victim?

**Q121 Mrs Latham:** We know that the UN's practice of invoking immunity has an impact, but what impact does it have on its personnel and on the investigations of sexual exploitation, abuse and harassment?

**Edward Flaherty:** The immunity adversely affects the investigation and the remedies for the victim and for the protection of whistle-blowers because, again, the perpetrator is, in effect, being the judge. We need to change that and to shift the immunity. One way is to flip it and make it an affirmative defence as opposed to an absolute bar to any litigation.



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That is one option. Another is to carve out exceptions such as sexual abuse and whistle-blower protection issues. Until that is changed, everything else flows from the immunity of the organisations, which leads to no accountability and impunity. That really is the fundamental issue.

**Sienna Merope-Synge:** I would endorse everything that Ed said. It makes legal proceedings much more complicated if there is organisational immunity for the UN as an organisation. It has all these follow-on effects, like you cannot serve documents at any UN building. That just means that it is very hard, concretely, to litigate the case if you cannot even effectuate service.

It also just has a chilling effect. Even when there is no immunity, it creates confusion about how far it applies. It means that you still have to have the UN sign off on things—which part of the UN, to which part of the government and to which court—and so I would agree with Ed that there needs to be a rethinking about immunity and real clarity about how it is applied.

Q122 **Mrs Latham:** Andrew, could you also address at the end of that, if you have anything to add, what the UK government should do in terms of its advocacy on the use of the UN immunity provisions in these sorts of cases?

**Professor MacLeod:** As well as what Ed and Sienna have said, the other thing is that the immunity provisions give a sense of immunity to the direct perpetrator because they know that there is no prosecuting service in the world that is going to put resources into finding the evidence if they think they are going to be gazumped in a court by an immunity call. I have raised this with the AFP in Australia and the National Crime Agency in the UK, and they have said, “We are not even going to begin a prosecution or even an evidence-gathering process if we think we are going to be gazumped by immunity.” That is the right thing for them to do with limited resources. You do not put limited resources into a hopeless case.

What I would propose that you do, Pauline, is start the discussion with the UN and say, “At the first stage, you lift immunity for prosecution or for civil actions in the home jurisdiction of the perpetrator,” because that allows you to still use the immunity in the country of operation, and then look for carve-outs, as Edward has talked about, for particular subject matters like sexual abuse.

We always have to remember why immunity is there. Immunity is there to protect the organisation from the false accusation, which we have to be aware of. You get around that by saying, “Lift the immunity blanketly in civil and criminal cases in the home jurisdiction of the perpetrator.”

Q123 **Mrs Latham:** Edward and Sienna, what mechanisms for independent oversight should be used to hold the UN and other aid organisations to account and provide justice to victims when internal mechanisms fail?



**Edward Flaherty:** I am not a big fan of creating another superstructure with immunity and being the overseer. You can do it nationally by lifting the immunity or, as we have discussed, fashioning some way to change the immunity, so that you have remedies in the national courts of the perpetrator or where the crime happens, if that is possible. Again, I endorse what Andrew and Sienna have said about those challenges. I am not a big fan of creating another UN to oversee the UN. The UN itself fails in overseeing itself, so you have to fall back on the national courts, if you can.

**Sienna Merope-Synge:** The way that UN immunity is set up in its own conventions is that the UN has absolute immunity, but it also has an obligation to provide alternative modes of settlement so as to guarantee access to a remedy in the absence of access to national courts. The way that that has been conceived of in places where there are peacekeeping missions is that there should be a standing claims commission, which is a quasi-judicial source-of-remedy forum for things that are covered by immunity.

The carve-outs and structures that are already contemplated by the conventions that govern immunity and by the status of forces agreement for peacekeeping forces and those more accessible quasi-judicial forums can be one place to look. There is a need, as Ed said, to look at local judicial systems or, where that is not possible, to think about things like roving systems that may be able to reinforce local judicial systems to have access to courts. That is on the UN side.

On the aid industry side, which we have not talked so much about, it is clear that there is a real gap in the strong reporting mechanisms and complaint mechanisms that would cut across agencies. While there is a lot of policy, there does not seem to be a lot of implementation. Before we create new structures, our first goal is really to look at what is already there on paper and to think about how to translate it into real life.

Q124 **Mrs Latham:** Andrew, finally, do you have any further recommendations for donors such as the UK government regarding how it can push for greater oversight of the UN and other aid organisations like Oxfam and the WHO?

