

# GENDER AND COMPLAINTS MECHANISMS

A Handbook for Armed Forces and Ombuds Institutions to Prevent and Respond to Gender-Related Discrimination, Harassment, Bullying and Abuse



Megan Bastick



**DCAF**  
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The Geneva Centre for the Democratic Control of Armed Forces (DCAF) is an international foundation whose mission is to assist the international community in pursuing good governance and reform of the security sector. DCAF develops and promotes norms and standards, conducts tailored policy research, identifies good practices and recommendations to promote democratic security sector governance, and provides in-country advisory support and practical assistance programmes. Visit us at [www.dcaf.ch](http://www.dcaf.ch).

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Megan Bastick, July 2015

# 1 INTRODUCTION

This section provides an overview of what will be covered in this handbook. It contains the following subsections.

- Why it is important for armed forces to include women and, more generally, be diverse?
- The aims of this handbook.
- The audiences for the handbook.
- How the handbook was developed.
- An outline of the contents of the handbook.

## **1.1 Why do armed forces need women and diversity?**

Around the world, armed forces are recognizing the important contribution that women make within their ranks, and the fact that increasing the representation of female personnel across all ranks is fundamental to future capability and operational effectiveness. While providing equal opportunities for women and men is a legal obligation for armed forces, forces also recognize the need to attract the best and the brightest talent, male and female. Where armed forces fail to tap into 50 per cent of the workforce's talent pool because of an inability to attract women, and when they fail to retain women whom they have trained and developed, forces risk capability gaps. Moreover, recent operational experience, for example in Afghanistan, has demonstrated that female personnel bring particular operational benefits, such as in community outreach and intelligence gathering.



Organizations whose personnel are diverse in terms of gender, ethnicity, sexual orientation, background and other characteristics are more effective. Studies demonstrate that diverse and gender-balanced teams deliver better outcomes, particularly where innovation and problem-solving are important.<sup>1</sup> Diverse armed forces have a broader range of skills and experience with which to meet the challenges of increasingly complex and fluid defence environments. It is, moreover, an important principle that an armed force should be representative of the society it serves. The right to serve in the armed forces is an aspect of a person's right to full participation as a citizen.

However, women have traditionally been and remain underrepresented in armed forces (see Box 1). In most armed forces there are relatively few women at senior levels, and women are often concentrated in combat support, logistics, administration and medical positions.<sup>2</sup> There remain barriers to the full, active and meaningful participation of women in armed forces. Some of these barriers are easily recognized: sexual harassment, sexual abuse, refusing to assign women to certain units, etc. Other barriers are more subtle – for example, working conditions that make it impossible for a person who cares for children to advance professionally, lack of appropriate mentors for women, biased promotional procedures, etc. In

**BOX 1: WOMEN IN THE ARMED FORCES OF NATO MEMBERS, BY COUNTRY, 2013**

COUNTRY	%
Albania	14.4
Belgium	7.6
Bulgaria	14.6
Canada	14.1
Croatia	9.4
Czech Republic	13.9
Denmark	5.9
Estonia	11.2
France	13.5
Germany	10.1
Greece	11.1
Hungary	20.3
Italy	4.0
Latvia	16.5
Lithuania	9.8
Luxembourg	5.3
Netherlands	9.0
Norway	9.7
Poland	2.8
Portugal	12.0
Romania	5.2
Slovakia	9.2
Slovenia	13.6
Spain	12.4
Turkey	0.9
United Kingdom	9.7
United States	18.0

*Source:* Rey Juan Carlos University, Australian Human Rights Commission and Australian Defence Force, *UNSCR 1325 Reload*, 2015, p. 26.

many cases the barriers to women's advancement within the military are also barriers to achieving wider diversity within the armed forces.

Breaking down these barriers requires, first and foremost, leadership. Leaders at the top must send a clear message that the armed forces are serious about achieving diversity and promoting gender equality, and must drive forward the necessary changes. Leaders at every level, from a squad upwards, must take responsibility for ensuring that they are promoting an environment where men and women are given equal opportunities.

In tackling barriers to women's full participation in armed forces, a key priority must be to prevent gender-related discrimination, harassment, bullying and abuse – in other words, to ensure that all personnel, men and women, serve in an environment that is healthy, safe and respectful, and upholds their human rights. Effective and trusted complaints mechanisms are a crucial component of such an environment. Media exposés and scandals show the risks to the credibility and respectability of military institutions when prevention and complaints mechanisms are not effective. Not so visible, but equally important, are the women and men who leave the military as a result of discrimination, bullying, harassment or abuse, feeling betrayed and, in some cases, bearing the scars for the rest of their lives.

In recent years many armed forces have made efforts to address discrimination against and harassment and abuse of female personnel. At the same time, problems of gender-related bullying and assault of men have been recognized. Sexual exploitation and abuse of local people by military personnel are also receiving attention from the North Atlantic Treaty Organisation (NATO) and the United Nations (UN). Addressing the causes of these gender-related complaints requires careful analysis: examining all aspects of military life, and interrogating how they are differently experienced by women and men, including by women and men who are part of minority racial, ethnic, religious or linguistic groups, of different sexual orientations or of non-conforming gender identities. This is referred to within NATO as using a "gender perspective". Applying a gender perspective to complaints mechanisms is the subject of this handbook. Box 2 suggests some key questions for complaints mechanisms, which will be explored in more detail in the following sections (see p. 4).

## 1.2 Aims of this handbook

This handbook aims to bring together and share knowledge and experience from NATO, Partner and Allied armed forces as regards prevention of misconduct and handling and monitoring of complaints within armed forces, with particular regard to gender. It is a resource for armed forces, ministries of defence, ombuds institutions and others that manage and oversee armed forces in:

- establishing a safe and non-discriminatory environment for men and women in the armed forces;
- dealing with instances and complaints of gender-related discrimination, harassment, bullying and abuse in the armed forces;
- monitoring and overseeing the handling of instances and complaints of gender-related discrimination, harassment, bullying and abuse in the armed forces.

### BOX 2: KEY QUESTIONS FOR COMPLAINTS MECHANISMS

- What sort of complaints do female and male personnel make?
- Are all complaints fairly and effectively investigated?
- Are complainants supported and protected from retaliation?
- To what extent is complainants' confidentiality assured?
- If there has been wrongdoing, are sanctions enforced and systemic changes made?
- Are complaints mechanisms accessible to deployed personnel?
- How are records kept about complaints?
- How are complaints mechanisms themselves monitored?

We hope the handbook is used at a national level to assess and improve complaints mechanisms within armed forces, so as to promote equal opportunities for men and women, and better working conditions for all military personnel. We hope, too, that it will stimulate further sharing of good practices between armed forces.

### 1.3 Audiences for this handbook

This handbook is written for a range of users.

- Military commanders and leaders at all levels who have day-to-day responsibility for ensuring that the personnel under their care are protected from mistreatment and fostered to excel.
- Complaint managers and human resources personnel within armed forces.
- Ministries of defence, which develop and oversee the implementation of policies concerning gender, female personnel and complaints.
- Ombuds institutions for the armed forces, including general ombuds institutions for all branches of government, parliamentary ombuds institutions for the armed forces and inspectors general.
- National human rights institutions (NHRIs) with a mandate to receive and investigate complaints from within or relating to armed forces.
- Regional and international organizations that support defence institution building and good governance within armed forces in transition and post-conflict states, such as the European Union, NATO, the Organization for Security and Co-operation in Europe (OSCE) and the United Nations.
- Civil society organizations, military staff associations, unions, veterans' associations and the media, which play a role in monitoring how the armed forces handle gender issues.
- Academics and others engaged in promoting gender equality, human rights and good governance in the armed forces.

In particular, it is hoped that this handbook will be of use to armed forces aiming to implement national and NATO commitments linked to the UN Security Council resolutions on women, peace and security.

### 1.4 How this handbook was developed

This handbook draws upon a number of sources of information. A great deal of material was gathered from academic sources, and from published reports and policies of armed forces, ombuds institutions and NHRIs. A draft of the handbook was reviewed and extensively discussed at a NATO Science for Peace and Security Programme Advanced Research Workshop in April 2015, which brought together 50 experts from 32 countries.<sup>3</sup>

This handbook is a complementary resource to DCAF's *Handbook for Ombuds Institutions for the Armed Forces* and *Gender Self-Assessment Guide for the Police, Armed Forces and Justice Sector*, and the DCAF, OSCE, OSCE/ODIHR guidance notes *Integrating a Gender Perspective into Internal Oversight within Armed Forces* and *Integrating Gender into Oversight of the Security Sector by Ombuds Institutions & National Human Rights Institutions* (all listed in Section 7).

## 1.5 Outline of the handbook's contents

The structure of this handbook was designed, firstly, to show how applying a “gender perspective” to complaints within armed forces illuminates how culturally embedded ways of doing things often directly and indirectly discriminate against female personnel, as well as some groups of male personnel. Secondly, the handbook explores how the mutually complementary aspects of a complaints system – prevention of misconduct, response and monitoring – can be sensitive to gender, and can support the full participation of women in armed forces. It is divided as follows.

- Section 1: Introduction
- Section 2: Applying a gender perspective to complaints mechanisms
- Section 3: Leadership on gender equality
- Section 4: Preventing gender-related discrimination, harassment, bullying and abuse
- Section 5: Encouraging reporting of and responding to gender-related complaints
- Section 6: Monitoring and learning from gender-related complaints
- Section 7: Additional resources on gender and complaints

It is important to emphasize that robust response and monitoring systems help to prevent misconduct, so these aspects should be seen as interrelated rather than sequential. In each of the sections on prevention of misconduct and response to and monitoring of gender-related complaints, principles of good practice are complemented by short case studies.

## Endnotes

1. Rey Juan Carlos University, Australian Human Rights Commission and Australian Defence Force, *UNSCR 1325 Reload*, 2015, p. 33, [www.nato.int/issues/nogp/meeting-records/2015/UNSCR1325-Reload\\_Report.pdf](http://www.nato.int/issues/nogp/meeting-records/2015/UNSCR1325-Reload_Report.pdf).
2. For example, Anita Schjøset, "Data on women's participation in NATO forces and operations", *International Interactions: Empirical and Theoretical Research in International Relations*, Vol. 39, No. 4, 2013, p. 577; A. R. Febbraro and Ritu M. Gill, "Gender and military psychology", in Joan C. Chrisler and Donald M. McCreary (eds), *Handbook of Gender Research in Psychology, Volume 2: Gender Research in Social and Applied Psychology* (New York/Dordrecht/Heidelberg/London: Springer, 2010), pp. 671–696.
3. DCAF and the Parliamentary Ombudsman for the Norwegian Armed Forces, "Preventing and responding to gender-related complaints in armed forces", report of NATO Science for Peace and Security Programme Advanced Research Workshop, Geneva, 28–30 April 2015, [www.dcaf.ch/Event/Preventing-and-Responding-to-Gender-Related-Complaints-in-Armed-Forces](http://www.dcaf.ch/Event/Preventing-and-Responding-to-Gender-Related-Complaints-in-Armed-Forces).