**Professor MacLeod:** We really have to fund the academically defensible study on the underreported nature of sexual abuse. Again, going back to that first report, we have no idea what the scale is. We all know it is big, and we can argue how big or how small, but we need to get some substantive data. We have to get the baseline on this. If there were one concrete first step to come out of this, it is to fund an academically defensible study on the underreported nature of sexual abuse in the aid industry and get a really good estimation of just how big this problem is.

**Chair:** Thank you, witnesses. That was hugely interesting, and I am incredibly grateful for how forthcoming you were. Sienna, what stuck in my mind was your line that, if you are a survivor wanting information,



you will be facing a black hole instead of that information and, if you are lucky, you will get crumbs of support. Ed, you were telling us about the UN, the lack of accountability and the chilling effect that this immunity has and the lack of co-operation. I agree that no one should be above the law and that that should be very clear. Andrew, what you said about predators now targeting the aid sector because they know they will get away with it resonates with me.

All that we have talked about presupposes that the abuse has already happened, and I hope this inquiry will help us find ways to prevent that happening at the beginning and then get the justice if we have failed in preventing it. You are more than welcome to stay for our second panel of witnesses, but thank you very much for the evidence that you have given to us.

## Examination of witnesses

Witnesses: Lesley Agams, Shaista Aziz, Paula Donovan and Alexia Pepper de Caires.

Q125 **Chair:** I apologise to the second panel. You can see how interesting the first session was, so I hope that you will give us good grace for running over a little bit. We are looking to end this session by 4.30, but if some of you have to go before then because we have run over, I am more than sympathetic to that, so please indicate and we will try to accommodate that. Could you introduce yourselves and give a little background in terms of the experience that you are going to be bringing to this session?

**Lesley Agams:** Good afternoon. Thank you very much for having me. I am a barrister and solicitor in Nigeria, an author and a social entrepreneur. I have worked on women's rights and violence against women for over 20 years. Five of those years I spent as country director, first for Ashoka: Innovators for the Public, which is a US-based INGO, and later for Oxfam GB. I was dismissed from my job in 2010 after a horrible sexual assault, which happened while I was working with OGB and happened in the UK, on the job. After that, I also left the sector. Since then, I have focused on the wellbeing of women human-rights defenders in Africa and preparing and mobilising women and women's groups in Africa to participate more fully in public life.

After the 2018 Safeguarding Summit in London, I reached an agreement with Oxfam that involved me working with them as a consultant for two years. In 2019, I worked with four different leads at Oxfam International and was also part of DFID's Independent Reference Group. The experience left me with an impression about the current state of the safeguarding efforts that they have been making, and led me to conclude that their efforts are more quantitative than qualitative. I really do not think that they offer very much in terms of actual opportunities for change. I made the same recommendations to OGB, which were based on my experience as a country director in a host country, as a victim



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survivor and as a whistle-blower. I hope that I can answer any questions about my experience that can assist the Committee in its terms of reference.

**Chair:** Thank you, and thank you for using such an awful personal experience to help other women to, hopefully, not have to go through what you had to endure.

**Shaista Aziz:** Good afternoon, everyone. My name is Shaista Aziz. I am currently the head of media and communications at Solace Women's Aid. I have spent more than 15 years working in the aid sector. I have worked for a number of very well-known international NGOs. I was very often one of the only women of colour with a so-called first-world passport working in these environments. I have spent more than 15 years working across east Africa, west Africa and the Middle East, and extensively across Pakistan, including the country's tribal belt. I have a lot of experience of working primarily with women and children impacted by conflict, violence and displacement—the full works. I have seen a lot of things and, hopefully, will be able to bring some of the evidence to light in terms of what I have seen, as we continue this discussion. I am also a councillor in Oxford and work a lot with women impacted by domestic abuse and homelessness. I am a journalist and a writer as well.

**Paula Donovan:** Thank you very much for having me here to represent the views of the Code Blue Campaign, which I co-direct. The Code Blue Campaign is part of AIDS-Free World, which I also co-direct, and its purpose is to end impunity for sexual offences committed by UN personnel. I have a long history of working in and around the UN. Between 1987 and 2006, I was in various roles with UNICEF, UNIFEM and the Office of the Special Envoy for HIV/AIDS in Africa. I know that the United Nations, the standard-bearer for the world, needs to be held to the standards that it sets and promotes for 193 member states, and it is not. The Code Blue Campaign is focused on the underlying reasons that the UN does not seem to be able to practise what it preaches. We are focused on making institutional and policy changes that will end the impunity that the previous panel was talking about.