# 2

## APPLYING A GENDER PERSPECTIVE TO COMPLAINTS MECHANISMS

### 2.1 Introduction

“Gender” has become a term much discussed within NATO, which has developed policy and directives around integrating a gender perspective in operations, and in a number of armed forces. However, many people remain uncertain what “gender” means, or hold the false assumption that it is only “about women”. Likewise, although gender equality is not a new concept, there is often confusion as to what it allows and requires in terms of affirmative action to benefit women. This section thus focuses on clarifying some of the new terminology related to gender and armed forces, beginning with a discussion of the terms “gender” and “gender perspective”, and maps the relationship between a “gender perspective” and armed forces’ obligations and commitments to gender equality.

Understanding the concept of gender is the basis for understanding what complaints are “gender-related”. This section outlines some of the complaints most easily recognizable as gender-related: those related to sexual and homophobic discrimination, harassment, bullying and abuse. It then considers why gender-related discrimination, harassment, bullying and abuse may be particularly prevalent in armed forces, but underreported and poorly handled. This brings into focus deep-rooted issues concerning military ethos and culture.

This section contains the following subsections.

- What is a “gender perspective”?
- What does gender equality require?



- What does “gender equality” require as regards performance tests?
- What are “gender-related complaints”?
- Why are gender-related complaints so often poorly handled by armed forces?

## 2.2 What is a “gender perspective”?

### “Gender”

The term “gender” became widely used in the 1970s as a way of thinking about the social roles of men and women, aside from mere biological differences between males and females. Various definitions of gender have been adopted by international and regional organizations. NATO’s definition is as follows:

**Gender** refers to the social attributes associated with being male and female learned through socialisation, and determines a person’s position and value in a given context. This means also the relationships between women and men and girls and boys, as well as the relations between women and those between men. These attributes, opportunities and relationships are socially constructed and are learned through socialisation processes. Notably, gender does not equate to woman. (NATO, *Bi-Strategic Command Directive 40-1: Integrating UNSCR 1325 and Gender Perspective into the NATO Command Structure*, 2012.)

NATO’s definition underlines that gender roles are *learned* and *socially constructed* rather than innate. For example, in many societies women are encouraged to take on nurturing roles, such as nursing, while men are encouraged to be more physically aggressive. Correspondingly, in armed forces women have historically been engaged in support roles; men have been the front-line fighters. However, there have always been exceptions – women who fought, men who cared for others – which show that assumptions about what men and women should do (“gender roles”) should not limit what they are permitted to do. Likewise, the fact that gender roles are socially constructed rather than innate means that they change with time. The behaviours expected of men and women have changed dramatically in recent decades, so that in most societies men are now expected to share parenting responsibilities, and women to earn their own money. This changes the

demands upon armed forces as employers: male personnel expect the opportunity to be actively engaged parents as well; female personnel expect career progression and access to development opportunities.

NATO emphasizes that gender *does not equate to woman*. This underlines that in thinking about gender we are not only looking at how women might be advantaged or disadvantaged: we understand gender roles as affecting both women and men. For example, this involves examining the different challenges for both women *and* men in military life; if planning engagement with the host community in an area of operations, it entails thinking about what different types of influence women *and* men wield in the community, and how male and female personnel might best be deployed to engage with men and women.

NATO's definition of gender also emphasizes that gender roles *determine a person's position and value in a given context*; that is, in any particular context, characteristics typically associated with being a man or a woman are differently valued. Historically, armed forces have highly valued aggression, a trait more associated with men than with women. It is in most cases difficult to be promoted to the most senior positions unless one has served in a combat unit. This disadvantages both men and women outside those units, but particularly women if such units are closed to them. Armed forces tend to place a high value on conformity, fitting in, being one of the team. If a person is in a minority in the team, for example because she is a woman (or part of an ethnic, linguistic, religious or sexual minority), this can make it more difficult for them to be equally valued.

### “Gender perspective”

From the 1970s onwards scholars applied “gender analysis” to development and public policy work, examining the different types of work that men and women do, and differential access of men and women to public institutions and decision-making. In the 1990s women's advocates were successful in highlighting on the international stage the particular impacts of armed conflict upon women, culminating in the adoption of UN Security Council Resolution 1325 on Women, Peace and Security in 2000. This calls for, among other things, UN peacekeeping missions to address the particular needs of women and girls better, for women to participate fully and equally in peacebuilding processes and for more women to be deployed as peacekeepers. The

UN Security Council has continued to adopt resolutions on women, peace and security. Many nations have adopted national action plans on women, peace and security and/or Security Council Resolution 1325 to support their implementation of the resolutions on a national level, both in their own institutions, including armed forces, and in their international engagements.

The “women, peace and security” agenda has helped armed forces to understand that in the course of an armed conflict or security disturbance, a person’s gender – as well as age, disability, ethnicity, sexual identity and class – is intimately associated with how he or she experiences, is affected by and participates in violence and security. An armed force interacting with a local population thus needs to understand the particular impact that gender has on the security environment, and on the security needs of women, men, girls and boys. Some organizations describe this as being “gender responsive” or “gender sensitive”. NATO describes it as “integrating a gender perspective”:

**Integration of gender perspective** is a way of assessing gender-based differences of women and men reflected in their social roles and interactions, in the distribution of power and the access to resources... The aim of which is to take into consideration the particular situation and needs for men and women, as well as how the activities of NATO have different effects on them. More fundamentally, implementing a gender perspective is done by adapting action following a “gender analysis”. (NATO, *Bi-Strategic Command Directive 40-1: Integrating UNSCR 1325 and Gender Perspective into the NATO Command Structure*, 2012.)

Applying a “gender perspective” to one’s own military helps to reveal that, within armed forces, assumptions about what it means to be a man or a woman (gender roles) have an impact on how female and male personnel are treated by one another and by the military institution.

### 2.3 What does “gender equality” require?

Applying a “gender perspective” can be understood as an analytical approach that aims to identify sex discrimination and gender inequality. NATO has committed to strive for gender equality in its force structures and to promote gender equality in operations, defining it as follows:

**Gender equality** refers to the equal rights, responsibilities and opportunities for women and men, and girls and boys. Equality does not mean that women and men will become the same, but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born female or male. (NATO, *Bi-Strategic Command Directive 40-1: Integrating UNSCR 1325 and Gender Perspective into the NATO Command Structure*, 2012.)

National, regional and international laws concerning gender equality (see Box 3) are applicable to armed forces. Many armed forces have institutional laws and policies to ensure equality between male and female personnel. Some armed forces have established a specialized body to support its achievement, such as Spain's Military Observatory for Equality between Men and Women in the Armed Forces.<sup>1</sup>

### **BOX 3: EXAMPLES OF INTERNATIONAL AND REGIONAL LAWS AND NORMS REQUIRING EQUAL OPPORTUNITIES FOR MEN AND WOMEN IN ARMED FORCES**

#### **UNITED NATIONS**

Convention on the Elimination of All Forms of Discrimination against Women (1979)

#### **COUNCIL OF EUROPE**

Discrimination against women in the workforce and the workplace, Recommendation 1700 (2005)

Human rights of members of the armed forces, Recommendation 1742 (2006) and Recommendation CM/Rec (2010) 4 and explanatory memorandum

#### **EUROPEAN UNION**

European Union Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (1976)

#### **OSCE**

Ministerial Council Decision No. 7/09 on Women's Participation in Political and Public Life (2009)

For a more detailed discussion of international human rights commitments concerning armed forces personnel, see Hans Born and Ian Leigh (eds), *Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel* (Warsaw: OSCE/ODIHR, 2008).

The concepts of “gender equality” and “sex discrimination” have been comprehensively articulated in international and national law, and their application to the military examined. A gender perspective in the armed forces should be guided by the following principles and approaches.

- Equality between women and men demands not only formal (*de jure*) equality – that women and men should be treated the same; but substantive (*de facto*) equality – that women and men should be given equal opportunities and empowered by an enabling environment to achieve equality of results.<sup>2</sup> The Convention on the Elimination of All Forms of Discrimination against Women requires that states – and armed forces as part of the state – take steps to ensure the full development and advancement of women and the full realization of women’s rights, including women’s and men’s equality of opportunity. This means that it is not enough to guarantee women treatment that is identical to that of men; the biological, socially and culturally constructed differences between women and men must be taken into account, which may require non-identical treatment to address those differences.
- The Committee on the Elimination of All Forms of Discrimination against Women has specifically said that states should create the conditions necessary for women to “develop their personal abilities, pursue their professional careers and make choices without the limitations set by stereotypes, rigid gender roles and prejudices”.<sup>3</sup>
- The use of affirmative action (also called “positive action”) is encouraged as one means of realizing substantive equality between men and women.<sup>4</sup> Examples of affirmative action include recruitment campaigns targeted at women; targets for women’s participation; and sex-specific programmes for mentoring, training and advancement. Some institutions go further, adopting “positive discrimination”, such as by having quotas for women.
- Achieving equality between women and men includes a positive obligation to address the underlying causes and structures of gender inequality (“transformative equality”), including discriminatory norms, prejudices and stereotypes, and transformation of institutions that perpetuate discrimination and inequality.

Some militaries have used the terms “gender neutral” or “gender blind” to convey that it does not matter if you are a woman or a man – all are treated the same, and share equitable opportunities as members

of the military. Gender-neutral language is to be recommended: for example, referring to personnel as “he/she” or “they” instead of only “he”. However, when it comes to developing policies, being “gender neutral” or “gender blind” simply obscures ingrained structural barriers to women’s equal opportunities. Operational effectiveness requires exposing and removing such barriers. To avoid discrimination, one must actively analyse how different policies and practices are likely to affect men and women, and shape interventions accordingly to promote equality.

## **2.4 What does “gender equality” require as regards performance tests?**

Many armed forces have struggled to set fitness tests that are fair to men and women, and as such, this issue invites specific attention. Gender equality does not mean lowering standards where those standards are appropriate for the role in question. All personnel must be capable at all times of performing a broad range of general military tasks, in addition to the specific duties associated with their occupation. Tests should be based upon a legitimate work purpose, assessing the skills and abilities at the level actually needed to be able to perform the job successfully.

If women are being screened out in greater numbers by a particular assessment, one should ask the following questions.

- Is the skill or ability being assessed actually needed for the position being applied for?
- If it is needed, is there an alternative way of assessing whether a female candidate has this skill or ability that does not disproportionately disadvantage women?
- If there is no alternative way of assessing the skill or ability, has the adverse impact upon women been minimized as much as possible? For example, some military units in which women have found it more difficult to meet fitness requirements take women into training a few weeks early to give them pre-course fitness training. Others offer women-only fitness training, which proceeds at a slightly slower pace but reaches the same standard at the end of the course (illustrating that the “general” physical instruction is geared towards male physical capabilities).