**Chair:** Alexia, you came to our attention in DFID's 2018 international Safeguarding Summit, where you said, "We need systematic change. We need to understand the sexism, racism and abuse of power that happens from the very top of the leadership". Thank you for raising that. They are all areas that we hope to be able to explore with you and the rest of the panel, but I wonder if we could hear a little bit about your background and what brought you here today.

**Alexia Pepper de Caires:** Thank you, and thank you to all the other people speaking out today. I worked in the international charity sector in the UK but also worked with teams all over the world from 2011 to 2016, mainly in advocacy and strategy. I took part in a series of internal procedures from 2014-15, none of which did any good, to be honest. In 2018, I blew the whistle through the media, which was the only channel



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available, to talk about sexual harassment and abuse of power linked to sexual harassment at Save the Children, and worked hard with Helen Evans and other women, including Lesley and Shaista, to talk about the more deep-rooted discussion that we were not hearing because of who gets to speak.

Shaista and I co-founded NGO Safe Space. We did some research together and, in 2018, put forward a body of evidence about what people's experiences were within the sector. We try to ensure that women and other marginalised voices are heard by those with power. In particular, we want to address the conversations of patriarchy, racism and colonialism, as you have alluded to. I have been a spokesperson for the Women's Equality Party. I am currently a trustee at Bi Pride UK, and I am a writer as well as an activist and a bookseller.

**Chair:** You are very welcome here, thank you, and thank you to all of the witnesses today.

Q126 **Mrs Latham:** If we could take it in the same order again, can each of you tell us about your experience of addressing sexual exploitation, abuse and harassment in the aid sector? For example, what happened when you raised concerns?

**Lesley Agams:** The concerns that I raised in 2010 included everything that the previous panel members described. There was no support. I was shut down. It was more about protecting the organisation. What I got from listening to the first panel is that there has not been much progress in 10 years. My specific experience of working with Oxfam and DFID's Independent Reference Group in the last year also suggests to me that most of the programmes and policies that they are developing, while well intentioned, are very top-heavy. As Sienna mentioned, they are also more perpetrator-focused, not victim-focused. There has not been a sincere commitment to actually make the changes that need to be made.

**Shaista Aziz:** In all the places that I worked, as I said in my introduction, I seldom found a woman who looks like me—a visible Muslim woman or a woman of colour—working alongside me or in any of the departments I worked in, and I feel that I became targeted as a result of that. The issue of race and my gender intersected along the way at pretty much every organisation I worked for. When I raised issues at Oxfam, I later found out that they were not put on the HR record. I do not know why that was.

I noticed that the crux of these issues is bullying. From my experiences, casual bullying in the office and belittling of women in particular are at the heart of what goes on, and everything then stems from that. I have been subjected to very casual levels of racism and daily micro-aggressions in the offices where I have worked. I had one male aid worker, who I had never met and never even said hello to, walk up to me and say, "I have never kissed a hijabi woman before," and grab hold of me and start slobbering his face on my cheeks. I pushed him off. The fact



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that he said, “I have never kissed a hijabi woman before,” meant that he was targeting me based on my intersecting identities. The racism was deeply casual. It tripped off people’s tongues. Islamophobia was deeply casual as well. I never felt that anybody was really fighting for my corner. Whenever I raised issues around racism in particular, it was brushed off. There was always some sort of attempt to have an intellectualised debate about these issues, rather than getting to the bottom of them.

There were a lot of informal so-called processes. There were always attempts to deal with these issues in a friendly way. I was told, “Do you really need to go to HR?” To be fair, in the places that I worked, I did not really see HR going out of their way to investigate these issues; nonetheless, it was deemed that it would be much better for everybody involved if there was a conversation, rather than getting to the bottom of why these structural issues were taking place. While I was travelling around the world, I saw the belittling of women going on before my eyes. I am someone who has a lot of agency. I have a so-called first-world passport, as I said. With all my agency and everything that I have, which most women in those countries who look like me do not have, I still was not able to get any justice or redress for the issues that I was dealing with.

**Paula Donovan:** We launched the Code Blue Campaign in 2015 after having done some research and obtained information about the sexual abuse of children in the Central African Republic by French and other peacekeeping personnel and the subsequent cover-up by the United Nations of that sexual abuse. One of the things that we were able to bring about was a Central African Republic review panel of independent judges who reviewed everything that had happened and came back with some scathing recommendations.

This feels like a success story until you get to the end, which is to say that Ban Ki-moon accepted the report, said that he would ponder it and appointed a few people at the top levels of the United Nations to improve the situation, but he fired no one, no heads rolled and no accountability was anywhere to be found. Ban Ki-moon then stepped down after his 10 years, and Guterres took over. One of the first items on his list of priorities was, ostensibly, to address sexual exploitation and abuse by UN personnel. He admitted immediately, as the former head of UNHCR, the High Commissioner for Refugees, that it is not just peacekeeping. This is something that we knew; we were just starting with peacekeeping as the thin edge of the wedge and planning to expand to the rest of the UN system.

Secretary-General Guterres shortcut that for us by saying, “This is a problem throughout the UN system. The entire UN system and its civilian staff are guilty of sexual exploitation and abuse,” and he ultimately expanded that to harassment. We pressured and sent letters. From our long history of working in the UN—my co-director is also a veteran of the UN system—we know that the UN response to public pressure is that,



when things become public and when headlines are damaging to the United Nations, that is when they move. We continued with our advocacy to bring these issues to the forefront, which resulted in a high-level meeting at the United Nations in the opening of the General Assembly in 2017, where Secretary-General Guterres committed to making this his top priority. Again, it sounds like a success story until you fast-forward to 2020. We have just gone through the opening of the General Assembly in 2020, the 75th anniversary of the United Nations, and Secretary-General Guterres seems to have forgotten about his top priority entirely, and did not mention sexual exploitation and abuse in his remarks to the world body.

Other successes have been bringing to light and bringing to the media's attention, and therefore the world's attention, the cult of personality at UNAIDS that resulted in a horrific case of sexual assault by a very senior person at UNAIDS, which ultimately, again through Code Blue Campaign's advocacy, led to an external panel that reviewed this case. Again, the external panel came back, after long deliberations and investigation, with a scathing report about what has gone on for years and years at UNAIDS. They insisted on a change of leadership. Michel Sidibé, executive director of UNAIDS, was forced to resign. He was not fired but was encouraged to resign, and then given a lavish going-away party by Secretary-General Guterres and moved on to a high position in the government of Mali, so that is not exactly a success story. The perpetrator of the sexual offences against Martina Brostrom was allowed to resign with his full pension.

**Alexia Pepper de Caires:** In the interests of time, I am just going to add that this work has, in my experience, been deeply exhausting. It is a very emotional thing for us to be doing, and not once has that been addressed in any of the systems we have looked to participate in. Ultimately, the deep resistance by the sector to change is rooted in why it is really there, so I am not surprised to find that the enormous body of work you are listening to from us—many of us doing it without pay—does not do much to really force traction, because the system is designed not to change. My experiences are on the record, and there is no acknowledgement, to this day, by Save the Children of any of the work that I and others did to resolve their deep governance problems. What we see is a lot of change of faces, but really deep-networked people who do not want to change are still running the show.

Q127 **Mrs Latham:** On a more positive note, maybe, what successes have you each had in helping to tackle sexual exploitation and abuse in the aid sector?

**Lesley Agams:** That is a tough one. What successes have we had? If we were to count successes, it is rather subjective. Recent reports suggest there have not been any great successes; there has just been much paperwork. I have spoken to colleagues in the past couple of months, especially those who have worked for decades around sexual exploitation





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and abuse. Professor Andrew, in the previous panel, gave a date of 1995; Asmita Naik would give a date of 2008 or 2009. We just keep on producing policies.

One of the recommendations that I made to Oxfam last year, and which I would like to make also to the Committee, is that one of the important things that need to be done is to empower people in the host countries. Another witness mentioned the importance of power dynamics. There has to be that shift. When I discuss the matter with my African feminist sisters, we still agree on one thing: the reason why a lot of these policies are not implemented is because they are produced in London and somebody gives country directors in various African countries literally a checklist of, "Do this, this and this."

I heard in the previous panel about how host countries might not have the infrastructure on the ground. I beg to differ. For instance, Haiti is an extreme example of a country whose systems are completely broken down, but in west Africa that is not the case. Every single country in west Africa has some sort of infrastructure for the judicial resolution of sexual assault and sexual harassment. Many local organisations whose work it is to ensure that victims are supported through the process do not feel included and have not been consulted, and there is that huge gap.