Developing fitness tests may require a balance between achievable standards for women and men, and ensuring that perceptions of the ability of women and men will not have a negative impact on their acceptance in the military. The Canadian Army, for example, for several decades assessed physical fitness based upon the ability to run fast for an extended period of time and do a large number of chin-ups, push-ups and sit-ups. Operational experience proved this assessment to be inadequate to meet needs. As a result, a fitness test was scientifically developed. Although the standards were different for women and men, the test predicted the ability to train to conduct job-related physical tasks, such as carrying sandbags. However, military members were persistent in their belief that the standards were lowered for women. The predictor test was thus abandoned and a new task-related assessment was scientifically developed, in which all serving women and men are required to meet the same minimum standard. The FORCE (Fitness for Operational Requirements of Canadian Armed Forces Employment) minimum physical fitness standard includes six common military tasks: escape to cover; pickets and wire carry; sandbag fortification; picking and digging; vehicle extrication; and stretcher carry.<sup>5</sup>

## 2.5 What are “gender-related complaints”?

If a complaints system is operating effectively, the complaints submitted by women and men will include some that are clearly related to their gender roles: in this handbook, we refer to these as “gender-related complaints”. It is, however, important to remember that in *all* complaints a person’s gender will have some impact upon their situation. Furthermore, in many cases a person’s complaint does not immediately appear to relate to gender, but investigation reveals that the person is being treated unequally because she is a woman, or because he/she is not conforming to stereotypes of masculinity or femininity.

### **Gender-related complaints include, but are not limited to, those of:**

- sexual discrimination, direct or indirect
- sexual harassment
- discrimination or harassment on the basis of sexual orientation or gender identity
- bullying of a nature to ridicule a person’s masculine or feminine identity
- sexual abuse
- sexual exploitation.

Both men and women can be the victim or the perpetrator of gender-related misconduct. Complaints of any of the following are gender-related.

- **Sexual discrimination**, which is unfair treatment, arbitrary distinction, exclusion or restriction made on the basis of a person's sex or gender. In a number of armed forces women still experience *direct* sexual discrimination: certain jobs or positions are closed to women.<sup>6</sup> More widespread is *indirect* sexual discrimination: conditions, requirements, policies or practices that appear to be neutral in so far as they relate to men and women, but which in fact members of one gender find it more difficult to meet than members of the other gender.

Many armed forces and ombuds institutions for armed forces have identified indirect sexual discrimination against female personnel in recruitment, assignment, career development, deployment and promotion (see Box 4). Sometimes the discrimination flows from lack of provision for balancing a military career with family. One example is a requirement for years of unbroken service for promotion to senior ranks or overseas deployment – discriminating against those who have taken time off to care for children: not exclusively, but mostly, women. Other times, more subtle barriers to women's advancement exist, such as all-male promotion boards that rely upon a "boys' network" of recommendations, and lack of mentors for female personnel. Sometimes equipment does not fit female bodies, preventing them from performing particular functions easily.

#### BOX 4: UNCOVERING INDIRECT SEXUAL DISCRIMINATION

Research in the Finnish Defence Forces indicates that men's salaries are more than 15 per cent higher those of women of the same rank. While the research reported did not uncover any *direct* discrimination concerning salaries or promotion, men were more likely to be in positions with opportunities to earn additional income, for example by participating in field training exercises or working during the weekends or at night. Moreover, men were more likely to be in positions with special requirements, which are better paid, such as extreme mental and physical stamina or special training (for example, pilots and other aviation professionals).

*Source:* Personal correspondence from Esa Janatuinen, Defence Command Finland, 31 October 2013.



Male personnel also experience direct sexual discrimination when, for example, they are denied access to special provisions for parents, based upon gender stereotypes that parenting is women's rather than men's role. Male personnel are also, at times, victims of institutional sex discrimination when they are performing military roles historically associated with females, such as nursing.

- **Discrimination on the basis of sexual orientation or gender identity**, which is unfair treatment or arbitrary distinction based on a person's actual or perceived non-heterosexual sexual orientation (for example, being lesbian, gay or bisexual), or based upon how a person identifies and expresses their gender in terms of appearance, mannerisms and behaviour. Discrimination on the basis of gender identity includes (but is not limited to) discrimination against a person who is transgender – that is, a person whose self-identity does not conform unambiguously to conventional notions of male or female gender.<sup>7</sup> Although at least 50 countries' armed forces have explicit policies confirming that lesbian, gay and bisexual people can serve, and at least 18 countries (including 11 NATO members) allow transgender people to serve, there remain armed forces where *all* positions are closed to lesbian, gay, bisexual and transgender (LGBT) people.<sup>8</sup>
- **Sexual harassment**, which is usually defined within institutional policies. A typical definition is:

... any unwelcome sexual advance, request for a sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment, or creates an intimidating, hostile or offensive work environment.<sup>9</sup>

Sexual harassment is recognized as a problem in many armed forces, not only violating the rights of victims but detrimental to cohesion, discipline and morale. In most armed forces it is a disciplinary or criminal offence, depending on the gravity of the act. Women are generally at a much higher risk of being sexually harassed than men, with the vast majority of cases being perpetrated by a male

colleague or commander. Nonetheless, victims and perpetrators may be male and female. For example, the Finnish military's 2012 climate survey found that 14 per cent of male conscripts and 35 per cent of female conscripts had experienced sexual harassment during their service.<sup>10</sup> An anonymous survey of British Army personnel found that 12 per cent of women and 6 per cent of men said that someone had made unwelcome attempts to touch them.<sup>11</sup>

- **Harassment on the basis of sexual orientation or gender identity**, which is also a problem in armed forces. However, such harassment is neither universal nor inevitable. When Canada and the United Kingdom (UK) lifted bans on gay and lesbian people serving in the armed forces, fears that this would result in a spike in harassment and bullying were not sustained.<sup>12</sup> Example 1 illustrates how armed forces can take steps to support the inclusion of LGBT personnel (see p. 20).
- **Sexual abuse** (which includes rape, and in some contexts is referred to as “sexual assault”) is a crime, and as such is defined under national criminal law. A NATO definition is an “actual or threatened physical act of sexual nature either by force or other coercive conditions”.<sup>13</sup> It is increasingly being acknowledged that sexual abuse is committed within armed forces against men and women. For example, a 2014 survey within the United States (US) military found that 4.3 per cent of female personnel and 0.9 per cent of male personnel had experienced “unwanted sexual contact” in the past year.<sup>14</sup> The British armed forces’ military police reportedly referred for prosecution 53 allegations of rape and 106 allegations of sexual assault during 2012 and 2013.<sup>15</sup> Sexual abuse of local populations also occurs, on mission and around bases at home and abroad.
- **Sexual exploitation**, which is defined by NATO as “any actual or attempted abuse of a position of vulnerability, differential power or trust for sexual purposes, including profiting monetarily, socially or politically”.<sup>16</sup> The concept of sexual exploitation and abuse evolved to prohibit peacekeepers from engaging in exploitative or abusive relationships with local women, men, girls and boys, including through paying for sex. It recognizes that sexual exchange between

international personnel and intended beneficiaries of their assistance is inherently inappropriate, even where it is not illegal under the national law of the host or deploying nation. Where such behaviour creates a demand for human trafficking, this has the further damaging impact of funding criminal organizations, as recognized by the NATO Policy against Human Trafficking.

### **EXAMPLE 1: THE BRITISH MILITARY'S MECHANISMS TO PREVENT DISCRIMINATION AND HARASSMENT OF LGBT PERSONNEL**

In 2000 the British armed forces lifted the ban on homosexual and bisexual men and women serving in the armed forces. They now allow them to serve openly, and prohibit discrimination on the basis of sexual orientation. The change of policy was reinforced by a set of institutional measures aimed at combating homophobia and discrimination against LGBT personnel. The Armed Forces' Code of Social Conduct (Guidance Notes for Commanding Officers, February 2015) concerning personal relationships sets out as general policy that "the Services will only intervene in the private lives of individuals where it is necessary in the interests of preserving operational effectiveness". Training was modified to support the new policy: all military personnel and the civilians who work alongside them are required to undergo diversity and inclusion training at regular intervals throughout their careers. The training, delivered using blended learning techniques, includes pre-recorded vignettes of scenarios, and discussion around the interdependencies of sexual orientation and authenticity in the workplace and appropriate behaviours. Each service has an LGBT employee network group with its own Facebook and Twitter accounts, physical support networks and regular meetings and events.

From November 2014 all personnel were invited to declare their sexual orientation on the armed forces' joint personnel administration system. This is part of a wider initiative by which the armed forces seek to understand their workforce, and ensure that they are recruiting from the broadest pool and that support services are available to those who need or want them. While declaration rate data are kept at a strategic level to ensure that no one can be identified (given the low numbers in some ranks and specialist professions), it is hoped that through personnel declaring their sexual orientation, how open they are in the workplace and how supported they feel, a broader understanding will be achieved that sexual orientation often affects how people feel and operate in the workplace.

- **Gender-related hazing, bullying or mobbing.** Most armed forces recognize hazing, bullying and/or mobbing as problematic, but perhaps do not see them as gender-related forms of abuse. Hazing, bullying and mobbing of male victims often involve incidents where a perpetrator has attempted to devalue the victim's real or imagined masculine identity. For example, men who are gay or from an ethnic minority may be verbally or physically abused by a perpetrator trying to assert that he or she is from a superior group. Perpetrators may be attempting to demonstrate that an individual man is unworthy of membership in their group. Physical violence can be an attempt to prove that they are not strong enough. Sexual violence may be an attempt to label them as homosexual, implying that they are not "virile" enough. In the US military, male victims of sexual assault are four times more likely than female victims to indicate that their worst incident of sexual assault involved hazing, and to recognize the intention to be to humiliate them as opposed to sexual.<sup>17</sup>

Sexual discrimination, harassment and abuse have been shown to occur in armed forces along a continuum. The risk of sexual abuse increases where there is a sexualized work environment, where demeaning attitudes towards women are allowed to flourish and where there is overall gender inequality.<sup>18</sup>

It is important to underscore that, as stated above, a person's gender impacts upon how they are likely to experience discrimination and violence *along with* their age, disability, ethnicity, sexual orientation, gender identity, class, etc. Gender-related complaints should be understood as not *exclusively* related to the victims' gender: inevitably, other characteristics impact upon how they are treated. The intersections between different types of discrimination should be examined ("intersectionality"). For example, if a woman who is from a minority ethnic group is being harassed, her ethnicity may be relevant. Likewise, if a male amputee is told he is "no longer a man", this harassment is related to both his gender and his disability.

## 2.6 Why are gender-related complaints so often poorly handled by armed forces?

### Military ethos

“Military ethos” articulates the values and principles by which members of military organizations are expected to live. It captures the essential spirit and strengths of members of the armed forces. Military ethos recognizes the heritage, customs and achievements of the organization, and defines acceptable standards which govern the behaviour of its members.

Where masculinity is socially and culturally defined as essential to combat effectiveness and femininity is defined as existing in opposition, little progress in furthering gender inclusiveness is possible.

*Source:* Karen D. Davis and Brian McKee, “Women in the military: facing the warrior framework”.<sup>23</sup>

As such, military ethos has the potential to play an important role in sustaining values of respect and inclusion. However, in many armed forces aspects of military ethos are in tension with these values. Military ethos is based on the concept of the team. Individuality is suppressed, and members become part of something that is bigger than they are themselves – the service, regiment, ship or squadron – defined by history, past heroes and victories. The military ethos, which puts loyalty to the group before preservation of self, creates an institutional environment in which discrimination, harassment and abuse can be pervasive and difficult to challenge. This military ethos, as well as a male-dominated institutional culture (discussed below), explains why women and men often lack confidence to make complaints and why complaints are often dealt with poorly. To make a complaint can of itself be seen as evidence that the complainant falls short of what is required under military ethos.