That came through in Oxfam's independent report written by Jim Gamble, whereas in the UK, for instance, there are victim representatives in every shop and office; that was a position they created. As Sienna said, we need to differentiate between criminal and civil actions. All those UK workers were instructed, if there is any criminal case, to report to the local authorities, whereas, in host countries, the safeguarding officer in a host country is not required to report to the local authorities. Instead, that person is required to report to a regional safeguarding officer, thereby completely bypassing the local authorities. I pointed out in my comments to Oxfam that this is wrong and dangerous because, first of all, it assumes that every country is the same, and it is not. I also recommended that each country director should have a responsibility to know what the sexual assault, abuse and exploitation framework is within the country in which they are working. That country should then be able to say, "We have these resources. These are the gaps."

Going forward, the Foreign Office can do more to build capacity on the ground. Like I said, existing organisations are working every day to support victims of rape and sexual assault and to increase prosecutions. They need resources. It is also very important to send those resources directly to them, as well as shifting much of the humanitarian aid distribution to women and women's organisations, in order to decrease the interface and opportunities for transactional sex, not only with international workers, because we also have a lot of partners in every country. Those partners are not UK staff and are often not UK nationals, but nevertheless they represent the INGO. What I saw in 2010, when I



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was dismissed, was quite a cynical taking advantage of legal loopholes: “This is the law here in Nigeria, even though it is not the law in the UK.”

**Shaista Aziz:** I will start with the most honest assessment that I have, which is that there has been a lot of shuffling of deckchairs, quite frankly, over the past few years. I commend the IDC for their excellent report. You produced a very focused and forensic report, which, at the time, gathered a lot of steam and momentum. It also generated a lot of international media attention on the issues. It was a very uncompromising report and, like I said, I genuinely salute the work that you and the Committee have been doing since then and during that time.

The greatest success that Alexia and I have had, as co-founders of NGO Safe Space, is that we, personally, have overcome the attempts to silence and bully us and to stop us from advocating not only for ourselves but also for and with primarily black women and women of colour, who have received the least attention when it comes to these issues. We successfully lobbied DFID to ensure that, at the big, whizzy, showbiz-style conference that took place, women of colour and black women were heard. They were in the room but were not given a session to speak at until Alexia intervened, so that was something that we really value. We have also worked really hard to ensure that, where possible, we can bring the issue of intersectionality to the analysis of this work and to this work, so we are really proud of that.

We have also connected a lot of people. Just to be very clear, even up until two months ago and, in fact, at the height of the Black Lives Matter protest movement in this country, which, as we know, is still going on not only here but around the world, we have had many women contact us during that timeframe to talk specifically about the racism that they have encountered in this sector. Anytime Alexia and I are speaking on any platform, we find a lot of women coming to those events who are from an NGO or charity background, and they really want to talk about their experiences.

I recently had women contact me from a west African country, saying to me that they are busy mobilising and trying to organise themselves in relation to Black Lives Matter and the UK aid agency that they work with and for. All of those things are really positive but, as Alexia said, this has come at a very high cost. The emotional labour is exhausting. We know that women like Helen Evans had to leave their job and move city because of the harassment that they faced. There is a high price for this, which does need to be acknowledged.

**Mrs Latham:** The Committee has said that we will not let this go, because we do not want it swept under the carpet. There are more and more cases and you hear, “Terrible, terrible”, but then nothing happens. We are trying to keep it alive and to support the women who are the victims, so thank you for your support.



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**Shaista Aziz:** I have seen that for the last few years, so thank you very much.

**Paula Donovan:** I cannot use the word “success” in relation to sexual offences committed by UN personnel, whether against the people who they are mandated to serve or their colleagues. The Code Blue Campaign is proud of the objectives that we have been able to accomplish on the route to success, but success is a black-and-white thing that will not occur until the member states that govern the United Nations have done a few things. First, they absolutely must demand that the UN organisation creates and holds to a victim’s bill of rights. Victims need to know what their rights are, and those rights have to be the same across the UN system, whether the victim is someone who is abused in a peacekeeping setting or in the workplace at the United Nations Population Fund. Every single victim should know their rights, and these need to be enforceable.