### The military’s male-dominated institutional culture

In all countries the military is a male-dominated culture where women and gay men are in a minority, and the subject of open or covert resistance (to varying degrees). The traditional ideal of the good soldier is closely linked to traditional ideals of (heterosexual) masculinity. Female personnel are largely absent from the stories that support military customs and traditions, and may be challenged by some of those traditions, such as heavy drinking of alcohol. While

social attitudes and laws concerning women and LGBT people have progressed, ingrained structures and practices within the military lag behind. Resistance to women in the military can also be found within the wider society, at times creating a tension between the military's needs for female personnel and social expectations.

Resistance to the full integration of women is manifested in direct and indirect discrimination, often in the forms of practices that exclude or belittle women – for example, when female personnel are addressed as “girls”, when male personnel are disparaged as “girls” or when sexualized banter is pervasive. Structures and practices often disadvantage women – for example, by valuing combat over management experience; by creating obstacles for advancement to personnel with childcare responsibilities; and by failing to meet the specific healthcare needs of women. At times, those who make discriminatory decisions do not realize their discriminatory impact, but are trying to “treat everyone the same”. Often women in the military themselves resist what they see as special attention or treatment, striving to “fit in”.

Institutional cultures can also create challenges for men who do not identify with and express the kinds of male identities and behaviours that the culture values and enforces. Men perceived as being homosexual, physically weak or vulnerable in some way are at times victimized because they do not fit the ideal military masculinity within the subgroup enforcing it.

The male-dominated nature of military culture is all too often particularly apparent when gender-related complaints are made. Because women are underrepresented at senior levels, in most cases a gender-related complaint is heard by a man, who may well have little insight into gender-related discrimination, harassment, bullying and abuse. Reports abound of complaints of sexual harassment or discrimination being dismissed as trivial, or being disbelieved outright.

### The military's emphasis on teamwork and respect for the chain of command

Sexual and homophobic discrimination, harassment, bullying and abuse against members of the armed forces are often committed by one of their colleagues or a direct superior. As such, when the individual brings a complaint, this can be seen as threatening unit cohesion, command

authority or long-standing institutional traditions (in cases of hazing, for example). The victim can be at risk of ostracism, marginalization or even increased abuse or violent retaliation. Promotion opportunities may also be adversely affected. Because the military is by its nature hierarchical, it is particularly difficult for a victim to make, and be believed when making, a complaint against a superior. It demands integrity on the part of commanders to investigate gender-related complaints robustly, and transparency and accountability of the complaints system.

When a complaint is upheld, the complainant is nonetheless often branded a troublemaker and his or her career suffers. Active measures are required to prevent this, and to incentivize complainants and commanders to bring these problems into the open and confront them.

#### Underreporting and underestimation of the problem

Lack of confidence in armed forces' mechanisms for handling gender-related complaints leads to gross underreporting of instances of sexual and homophobic discrimination, harassment, bullying and abuse. For example, in a 2011 study of German personnel, 55 per cent of females and 12 per cent of males had experienced sexual harassment.<sup>19</sup> Nonetheless, the number of petitions to the Parliamentary Commissioner for the Armed Forces concerning sexual harassment is small.<sup>20</sup> In the United Kingdom, the Ministry of Defence's yearly anonymous survey in 2014 found that 10 per cent of personnel reported experiencing bullying, discrimination or harassment at work in the previous 12 months, but only 9 per cent of these had made a formal written complaint.<sup>21</sup>

Experience from many countries indicates that service personnel fear that if they bring a complaint they will not be believed. They fear their confidentiality will not be protected, exposing them to retaliation from peers or the command. They fear that (even if their complaint is upheld) their careers will be damaged, because within military culture, complaining can be seen as weakness. They often view the complaints system as too slow, complex and cumbersome, and fear being retraumatized by the investigation process.

Male personnel are likely to be particularly reluctant to make a complaint. There is little public awareness, and even less acceptance, of males as victims of sexual harassment and assault. Data on sexual

assault in the US military indicate that, as well as the reasons for not reporting cited above, male victims fear reporting would lead to them being seen as gay or bisexual.<sup>22</sup> In armed forces where being gay, lesbian or bisexual is not permitted, this forms a further barrier to reporting of sexual attacks. Where the harassment or abuse takes place as part of hazing, as seems often to be the case for male victims, the victims may themselves perceive their abuse to be “normal”.

There is a danger that senior command and those who oversee complaints within the armed forces assume that because there are few or no reports of these types of abuses, there are no problems. Active monitoring of gender-related misconduct and complaints is the subject of Section 6.



## Endnotes

1. Documented in Example 3 in Megan Bastick, *Integrating a Gender Perspective into Internal Oversight within Armed Forces* (Geneva: DCAF, OSCE, OSCE/ODIHR, 2014), p. 24.
2. UN Committee on the Elimination of Discrimination against Women, “General recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures” (New York: UN CEDAW Committee, 2004), para. 8.
3. UN Committee on the Elimination of Discrimination against Women, “General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/GC/28” (New York: UN CEDAW Committee, 2010).
4. UN Committee on the Elimination of Discrimination against Women, note 2 above.
5. S. W. Lee, P. Chahal, G. Wheeler and M. Singh, “Task-related physical fitness and performance standards – A Canadian forces approach”, paper presented to NATO DRG Panel 8, Optimizing the Performance of Women in the Armed Forces of NATO, September 1995; Department of National Defence, *The FORCE Program Operations Manual* (Ottawa, ON: Personnel Support Program, April 2014).
6. For example, women are excluded from combat positions in the armed forces of Azerbaijan, Ukraine and the United Kingdom, and from certain positions in the armed forces of Belarus, Brazil, France, Greece, Italy and the Netherlands, according to data provided by the governments of those states to DCAF in 2007. See Hans Born and Ian Leigh (eds), *Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel* (Warsaw: OSCE/ODIHR, 2008), p. 121. See also Rey Juan Carlos University, Australian Human Rights Commission and Australian Defence Force, *UNSCR 1325 Reload*, 2015, p. 18, [www.nato.int/issues/nogp/meeting-records/2015/UNSCR1325-Reload\\_Report.pdf](http://www.nato.int/issues/nogp/meeting-records/2015/UNSCR1325-Reload_Report.pdf).
7. In some countries discrimination on the basis of a person being transgender is recognized as a form of sex discrimination.
8. Joshua Polchar, Tim Sweijs, Philipp Marten and Jan Hendrik Galdiga, “LGBT Military Index”, The Hague Centre for Strategic Studies, 2014, <http://projects.hcss.nl/monitor/88/>.
9. UN Secretariat, “United Nations Secretary-General’s bulletin: Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority”, UN Doc. ST/SGB/2008/5, United Nations, 2008.
10. Based on personal correspondence from Esa Janatuinen, Defence Command Finland, 6 September 2013.
11. BBC News, “Army head condemns ‘unacceptable’ sexual harassment”, 12 July 2015, [www.bbc.co.uk/news/uk-33500000](http://www.bbc.co.uk/news/uk-33500000).
12. Joshua Polchar, Tim Sweijs, Philipp Marten and Jan Galdiga, *LGBT Military Personnel: A Strategic Vision for Inclusion* (The Hague: The Hague Centre for Strategic Studies, 2014), p. 34.
13. NATO, *Bi-Strategic Command Directive 40-1: Integrating UNSCR 1325 and Gender Perspective into the NATO Command Structure* (Mons/Norfolk, VA: NATO, 2012).
14. Defined as “intentional sexual contact that was against a person’s will or which occurred when the person did not or could not consent, and includes completed or attempted sexual intercourse, sodomy (oral or anal sex), penetration by an object, and the unwanted touching of genitalia and other sexually-related areas of the body”. Defense Manpower Data Center, Human Resources Strategic Assessment Program, *2012 Workplace and Gender Relations Survey of Active Duty Members* (Washington, DC: DMDC, 2013), p. 1; Department of Defense, *Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2014* (Washington, DC: Department of Defense, 2015), p. 8.
15. Sara Ogilvie and Emma Norton, *Military Justice Proposals for a Fair and Independent Military Justice System* (London: Liberty, 2014), p. 23.
16. NATO, note 13 above, Annex B.
17. Department of Defense, note 14 above, “Appendix A: Statistical data on sexual assault”, p. 43.
18. Rey Juan Carlos University et al., note 6 above, p. 36.

19. Extract from Gerhard Kümmel, *Truppenbild ohne Dame? Eine sozialwissenschaftliche Begleituntersuchung zum aktuellen Stand der Integration von Frauen in die Bundeswehr* (Potsdam: Bundeswehr Centre of Military History and Social Sciences, 2014).
20. Parliamentary Commissioner for the Armed Forces, "Annual report 2014", German Bundestag Printed Paper 18/3750, 2015; Parliamentary Commissioner for the Armed Forces, "Annual report 2013", German Bundestag Printed Paper 18/300, 2014.
21. Ministry of Defence, "Armed Forces Continuous Attitude Survey 2014", Statistical Series 6 – Other Bulletin 6.03 (London: Ministry of Defence, 2014), p. 9.
22. Department of Defense, note 17 above.
23. In Franklin C. Pinch, Allister T. MacIntyre, Phyllis Browne and Alan C. Okros (eds) *Challenge and Change in the Military: Gender and Diversity Issues* (Winnipeg, ON: Canadian Forces Leadership Institute/Wing Publishing Office, 2004).



# 3

## LEADERSHIP ON GENDER EQUALITY

### 3.1 Introduction

As armed forces strive for full inclusion and integration of women, as in other male-dominated organizations, experience demonstrates the critical role of highly visible commitment, direction by senior leaders and resources to monitor progress. Committed and effective senior leadership is needed to break down the barriers to women's full integration, including the cultural resistance discussed in Section 2.6, sexual and gender-based stereotypes, sexual discrimination and harassment, and the risks of lack of acceptance among peers, isolation and token visibility. Senior leaders play an important role in preparing organizations for fundamental shifts in their working cultures: leaders in the US military, for example, had to prepare their personnel for the repeal of racial segregation in the 1940s, and the repeal of the ban on openly homosexual personnel serving after 2011. Many militaries have experience in preparing formerly all-male units to start working alongside women. Once the process of embracing and promoting gender equality and diversity in the armed forces has been initiated at senior levels, leadership to implement it is then needed not only at the top, but at every level of the organization.

What does leadership on gender equality in armed forces look like, and how is it built? The following subsections include practical examples.

- What is leadership when it comes to building an ethos and culture that value diversity?
- Building senior leadership on gender equality.
- Leadership on gender equality at every level.
- Leadership in supporting the complaints system.

### 3.2 What is leadership when it comes to building an ethos and culture that value diversity?

Section 2.6 outlined some of the ways in which military culture has been shaped around particular ideas of manhood. This leads to conscious and unconscious resistance to women playing an equal role. While new policies, staff roles, education and training (discussed in Section 4) are important, they can be met with scepticism unless the culture and ethos within the military are transformed – that is, unless the military changes from an institution that values male strength and power above all else to an institution that values and promotes diversity.

The language and non-verbal behaviours that commanders and other senior leaders adopt set the tone within the organization and determine the kinds of behaviours and identities it values. Leaders play a crucial role in projecting and reinforcing the message that diversity is necessary to military capability, and that the full integration of women and measures to promote equal opportunities and diversity help the armed forces to achieve their mission. Part of this message is that respect for one's colleagues underpins professionalism, and that gender-related misconduct and abuse will not be tolerated (see Example 2). Effective leadership includes role-modelling appropriate behaviours and challenging negative stereotypes and inappropriate behaviours.

Articulating the links between diversity and military capability is a powerful way to promote the cultural transformation required to achieve gender equality in the military. In particular, it challenges the idea that unit cohesion requires groups of only (heterosexual) men. There is now myriad anecdotal evidence from operations as to how having both women and men increases capabilities. Militaries can also draw upon a strong body of scientific evidence that teams including women and men are no less effective, and may be more effective (see Box 5 on p. 32).<sup>1</sup>

## EXAMPLE 2: SOCIAL MEDIA ADDRESS REGARDING SEXUAL MISCONDUCT

The Chief of the Australian Army, Lieutenant General David Morrison (now retired), was applauded for his leadership after issuing a powerful address to his troops in 2013, posted on YouTube. This was one of a series of responses to scandals concerning the treatment of female soldiers. The address included:

“Those who think it is okay to behave in a way that demeans or exploits their colleagues have no place in this Army.... On all operations, female soldiers and officers have proven themselves worthy of the best traditions of the Australian Army. They are vital to us, maintaining our capability now, and into the future. If that does not suit you, then get out!”

Subsequently, male leaders from across the Australian Defence Force and Ministry of Defence took part in a “HeForShe Campaign” video, calling upon men to identify with and take steps to support women and gender equality.



Sources: Australian Army Headquarters, “Chief of Army Lieutenant General David Morrison message about unacceptable behaviour,” June 2013, <https://www.youtube.com/watch?v=QaqpoeVgr8U>; Australian Government Department of Defence, “HeForShe Campaign”, March 2015, <http://video.defence.gov.au/play/R3dGl1czp-rXxbs9jGlbbLNit8Nrv0tx#>.

## BOX 5: EVIDENCE THAT DIVERSITY STRENGTHENS MILITARY CAPABILITY

### Evidence from civilian organizations

- Bowers et al. (2000) undertook a meta-analysis of 13 studies of team performance (567 teams, 2,258 participants), comparing teams that were homogeneous or heterogeneous in terms of gender, ability and personality. Overall, teams of single or mixed gender did not perform better. However, heterogeneous teams performed significantly better than homogeneous teams on high-difficulty tasks. The researchers conclude, “Tasks in which limited available data require a great deal of computation and complex responses may be better suited to teams with more diverse membership.”

*Source:* Clint A. Bowers, James A. Pharmed and Eduardo Salas, “When member homogeneity is needed in work teams: A meta-analysis”, *Small Group Research*, Vol. 31, No. 3, 2000, pp. 305–327.

### Evidence from the military

- In a study of US troops in Somalia in 1992–1993, it was found that both women and black men were more likely to adopt humanitarian strategies than warrior attitudes, thus exerting less unnecessary force.

*Source:* Laura L. Miller and Charles Moskos, “Humanitarians or warriors? Race, gender and combat status in Operation Restore Hope”, *Armed Forces & Society*, Vol. 21, No. 4, 1995, pp. 615–637.

- Analysis of the extent and effect of the integration of women in the US military concludes that neither gender issues nor the presence of women are perceived to have a significant impact on readiness: training, leadership and individual workloads have the primary effects in this. Gender differences alone did not erode cohesion: cohesion is reported to be high in units where people believe the command emphasizes unity and the importance and necessity of all members and divisions in accomplishing the mission.

*Source:* Margaret C. Harrell and Laura L. Miller, *New Opportunities for Military Women: Effects Upon Readiness, Cohesion, and Morale* (Santa Monica, CA: RAND, 1997).

- According to Goldstein (2001), military studies show that men and women work well together when women are not a novelty in the units. Women in combat have generally performed about as well as most men have. Women in combat support roles, furthermore, have had little trouble fitting into military organizations, and have held their own when circumstances placed them in combat.

*Source:* Joshua S. Goldstein, *War and Gender* (Cambridge: Cambridge University Press, 2001), p. 127.

- On the basis of a comprehensive review of academic literature concerning group gender composition, cohesion, performance and leadership in the military undertaken for the British armed forces, Cawkill et al. (2009) conclude that “cohesion and bonding are not adversely affected in mixed-gender groups and that men and women can work together effectively, having little impact on readiness and morale, especially when women are not a novelty in a unit. This is especially the case where there is a shared experience of a stressful exercise, for example in response to a perceived external threat, and previous familiarity with other team members.”

*Source:* Paul Cawkill, Alison Rogers, Sarah Knight and Laura Spear, *Women in Ground Close Combat Roles: The Experiences of Other Nations and a Review of the Academic Literature* (Fareham: Defence Science and Technology Laboratory, 2009), p. 41.

- In a study of senior leadership perspectives several years after the introduction of women to Canadian warships, many leaders expressed a preference to serve in mixed-gender ships, citing enhanced operational capability and a more positive working environment.

*Source:* Lynn Bradley, “The progress of gender integration in Canadian warships: Views of the leaders”, in Stéphanie A. H. Bélanger and Karen D. Davis (eds), *Transforming Traditions: Women, Leadership & the Canadian Navy, 1942–2010* (Kingston, ON: Canadian Defence Academy Press, 2010), pp. 169–188.

- In Afghanistan the presence of female personnel allowed ISAF to reach out to Afghan women to some extent, with successes in intelligence gathering and in affecting armed opposition groups.

*Source:* Helene Lackenbauer and Richard Langlais (eds), *Review of the Practical Implications of UNSCR 1325 for the Conduct of NATO-led Operations and Missions* (Stockholm: Swedish Defence Research Agency, 2013), p. 44.

- Mixed-gender liaison and monitoring teams in NATO’s Kosovo Force received more, and more useful, information than male-only teams.

*Source:* Li Hammar and Annika Berg (eds) *Whose Security: Practical Examples of Gender Perspectives in Military Operations* (Kungsängen: Nordic Centre for Gender in Military Operations, 2015), p. 35.

It can also be useful for leaders to focus efforts on changing attitudes to work/life balance, to help commanders to recognize that work/life balance measures sustain capabilities (as a key retention tool) rather than impede operational effectiveness. Spain’s Military Observatory for Equality between Men and Women in the Armed Forces has developed guidance for commanders on handling requests for flexible working arrangements.



In some countries it is necessary to address a misplaced chivalry that can lead male commanders to try to “protect” female personnel from more physically rigorous tasks. This has the effect of undermining the perceived credibility and professionalism of the women subjected to this treatment, which in turn can serve to isolate them, undermining the team’s cooperation.

Leaders are not only key actors in what they do and say, but in how they empower their organization to integrate gender perspectives. Leadership on gender equality includes facilitating practical aspects such as policy review and development, resourcing initiatives to strengthen equality and diversity, and providing appropriate equipment and services for women and other underrepresented groups. Appointing gender champions has been found by some armed forces to be useful in harnessing senior leadership for organizational change. The Canadian Armed Forces, for example, have defence employment equity champions, one of whom champions women. Their role is to engage in and support employment equity programmes and initiatives through:

- demonstrating a sincere interest in achieving employment equity, taking ownership and showing a personal commitment to its success;
- their actions, such as integrating key employment equity messages into their speeches and presentations, and allocating resources to employment equity;
- exercising leadership so as to ensure that employment equity is an integral part of the decision-making and business planning of the organization;
- seeking and using opportunities to advocate and promote the organization’s employment equity programmes;
- contributing to corporate culture change;
- promoting and encouraging best practices and innovative ways of achieving tangible results;
- fostering a representative and equitable workforce, and a welcoming workplace;
- providing advice and feedback on employment equity progress, issues and concerns to senior management committees.

The British armed forces likewise have nominated committed individuals to act as diversity champions. Generally at the head or in key leadership roles with the services (3\*), the diversity champions are

supported by a network of diversity advocates (2\* and 1\*) and deputy diversity advocates at lower levels. This broad band of commitment to diversity seeks to influence decisions, facilitate discussion about the opportunities and challenges of a diverse workforce, and provide a number of routes for others to access support and guidance. Diversity champions and advocates are trained in a variety of ways, including mandatory senior officer diversity and inclusion training. Each diversity advocate is given support and guidance by their respective service diversity champion, and is supported by diversity and inclusion policy staff. They also develop their expertise through engagement with the civilian sector (discussed below), such as by participating in reverse mentoring and external partnerships, and attending national diversity-focused conferences.

### 3.3 Building senior leadership on gender equality

Senior leaders should do more than understand the rules, laws and their responsibilities as concerns gender and diversity; they should strive to understand the dynamics of gender in the organization. A number of militaries have built senior leadership and capacity on gender issues through creating opportunities for military leaders to learn about diversity from the civilian sector.

The Australian Defence Force has established a Gender Equality Advisory Board, including key executives from leading Australian corporations and civilian gender experts, such as the Sex Discrimination Commissioner, alongside senior military personnel. The Gender Equality Advisory Board provides a forum where senior members of the civilian sector can assist with the development of gender diversity strategies for the military. The Australian Defence Force is also collaborating more intensively with the Sex Discrimination Commissioner to identify areas and ways in which diversity and inclusion in the armed forces can be enhanced, and to achieve cultural reform across the three services.

Likewise, the British armed forces have found partnering with the civilian sector to understand the national position and approach to embracing diversity and inclusion to be more rewarding and effective than “going it alone”. They work with Opportunity Now, an employer-based organization that supports its members by sharing best practice on diversity. This collaboration has created opportunities for senior

leaders to learn by actively engaging in research projects on workplace challenges for women, for example, and by considering how national challenges to skills diversity will impact on armed forces' recruiting and retention.

The Swedish Armed Forces recognize that strong leadership on gender and diversity is built by incentivizing it. Commanders' annual reports include their performance on diversity measures and in integrating a gender perspective. Example measures include the following.

- There are trained equality liaison officers in the organizational unit, who are utilized as a resource.
- There is a local action plan on equality and diversity.
- Networking meetings for women are scheduled and take place locally.
- Equipment and matériel are available and are adapted for women, men and individual physical needs.
- Representatives from command groups take part in the training programme "Gender mainstreaming in the Swedish Armed Forces".
- How the organizational unit is working against harassment, sexual harassment and abusive discrimination, and how it deals with such situations.
- The folder "If it happens?" and the checklist "Support in the case of harassment and abusive discrimination" are used in cases of harassment.
- A gender perspective is built into all decision-making processes and the "Preparation and decision checklist" is utilized.
- Women are specifically encouraged to apply for command positions.
- Individuals from the underrepresented sex have been appointed, based on the expertise demands, to training, posts and positions within units with uneven gender distribution.
- The career development of women and men in the organizational unit is not inhibited by parenthood.<sup>2</sup>

In the Swedish Armed Forces senior commanders receive training on gender mainstreaming and Security Council Resolution 1325, and all courses for promotion from lieutenant upwards have a gender component. Furthermore a "gender coach" programme pairs high-ranking members of the armed forces with civilian equalities experts,

who support the leaders in developing their knowledge on gender and translating this into their area of responsibility and institutional change within the armed forces.<sup>3</sup> This gender coaching is now being trialled in the Montenegrin armed forces.