We cannot succeed until the UN clarifies immunity. I know that there was quite a discussion in the former session about immunity, but the UN needs to make it clear that there is nothing to be waived when we are talking about sex crimes. There is no immunity, inside or outside the UN, for sexual crimes. The head of the Office of Legal Affairs has confirmed that to Code Blue in writing. We might call that a minor success or a minor achievement on the way to success: that he has actually said in writing that it is a myth that there is immunity for sex crimes. Once it determines that a crime may have occurred, the UN is obligated to turn the case over to the appropriate authorities.

Success will be achieved when the United Nations organisation recuses itself entirely, and this goes for the aid sector as well. We saw, in the most recent exposé of what happened in the Democratic Republic of Congo in relation to the Ebola outbreak, that the response was immediately everyone declaring that they have zero tolerance for sexual exploitation and abuse, which is the equivalent of saying, “I have resigned to spend more time with my family.” Stop saying it. Nobody believes it. It is a ridiculous, empty phrase. Everyone, from World Vision to the various parts of the United Nations, including WHO and UNICEF, said, “Thank you for telling us. We are shocked,” even though we have known about it for 20 months. “We are absolutely stunned, now that it has hit the headlines, and we will investigate ourselves.” There will be no success until the UN and every aid agency recognises that they have no authority, no legal right and no capacity to conduct criminal investigations or to conduct trials and, therefore, they need to step back and let truly impartial and objective people do that. Those should be people who are appointed by you, the United Kingdom’s lawmakers and representatives of the United Nations at the governmental level.

Finally, there will be success when UN member states create a structure—the Code Blue Campaign has proposed a special court mechanism—to ensure that, in those rare instances, which are truly rare



relative to the number of offences that take place all the time, where a government is in complete and total collapse, probably in a peacekeeping country whose institutions, by its own admission, are simply not working anymore, if that country cannot or will not investigate or prosecute because its law enforcement and judicial system simply is not working, then civilians can no longer get away with what they are getting away with. Civilians who work for the United Nations have to be investigated and tried by a special, temporary, speedy, efficient and low-cost court mechanism that would be set up to do everything from taking the reports all the way to ensuring that people are deprived of their liberty, not just of their jobs at the UN, when they are accused and found guilty of crimes.

**Alexia Pepper de Caires:** My success has been seeing a chair of an INGO depart from their very long-held tenure, but that was only when I really took it into their house and made it a problem. A bigger success has been enabling a bigger conversation to finally be unpacked about Aid Too, as we call it, which is a subset of Me Too that also has very tangible links to the Black Lives Matter movement and to anti-blackness racism that needs to be continued to be spoken up about as urgently as it is this year—and to have that conversation not only in corridors of power like this and across media channels, but to also bring that conversation into the quieter corners of the INGOs and the international development sector itself, which has done a good job of pretending that the white-saviour complex that it harbours is something that is untouchable and will never do any harm to anyone, because it is “in the interests of doing good”.

We have broken that myth down, and we have been allowed to continue to have conversations, in spite of all the resistance. Despite the organisations themselves trying very hard to keep everything in the status quo—the UN, as elegantly as ever, but also the large charities rooted in the UK—we have been able to say that that rhetoric and that narrative can no longer be allowed to stand. We have to acknowledge very clearly that whiteness and the white European sentiment and power complex that lie at the heart of aid are what really enable this.

Q128 **Mr Sharma:** It is nice to see Shaista on this panel, and I am glad that she has joined us today. My question is to Shaista first, then Alexia and Lesley. Do you feel that the UK government has listened to and acted on the feedback of victims, whistle-blowers and advocates to inform its safeguarding work?

**Shaista Aziz:** As I said, I really admire the work of the International Development Committee. The investigations and the findings have been really robust, and you could not have produced a more hard-hitting report. Do I think the report has been followed up on in the way it should have been? Absolutely not.

The UK government has fallen into a trap, if you want to call it that, around safeguarding. The main response to the allegations that came out



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in relation to Oxfam was the sector going into overdrive about safeguarding. I believe that safeguarding is absolutely essential and is a legal duty, but safeguarding is not the same as accountability. This is something that Alexia and I, through our NGO Safe Space platform, have repeated continuously. You cannot get to accountability and produce remedies for victims and survivors through safeguarding, because safeguarding is just another part of the system that is clearly not working. I find it depressing that that has been the main focus of attention.