### 3.4 Leadership on gender equality at every level

Senior leadership is necessary but not sufficient to build a culture supportive of gender equality and diversity in armed forces. Middle-ranking members exercise a critical leadership role and exert a significant influence in any cultural reform process. At a minimum, leaders at every level should be evaluated on:

- how they manage women and men in their teams;
- how they develop or support an institutional culture of equality and non-discrimination;
- how they monitor for sexual harassment, discrimination and abuse;
- how they deal with any incidents of misconduct.

At every level, leaders need to support gender equality within their units by ensuring that all personnel, including women, are provided with opportunities to develop and contribute to their full potential. They should take responsibility for ensuring that both female and male personnel have mentors and sponsors.

To preventing sexual harassment, bullying or abuse and ensure a respectful climate within their units, leaders should do the following.

- Actively champion the value of diversity and inclusion, including by setting an example of appropriate behaviour for others to model, and quickly correcting those who engage in sexually harassing or sexist behaviours.
- Continually focus on sustaining a healthy command climate and enforcing standards.
- Provide vision and guidance for the execution of sexual harassment and assault prevention programmes.
- Deliver appropriate prevention and response messages to their units.
- Set expectations regarding accountability for behaviour and offences.<sup>4</sup>

See also Example 3 on p. 38.

### EXAMPLE 3: COMMANDER'S CHECKLIST FOR PREVENTING SEXUAL ASSAULT

- Establish a command climate of prevention that is predicated on mutual respect and trust, that recognizes and embraces diversity, and that values the contributions of all its members.
- Emphasize that sexual assault violates the core values of what being a professional in the Armed Forces is all about and is something that ultimately destroys unit cohesion and the trust that is essential for mission success.
- Emphasize [Department of Defense] and Military Service policies on sexual assault and the potential legal consequences for those who commit such crimes.
- Keep a “finger on the pulse” of the organization’s climate and respond with appropriate action toward any negative trends that may emerge.

*Source:* US Department of Defense, “Commander’s checklist for unrestricted reports of sexual assault”, undated, p. 4, [www.sapr.mil/public/docs/miscellaneous/toolkit/COMMANDER\\_CHECKLIST.pdf](http://www.sapr.mil/public/docs/miscellaneous/toolkit/COMMANDER_CHECKLIST.pdf).

The US military has recognized the role of informal leaders through peer-to-peer mentoring programmes to prevent sexual discrimination, harassment and abuse. Peer educators are used to deliver training on such issues as victim empathy, bystander intervention against unacceptable behaviour, healthy relationships, moderate, responsible alcohol use and obtaining consent for sexual activity.<sup>5</sup>

### 3.5 Leadership in supporting the complaints system

Leadership awareness and leadership support at every level are essential to ensure effective complaints processes. Leaders need to promote a safe reporting culture where victims feel confident in coming forward, and ensure the necessary tools and resources are in place to support them. It is important that command actively communicates the message that it is the discrimination, harassment and abuse against a member which degrades capability, not the victim’s act of bringing a complaint.

It is important, too, to recognize that it is lower- to mid-level officers who often will be the first point of contact for a complainant, and who need to acknowledge the complaint and initiate appropriate resolution. Climate surveys within the US military, for example, suggest that while senior unit leaders are rated highly in creating a climate that supports sexual assault reporting and does not penalize, there is a need for further training of enlisted members and junior officers serving as first-line supervisors to identify and prevent retaliation.<sup>6</sup> The effectiveness of the complaints system relies upon skills and commitment at every level.

## Endnotes

1. For further evidence from operations, see also Stephanie Groothedde, *Gender Makes Sense: A Way to Improve Your Mission* (Enschede: Civil-Military Co-operation Centre of Excellence, 2013); Brigitte Rohwerder, *Lessons from Female Engagement Teams* (Birmingham: GSDRC, University of Birmingham, 2015).
2. Helena Hoffman, Swedish Armed Forces, personal correspondence, 29 June 2015.
3. Documented in Example 1 in Megan Bastick, *Integrating a Gender Perspective into Internal Oversight within Armed Forces* (Geneva: DCAF, OSCE, OSCE/ODIHR, 2014), p. 18.
4. Adapted from US Department of Defense Sexual Assault Prevention and Response, "Prevention Program elements", <http://sapr.mil/index.php/prevention/prevention-program-elements#education-training>.
5. Ibid.
6. Department of Defense, *Department of Defense Annual Report on Sexual Assault in the Military Fiscal Year 2014* (Washington, DC: Department of Defense, 2015), p. 44.



# 4

## PREVENTING GENDER-RELATED DISCRIMINATION, HARASSMENT, BULLYING AND ABUSE

### 4.1 Introduction

Prevention of gender-related discrimination, harassment, bullying and abuse should be the highest priority of armed forces' approaches to the issues. Preventing misconduct occurring is obviously the best outcome for a potential victim; it also prevents the resource drain and damage to capabilities that accompany these problems. Prevention of gender-related discrimination, harassment, bullying and abuse requires cultural transformation within armed forces led from the top, as discussed in the previous section. This transformation is implemented and realized through a range of concrete measures and structures, which are the subject of this section. It shares approaches which have been successfully used in armed forces to prevent the misconduct that gives rise to gender-related complaints.

This section contains the following subsections.

- Laws, directives, policies and codes of conduct.
- Staff dedicated to supporting gender equality measures.
- Education and training.
- Staff support networks.

### 4.2 Laws, directives, policies and codes of conduct

Laws, directives and policies set the framework for preventing and handling gender-related discrimination, harassment, bullying and abuse within the armed forces. Laws should ensure that there is no direct or indirect discrimination against women; that women and men



are protected from bullying, discrimination, harassment and violence; and that effective complaint mechanisms and independent oversight processes are in place. Some armed forces have benefited from developing and implementing a specific “gender policy” addressing equal opportunities for female personnel (for example, Belgium, the Czech Republic, Finland, Norway, South Africa, Spain and Sweden). Such a policy, combined with a strategy or action plan, helps define goals and commitments and sets out the activities, timelines and responsibilities to achieve them.

Moreover, all doctrine and directives within the defence forces must appropriately address gender issues (a “gender mainstreaming” approach). For example, policies regarding promotion and deployment should consider any likely differential impacts upon men and women, and seek to address them. A first step is to conduct a systematic review of all laws, doctrine, protocols, policies, directives, processes and practices to ensure that they are non-discriminatory and address the different needs of female and male personnel. This will require a structured approach, such as a gender self-assessment or gender audit (see DCAF’s *Gender Self-Assessment Guide for the Police, Armed Forces and Justice Sector*). Gaps should then be addressed, and mechanisms established by which to monitor measures implemented (discussed further in Section 6).

Human resources policies are described by NATO as a “cross-cutting enabler” for improving gender balance and achieving a safe and respectful working environment.<sup>1</sup> It is important that directives and policies establish clear, measurable performance standards and the means of evaluating their attainment, so progress towards equal opportunities can be monitored. Policies should be translated into action on the tactical level, for example by being incorporated in unit standard operating procedures.

Box 6 includes examples of human resources policies and provisions that can promote equal opportunities for men and women in armed forces by preventing discrimination in recruitment and advancement.<sup>2</sup>

## BOX 6: HUMAN RESOURCES POLICIES AND PRACTICES TO PREVENT SEXUAL DISCRIMINATION

### Preventing sexual discrimination in recruitment

- Minimum targets for the recruitment of women, as well as targets for women from ethnic minorities.
- Imagery used in recruitment materials equally represents women and recruitment campaigns target women.
- Campaigns promote the values of diversity and respect.
- Clear criteria for recruitment and written evaluations of candidates.

### Preventing sexual discrimination in assignment, career development, deployment, promotion and salaries

- Appropriate infrastructure, medical services and equipment for female and male personnel.
- Promotion and selection boards, wherever possible, to include a balance of men and women.
- Change policies that penalize personnel for taking parental leave, including the requirement for continuous service periods as a prerequisite for promotion.
- Inform personnel and commanders about the regulations on occupational safety and health in pregnancy, healthcare and maternity protection.
- Develop options to complete key training courses in modules and, where practical, by distance.

### Supporting work/life balance

- Flexible work options, such as variable working hours, leave without pay, temporary home-based work, compassionate location assignment and transition between active and reserve forces.
- Targets for percentage of workforce accessing flexible work options.
- Guidance on criteria for considering requests for flexible work options.

### Supporting parenting

- Special provisions for personnel who are pregnant, for example regarding uniform and light duties.
- As well as measures to support work/life balance, maternity and paternity rights equivalent to civilian public service and provisions to support return to work.
- Right to breastfeed during working hours and provision of appropriate places.
- Provision of or support to childcare.

## BOX 7: POLICIES AND PRACTICES TO PREVENT HARRASSMENT, BULLYING, ABUSE AND EXPLOITATION

### Preventing sexual harassment and gender-related bullying

- Clear policy statement, directive or code of conduct that includes the following:
  - every member of the armed forces has the right to be treated with respect and dignity, and to carry out their duties free from any form of discrimination, harassment, bullying or abuse;
  - discrimination or harassment based upon sex, sexual orientation or gender identity is prohibited;
  - commanders have a duty actively to prevent discrimination, harassment, bullying and abuse and to investigate all complaints expeditiously, impartially and sensitively;
  - bystanders and witnesses have a duty to act;
  - retaliation against any complainant or witness will not be tolerated.
- Emphasize the importance of a professional work environment, making it clear that derogatory comments related to a person's gender or sexuality will not be tolerated and may constitute harassment.
- Promote responsible alcohol use.

### Preventing sexual exploitation and abuse of local people by military personnel

- UN standards on preventing sexual exploitation and abuse are made binding on personnel by being incorporated into criminal or military law or issued as a command.
- Clear and practical guidelines that address (at home and on mission):
  - types of prohibited behaviour – such as paying for sex, directly or indirectly, sexually abusing adults and having sex with persons under the age of 18;
  - types of places that are out of bounds (for example brothels and strip clubs), as well as specific places that are out of bounds in particular areas of operation;
  - the complaint, investigation, disciplinary and reporting procedures;
  - the obligation of any person who knows that an instance of sexual exploitation or abuse has occurred to report it to a superior or investigate it (as appropriate to their position);
  - any persons in a position of command who fail in their responsibility to prevent or punish sexual exploitation or abuse will be held accountable.

Harassment, bullying, sexual exploitation and abuse likewise require a robust policy framework to ensure prevention and effective response. Box 7 suggests some good practices. A number of armed forces embed such policies in a code of conduct. The Irish Defence Forces, for instance, have a “Dignity Charter” which emphasizes the specific responsibilities of commanders to lead by example and promote a tolerant and safe workplace. NATO Standards of Behaviour form Annex B to the *Bi-Strategic Command Directive 40-1: Integrating UNSCR 1325 and Gender Perspective into the NATO Command Structure*.<sup>3</sup>

### 4.3 Staff dedicated to supporting gender equality measures

Many armed forces have staff dedicated to supporting gender equality measures. They may be focused predominantly on internal gender equality (for example equality or diversity officers – see Example 4), focused also on gender mainstreaming in operations (for example gender advisors or gender focal points) or more specifically trained to support complainants. As well as monitoring gender issues in human resources, such staff sometimes play a role in preventing complaints through providing training, advice and support.

#### EXAMPLE 4: GERMANY’S MILITARY GENDER EQUALITY OFFICERS

Since 2005 military gender equality officers have been appointed in the German armed forces to ensure that the law on “Equal Opportunities for Female and Male Military Personnel in the Bundeswehr” is implemented. According to their statutory mandate, military gender equality officers are involved in personnel, organizational and social measures that relate to the compatibility of family and service, protection against sexual harassment at the workplace, and equal opportunities for female and male personnel. This includes the prevention and elimination of gender-related discrimination.

Military gender equality officers are important contacts for servicewomen and LGBT personnel who feel disadvantaged or discriminated against by superiors, or find themselves exposed to bullying. The Parliamentary Commissioner for the Armed Forces has recommended military gender equality officers’ roles be extended so they are present in appraisal procedures, disciplinary proceedings and complaints proceedings, and can accompany servicewomen, at their request, to witness interviews when incidents of sexual harassment are being investigated.

*Sources:* Parliamentary Commissioner for the Armed Forces, “Annual report 2013”, German Bundestag Printed Paper 18/300, 2014; Parliamentary Commissioner for the Armed Forces, “Annual report 2014”, German Bundestag Printed Paper 18/3750, 2015.

It is important that staff dedicated to supporting gender equality measures include both men and women, not only so both men and women have the option to speak to someone of their own gender, should they prefer, but to demonstrate that gender equality is not only a “women’s issue”. The Georgian armed forces, for example, now have one male and one female gender advisor in each unit to support implementation of their Defence Gender Equality Strategy. These gender advisors can help to communicate a complaint to the Gender Equality Monitoring Team within the Ministry of Defence. Research with US military personnel shows that a significant minority of men and women in the armed forces (ranging from 15 per cent of men to 31 per cent of women) would be more comfortable reporting an incident of sexual harassment to a person of the same sex as themselves.<sup>4</sup>

#### 4.4 Education and training

International norms dictate that military personnel should receive training and education on human rights, gender and diversity issues appropriate to their leadership responsibilities.<sup>5</sup> In order to build the knowledge and skills to prevent the misconduct giving rise to gender-related complaints and, more broadly, to promote an understanding of and a commitment to gender equality in the military, a range of education and training initiatives should be implemented. Gender issues should not be addressed in isolation: all training and education should be reviewed to ensure that relevant gender issues are addressed throughout.

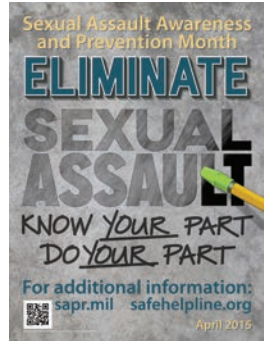
All personnel need training on the following, beginning at recruitment and regularly refreshed.

- Equality, diversity and standards of conduct.
- Moderate, responsible alcohol use – as excess is often linked to misconduct.
- Sexual harassment and sexual abuse, including through teaching bystander intervention (see Example 5), victim empathy, consent for sexual behaviour, (un)acceptable behaviour and healthy relationships.
- Pre-deployment training on sexual exploitation and abuse.
- Addressing gender in operations, including the requirements of the UN Security Council resolutions on women, peace and security.

### EXAMPLE 5: US ARMED FORCES' BYSTANDER INTERVENTION PROGRAMMES

The US military has developed bystander intervention training with the aim of reducing sexual assault. Drawing on violence-prevention work outside the military, bystander intervention education teaches people to:

- interrupt incidents of sexual harassment or the situations which lead to harassment;
- challenge perpetrators and potential perpetrators;
- provide support to potential and actual victims;
- speak out against the social norms and inequalities supportive of sexual harassment.



In contrast to traditional training approaches to sexual assault, which focus merely on awareness, bystander intervention training seeks to create an environment where peers feel empowered to prevent sexual violence. Video scenarios are presented in which participants identify the warning signs of a potential sexual assault and gain an understanding of how a bystander can safely intervene to prevent it. Training encourages participants to “ASK... ACT... INTERVENE.” The military’s bystander intervention training emphasizes core military values, especially courage – “courage to speak up, courage to intervene, courage to do the right thing before an incident or mishap occurs” – and responsible “battle buddy” behaviour.

An evaluation of a bystander intervention programme conducted with US Army Europe personnel suggested that soldiers who participated were, compared to those who had not done the programme, significantly more likely to report that they had helped an acquaintance or a stranger, and that they had taken action when they saw sexual assault or stalking occurring, about to occur or after it had occurred.

*Sources:* George Vukotich, “Military sexual assault prevention and response: The bystander intervention training approach”, *Journal of Organizational Culture Communications and Conflict*, Vol. 17, No.1, 2013, pp. 19–34; Mentors in Violence and Prevention, “Bystander approach”, 2015, [www.mvnpnational.org/program-overview/bystander-approach/](http://www.mvnpnational.org/program-overview/bystander-approach/); Sharyn Potter and Mary M. Moynihan, *Bringing in the Bystander In-person Prevention Program to a US Military Installation: Results from a Pilot Study* (Durham, NH: University of New Hampshire, 2011); Chief of Naval Personnel Public Affairs, “Bystander intervention training begins for FY2015”, 2 October 2014, [www.navy.mil/submit/display.asp?story\\_id=83657](http://www.navy.mil/submit/display.asp?story_id=83657)

- Complaints mechanisms, including the different reporting options.
- Recognizing and preventing retaliation against a colleague who has made a complaint.

Commanders at every level should moreover receive more detailed training on the following.

- Equality and diversity, going beyond rules and regulations to equip commanders and leaders at all levels to understand and recognize the barriers for women and other minority groups within the military.
- The relevant military and civilian laws and regulations concerning sexual discrimination, harassment, abuse and bullying.
- Command roles and responsibilities in maintaining a positive command climate, including a workplace free from discrimination, harassment, bullying and abuse.
- The dynamics of sexual harassment, bullying and abuse, and why women and men are often reluctant to report it; how to respond if an incident occurs; and how to prevent retaliation against a complainant.
- Monitoring of diversity issues, and collecting and using sex-disaggregated and other gender-related data in operational and personnel planning and analysis.

Recruiters and those on promotional boards should receive in-depth training on diversity, employment equity and unconscious bias. Inspectors general, investigators, prosecutors, military judges and others playing a formal oversight role have further specific training requirements, discussed in Section 5.

Education and training curricula should be evidence-based, adapted to the environment and responsive to the gender, beliefs and training needs of the target audiences. Education and training must be well designed, using adult learning principles. The following practices can be particularly effective when training on gender and diversity issues.

- Interactive formats (minimize lectures, focus on discussion, role-play and exercises).
- Real-life scenarios (discuss scenarios and the appropriate responses).

- Peer educators to deliver the training.
- Multiple lessons/sessions to reinforce key messages and provide opportunities to practise new skills.
- Culture-specific content and messages (allow each installation, and potentially each command, to customize the training content to its specific culture and participant levels).<sup>6</sup>

As with any other military education and training, required competencies should be defined and the attainment and maintenance of the required standards should be monitored. Appendix 1 is an example of core competencies for training on sexual assault.

Other government departments may be in a position to support gender training, such as those responsible for gender equality or those involved in development assistance. Likewise, armed forces can draw upon the expertise of civil society organizations, NHRIs and/or international and regional organizations.

#### **4.5 Staff support networks**

A number of armed forces have designated committees, organizations or networks to represent female personnel (for example in Australia, Bulgaria – see Example 6 on p. 50 – Canada, Hungary, Poland, Sweden and Norway) or LGBT personnel (for example in Australia, Germany, the Netherlands, New Zealand, Sweden, Switzerland, the United Kingdom and the United States). Some, though not all, of these organizations are funded by their respective governments or armed forces. These groups often give direct support to personnel experiencing discrimination or harassment, as well as monitoring issues of concern and communicating to and advising leadership.



### **EXAMPLE 6: THE BULGARIAN ARMED FORCES' WOMEN'S ASSOCIATION**

Equal access to employment and integration of minority groups and women are a key dimension of the Bulgarian armed forces' human resources management policy. Complaints by armed forces' personnel can be directed through several channels: the chain of command, the Ministry of Defence Inspectorate, the Military Police, the National Commission for Protection against Discrimination, the Military Prosecutor or the civilian courts. The Military Police and the Ministry of Defence gender experts both provide a 24-hour telephone hotline giving advice, support and a means through which to file a complaint.

Informal complaints can also be made through the Bulgarian Armed Forces' Women's Association. This association works with non-governmental organizations to respond to the needs of armed forces' personnel who experience sexual discrimination, harassment or abuse or domestic violence. The support services include confidential legal advice and psychological support for victims, male and female. The Bulgarian Armed Forces' Women's Association furthermore actively monitors the progress of official complaints. It sees itself as useful to the political and military leadership of the armed forces in helping to monitor personnel issues.

*Source:* Personal correspondence from Lt Col Nevyana M. Miteva, Bulgarian armed forces, June 2015.

## Endnotes

1. NATO/EAPC, *Action Plan for the Implementation of the NATO/EAPC Policy on Women, Peace and Security* (Brussels: NATO, 2014).
2. More detailed guidance on increasing the recruitment of women can be found in Cheryl Hendricks and Lauren Hutton, "Defence reform and gender", in Megan Bastick and Kristin Valasek (eds), *Gender and Security Sector Reform Toolkit* (Geneva: DCAF, OSCE/ODIHR, UN-INSTRAW, 2008); NATO, "Improving the gender balance: A selected list of best practices", in Committee on Women in NATO Forces, *Best Practices to Improve the Gender Balance* (Brussels: NATO, 2008).
3. NATO, *Bi-Strategic Command Directive 40-1, Integrating UNSCR 1325 and Gender Perspective into the NATO Command Structure, Annex B* (Mons/Norfolk, VA: NATO, 2012). Other examples of codes of conduct on sexual exploitation and abuse include the MONUC Code of Conduct on Sexual Exploitation and Sexual Abuse; the Norwegian Armed Forces' Code of Conduct, which prohibits the purchase of sexual services and other relations that might weaken confidence in the impartiality of the force; and the Swedish Armed Forces' Code of Conduct for personnel on international missions.
4. Margaret C. Harrell and Laura L. Miller, *New Opportunities for Military Women: Effects Upon Readiness, Cohesion, and Morale* (Santa Monica, CA: RAND, 1997), p. 88.
5. See for example UN Security Council Resolution 1325, Art. 6; UN Security Council Resolution 1820, Arts 7–8; UN Security Council Resolution 1888, Arts 19 and 21; NATO, note 3 above.
6. US Department of Defense Sexual Assault Prevention and Response, "Prevention Program elements", undated, <http://sapr.mil/index.php/prevention/prevention-program-elements#education-training>.



# 5

## ENCOURAGING REPORTING OF AND RESPONDING TO GENDER-RELATED COMPLAINTS

### 5.1 Introduction

Armed forces should see the making of formal complaints as showing that personnel have trust in the integrity of the complaints system. The objective is not to eliminate complaints, but to eliminate the behaviour that gives rise to them. As such, robust complaints systems must include proactive measures to ensure that the system is accessible and to encourage people who have been mistreated to make a complaint.