Regarding victims and survivors being heard, as we have already heard from the panel, they have been heard but I would not say it was necessarily through the work of the British government. I would say that it is through, in particular, the work of feminists in the organisations who have been silenced for too long. It is through activists and, quite frankly, women who have lost their jobs because they have whistle-blown or spoken up. Most of the desire to ensure that survivors and victims are heard has been through that lens more than any other one.

**Alexia Pepper de Caires:** The UK government is unfit for purpose and have been for about a decade, so I cannot say that I see any signs of the UK government doing anything in the interests of preventing black women from being raped in countries that we previously colonised. It is not on their agenda. It is not in their interests. Some people have been listened to, and they tend to be the people who are making a living from it. We all need finances and resources, but a number of people play into the system, and that becomes the main focus of the work. It is disconnected from those who are the most harmed, and it is usually white women who take up that space. There are certainly a number of people on the circuit and the scene doing this work. They are not the people who we hear from in our work who make the biggest difference in terms of the change that we need to see.

**Lesley Agams:** I would definitely agree with Alexia and most definitely with what Shaista said. The UK government has not done enough to listen to victims, and especially to victims in host countries like Africa. As a very active member of the African feminist movement, the same critique that Shaista just brought up about safeguarding is the same thing my sisters say in Africa: "Safeguarding is not about us. It is about the 'white-saviour organisations' protecting themselves."

**Chair:** We have a bit of a lag. Lesley, we lost you there. You were saying that safeguarding was about safeguarding the organisation, not the beneficiaries.

**Lesley Agams:** Exactly. That is how my feminist sisters see it on the continent. I was also agreeing with Alexia that most of the bandwidth of those victims' voices that are being listened to are white, frequently middle-class women who do not share either our realities or even our cultural uniqueness or eccentricities. As I mentioned earlier, it is still that top-down imposition of solutions that, even while I was working with



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international development, I found difficult and I continue to speak out against. No, we have not been listened to.

**Q129 Mr Sharma:** I know that you do not have a good opinion of the government, but is there anything in particular that you think the UK government has done well in its response to sexual exploitation, abuse and harassment in the aid sector, Shaista and Alexia?

**Shaista Aziz:** Like I said, the IDC has been a very important outcome. I would like that Committee to have more teeth, quite frankly, and to be able to implement the recommendations that it has put forward. The Charity Commission has also been forced to listen to a lot of truths that perhaps have been deeply uncomfortable.

I would say that the UK government's standing in the world is not particularly great; let us be frank about that. The harms that are being done to women through the international development lens are being done to women here in the UK. For example, women with no recourse to public funds are being harmed daily in this country, and they are disproportionately women who come from some of the countries where the aid sector is very prominent.

I deliberately make these connections because everything is connected. When we look at our work, we look at it through an intersectional lens and purpose, because that is the only way in which you can analyse power. The abuses that we are talking about here are all about power. Misogyny, racism, sexism, sexual exploitation and abuse are about power. On the previous panel, one of the respondents was talking a lot about how, in some parts of the world, justice is not available. It is difficult to get justice for sexual abuse and crimes in any country in the world, including the UK, where rape prosecutions, for example, are falling off a cliff right now. These are things that we need to be mindful of because the issues that the International Development Committee has been looking at are not just issues "over there"; they are issues that we have to link back to what is going on here.

To be fair, because I do strive to be fair, I would say that the IDC has done really good work, but it needs teeth and it needs to be able to implement its findings. When the IDC is calling people to give evidence, those people need to explain why they do not want to show up. It is not good enough for a man with a lot of power who runs an international aid organisation to make an excuse. It just shows that they are not taking this seriously.

**Alexia Pepper de Caires:** This is a question for black and brown women in our previously colonised countries to answer. It is not a question for me to answer.

**Q130 Mr Sharma:** Do you have any recommendations for what the UK government should do now to enact change across the whole sector?



**Alexia Pepper de Caires:** If we start a serious agenda of antiracism, decolonising and removing patriarchy from our systems of governance, we have a chance of doing the work that is necessary. But given that we are going in the opposite direction at the moment on those fronts, I find it hard to sit here and recommend, yet again, what the government should do. The government in any country or nation of organised people is always capable of doing things from their heart, and I do not feel that it is worth you or I sitting in this space and making recommendations to a government that has failed to listen to thousands and thousands of good recommendations, not just on aid but on many human rights. Until we have a government that is human-rights-led and interested in accountability, and that opens up space for the people with lived experience to come in and do the work, I honestly feel that this is a waste of your and my energy.

**Shaista Aziz:** I would echo that. We have to lead by example. The issue of Aid Too is not just confined to aid; we know that there has been Westminster Too and many allegations inside Westminster of bullying and harassment, particularly of junior women members of staff, which is what we see in other contexts as well. We currently have an MP against whom serious allegations have been made. The government has not been willing to remove that individual while an investigation is going on, so we have to be really frank and honest and say, "If the government is not able to lead by example literally in its own house, how can anybody really expect it to be doing the work that is required anywhere else?"

What I will say is that, when Penny Mordaunt was in the position that she was in, she was very graceful. She did listen to Alexia and I, and she reacted to what we were saying. I may not share the same politics as the Conservative party, but I very much strive to be fair. I have already said this, but Pauline Latham has been doing incredible work as part of this Committee and has gone out of her way to hold people to account inside and outside the Committee. This is why I have a great deal of respect for her. The same thing goes for Maria Miller. When she met us, she was very open to listening to us, she reacted to what we were saying, and she followed through on what we were saying.

My point here is that there are always individuals in every system who do the work but, sadly, given the situation that the UK is in at the moment, it does not really have a leg to stand on when it comes to human rights or lecturing anyone on getting their house in order, when it is either incapable or unable to do the work itself.

**Lesley Agams:** I agree with them completely.

**Paula Donovan:** The United Kingdom is not just any country; it is really important for the United Kingdom, when it is talking about these issues, not to be too congratulatory of itself when it says that it has taken these issues, put them at the forefront and kept them there. It is one of five countries in the world that have permanent membership on the UN



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Security Council. It has enormous wealth and power, and veto power. The United Kingdom is in a class by itself and should take that responsibility quite seriously.

For example, the United Kingdom passes some very significant and essentially international laws as Security Council resolutions. There is a resolution that says that, if a country, taking Burundi as an example, is sending its soldiers as UN peacekeepers, and if it learns from the United Nations or from women themselves that those peacekeepers are sexually exploiting or abusing the local population, and it does not do its job and investigate and prosecute those soldiers, then that country should be kicked out of peacekeeping.

The United Kingdom has had years to kick Burundi out of peacekeeping. There have been endless reports from the United Nations itself—from special commissions instructed by the United Nations, including very much the United Kingdom, and from human rights groups—saying that Burundi's soldiers are guilty of gross crimes against humanity in their own country. With the full endorsement of the United Kingdom, year after year after year, the United Nations peacekeeping operations have paid the government of Burundi—this criminal, rogue government that has not changed with its new president—\$13 million a year to send its peacekeepers to the Central African Republic, where other African women and children will be raped by the same soldiers. The government of Burundi has, so far, in any case that has been brought to its attention, never investigated, brought to trial, prosecuted and punished any of the accused soldiers.

With great power comes great responsibility. Regardless of how many letters we send to the Permanent Representative and how many discussions we have, over and over again we find that the United Kingdom is not doing its job in that one instance, which is replicated all over the UN system. It has a huge amount of power as one of the five permanent members of the Security Council, and it should exercise that power.

**Chair:** Thank you very much. You have all given us so much to think about. I am particularly grateful that you have brought forward the intersectionality of what is going on here, and how the abuse of power is playing on the misogyny and the racism that is around. I am also constantly very uncomfortable about the colonial, patriarchal approach that some of these organisations have. We definitely need to challenge that culture if we are going to prevent abuse.

I will paraphrase quotes from two of you. Shaista said that safeguarding is not the same as accountability. I completely agree. We need to focus on prevention and also on the culture change, which linked very much to what Lesley Agams said, which was that safeguarding is about safeguarding the organisation, in her opinion, rather than safeguarding the beneficiaries and the workers. It is something that this Committee has been working on for a long time.





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In the news last week, we saw what had been happening during the Ebola outbreak in the DRC, and it pains me that it is journalists who are finding out and bringing this to the fore, rather than the organisations or, indeed, the donors challenging those organisations to prevent it happening in the first place. We are aiming to get this report out before Christmas, and we want to see those changes both with donor organisations and with the NGOs, because I fail to accept that we are unable to safeguard some of the most vulnerable people on the planet, not least because the aid workers are paid to do just that, not to exploit them. Thank you very much for your time.