“When I took up post as SCC [Service Complaints Commissioner for the Armed Forces] in 2007, the British Army had a target in its equality strategy to halve the number of complaints about bullying, harassment and discrimination, which they received. However, I flagged up a risk that such a target focused on reducing complaints and not reducing incidents which gave rise to complaints... The target I set was to reduce the gap between reported incidents and complaints – that is, to increase the numbers of complaints. The Army dropped their target and set up a new unit to enable those who had been maltreated to speak out more easily.”

*Source:* Personal correspondence from Susan Atkins, former Service Complaints Commissioner for the Armed Forces, 27 June 2015.

Individuals’ willingness to use a complaints system also depends on how effective it is: whether investigations are fair and timely, whether complainants are supported and whether appropriate sanctions are enforced. Given the particular barriers to making complaints of gender-related discrimination, harassment, bullying and abuse and the high risk that a complainant may face retaliation, special provision needs to be made for responding to these types of complaints.

Multinational operations bring a particular set of challenges, including the need to prevent and respond to any sexual exploitation and abuse of members of the local population.

This section contains the following subsections.

- Overview of different types of complaints-handling mechanisms.
- Encouraging reporting of gender-related misconduct.
- Informal complaints mechanisms.
- Providing different ways to lodge a complaint.
- Supporting victims.
- Ensuring effective and fair investigation of gender-related complaints.
- Special mechanisms concerning investigation of criminal acts of sexual harassment and abuse.
- Handling complaints during multinational operations.
- Implementing sanctions.

## 5.2 Overview of different types of complaints-handling mechanisms

There are a wide range of structures and mechanisms, internal and external, for handling complaints within armed forces.

### Internal

Most armed forces will have internal mechanisms for receiving, investigating and resolving complaints from personnel. Usually commanders play a role, at least in relation to minor disciplinary matters. There may be military police and/or internal investigators linked to a military justice system. Some armed forces have an inspector general overseeing this internal system (found, for example, in the armed forces of Australia, France, the Netherlands and the United States).

Some militaries have as one of their internal mechanisms specialized units for handling complaints involving sexual harassment or abuse, like the Thémis cell in the French armed forces (see Example 9 on p. 65).

## External

Internal complaints processes should, at a minimum, be subject to external oversight by an NHRI and/or independent ombuds institution for the armed forces (such as a parliamentary commissioner for the armed forces). In some countries armed forces personnel can bring their complaint to such bodies directly, and/or bring a complaint to the external body if they are dissatisfied with how an internal body has handled it.

*DCAF's Handbook for Ombuds Institutions for the Armed Forces* provides a comprehensive overview of different models of external and internal ombuds institutions for the armed forces and complaint procedures.

### 5.3 Encouraging reporting of gender-related misconduct

Many factors inhibit the making of complaints within the military, as described in Section 2.6. Building confidence in the complaints system is crucial. This can be done by communicating clearly the protection and support offered to those who lodge complaints throughout the entire complaints process, and how accountability and transparency are ensured. This communication can be done by ombuds institutions, equality and human resources officers and staff associations, but commanders and mentors across the military must also demonstrate their support for the complaints process and promote it.

The policy concerning complaints, and information to personnel about the complaints mechanisms, should clearly set out the following.

- Informal and formal processes for making complaints.
- Where a potential complainant can anonymously receive information and advice on the complaints process.
- How a complaint can be made (for example, whether it has to be in writing) and what details need to be included in it.
- How the complaint will be acknowledged.
- The support services that can be offered to a complainant.
- How a complainant's confidentiality is protected, including until what point (if any) a complaint can be made anonymously.
- The rights of the accused person(s).
- The investigation process, including timeframes.
- How and at what stages of the complaints process the complainant and accused will receive information about the investigation.

Complaints bodies, both internal and external, should undertake educational and awareness-raising activities to ensure that personnel know their rights, and how to complain if they are violated. Box 8 suggests some good practices for outreach to encourage knowledge about and use of the complaints system.

Where armed forces are deployed, information explaining the complaints procedure should be clearly displayed around military facilities and in other local community areas, and in particular should be provided to women's legal aid and welfare organizations. For example, when in Afghanistan the Norwegian Parliamentary Commissioner for the Armed Forces worked through Norwegian non-governmental organizations and military gender advisors to contact local women's organizations, handing out leaflets detailing the armed forces' code of conduct and how local women and men could bring a complaint to him. The information should be made available in languages appropriate to the local community, and illustrated in a form that people who cannot read can understand. Complainants should be given the options of making a complaint in their own language and submitting a verbal complaint.

#### **BOX 8: WAYS TO RAISE AWARENESS OF COMPLAINTS MECHANISMS**

- Deliver briefings on the complaints system as part of initial and ongoing training.
- Organize regular meetings with senior personnel to build a constructive dialogue on prevention of misconduct, response to complaints and follow-up of investigations.
- Visit barracks, border posts and training colleges at regular intervals, ensuring male and female staff are available to speak to personnel.
- Develop posters, articles for staff magazines, etc. linked to the rights and duties of personnel.
- Develop advertisements to be played on armed forces' radio and/or television stations or during base movie nights.
- Contribute to online discussions and websites used by armed forces' personnel.
- Work with partners to reach out to male and female personnel (for example chaplains, staff associations and unions).
- Work with partners to reach out to women and men in communities where personnel are deployed (for example local women's organizations).
- Meet and talk to family members of personnel.

## 5.4 Informal complaints mechanisms

Where an alleged act of misconduct is a minor matter, many armed forces encourage informal approaches to try to address it in the first instance. Typically, issues that can be taken care of informally are those that can be resolved through discussion, problem identification and clarification of the issues. A trusted, skilful and empathic listener may enable the complainant to identify ways to deal with the issue effectively and more quickly than through a formal complaint, and prevent unnecessary escalation of the problem.

In the Irish Defence Forces, for example, the administrative instructions on complaints direct a person who considers that he/she has been subjected to unacceptable behaviour to proceed as follows.

- a. First endeavour to resolve the incident by making clear to the offending person that the behaviour is offensive and unwelcome – recognizing that the offending person might be unaware that their behaviour was offensive or/and unwelcome.
- b. Keep a record of any further incidents as they happen and request witnesses, if any, to note them also.
- c. Endeavour to resolve the incident informally by seeking the assistance of a third party (there being designated staff trained to mediate and assist in such instances).
- d. If the behaviour persists, proceed with a formal complaint by reporting the matter in writing to his/her commander.<sup>1</sup>

An individual pursuing informal resolution of a complaint should always have, and be informed of, the option to pursue a formal complaint instead. Whether a person raising a concern or complaint about misconduct is advised to lodge a formal complaint immediately will be guided by the policy and legal framework in place. In general, the following are relevant considerations.

- The seriousness of the alleged misconduct – a criminal or disciplinary act should always be the subject of a formal complaint.
- The complainant's wishes and his/her expectations about what making a complaint will achieve.
- Whether this is a repeat incident or similar complaints have been made before concerning the alleged perpetrator.
- Whether this is a matter that could affect military discipline.



Whether the commander should be aware of and involved in each informal process to address a complaint, where the alleged misconduct is not serious, is a matter of judgement. On the one hand, the capacity for a person to resolve a complaint through an informal process with support from appropriate personnel but without their commander knowing about it can make it more likely that they will make the complaint. On the other hand, the fact that a complainant may wish to resolve the problem informally does not release commanders from their responsibility to ensure a safe and respectful working environment. US Army policy on informal complaints related to equal opportunity and sexual harassment, for example, specifies: “The commander must eliminate underlying causes of all complaints. More members of the unit, other than complainant and subject, are affected by complaints, especially those that go unresolved.”<sup>2</sup>

It is important to monitoring of the unit’s command climate that, even as regards informal complaints, a record is made of the nature of the complaint and how it was resolved. Commanders should, where they are aware that an informal complaint process has proceeded, also periodically monitor the situation between the personnel concerned, to evaluate whether further informal or formal action may be required.

## 5.5 Providing different ways to lodge a complaint

The complaints system should provide for multiple ways to submit a complaint, and complaints should be able to be made by the victim of misconduct or a witness/bystander. Options should include the following.

- Utilizing a variety of means to complain – online, by text, using a free telephone number, by e-mail etc. When internet or telephones are not readily available, there should be a designated person capable of receiving complaints.
- Informal and formal complaint options.
- Bypassing the chain of command.
- Reporting to a neutral person, male or female (for example equality/diversity officers, chaplains, medical officers and occupational health and safety personnel).
- Reporting directly to the civilian police if a crime has occurred.

- Reporting to an independent oversight body. Commonly, unless a crime has occurred (and in some countries, even then), a member of the armed forces is required first to make a complaint using the armed forces' internal complaints system. However, there should be a provision which allows victims to bypass this if it could expose them to retaliation.
- The possibility of making a confidential complaint in order to access support services (see Example 7).
- “No-wrong-door” mechanisms, whereby anyone who provides services to victims (such as medical staff) is able to advise them on available complaints mechanisms and make referrals.

#### **EXAMPLE 7: RESTRICTED AND UNRESTRICTED REPORTING OF SEXUAL ASSAULT IN THE US MILITARY**

The United States has developed a two-track reporting system in relation to complaints of sexual assault. A victim can make a “restricted” (confidential) report to a sexual assault response coordinator, a victim advocate or a healthcare provider, and access medical and mental healthcare, advocacy services and legal advice. Command will be informed only that “an assault” has occurred and given very limited details that do not include the identity of the victim. This reporting option aims to empower victims to seek relevant information and support to make more informed decisions about participating in the criminal investigation, while at the same time providing them with support.

Alternatively, at the outset or later, a victim can opt to make an “unrestricted” report, which will prompt an official investigation. The commander will be given details of the assault. For victims to access a protective order or request an expedited transfer to a different base, they need to make an unrestricted report. In 2014 20 per cent of victims who initially made a restricted report later converted it to an unrestricted report. The Department of Defense estimates that one in four military victims of sexual assault reported it in 2014: an increase from just one in ten in 2012.

*Source: Department of Defense, Department of Defense Annual Report on Sexual Assault in the Military Fiscal Year 2014 (Washington, DC: Department of Defense, 2015).*

If a member of the public wishes to make a complaint against a member of the armed forces, they should be able to bring it to the local commander, the police or an independent body, such as an ombuds institution or the prosecutor. There should be multiple ways to

lodge complaints, including at military barracks and facilities, at police stations, using a toll-free number or a free postal address, via a website or by e-mail.

## 5.6 Supporting victims

The experience of victims should be put at the centre of the complaints process. Victims of discrimination, harassment, bullying or abuse have a range of support needs, sometimes complex. Good practice includes the following.

- A checklist for commanders and/or first-responders setting out what they should do to ensure immediate protection and support for a victim while safeguarding the investigation (see Example 8).<sup>3</sup> The first person a victim speaks to is very important in setting the tone for their complaints process and the long-term outcome, as well as the quality of evidence that is collected.
- Access to urgent medical, counselling and advocacy services without the requirement of making a formal complaint, including specialist civilian sexual abuse services.
- Extending services to military spouses, adult dependants of military personnel and civilian contractors.
- An expedited transfer programme, allowing those who bring a complaint of abuse to be transferred quickly (possibly temporarily) if they wish, with any spouse and dependants, to another base or command while the matter is being investigated.
- Providing expert support from within the military to those responding to sexual discrimination, harassment or abuse.
- Drawing upon the expertise of the civilian sector, for example in operating helplines and delivering services.
- Whistleblower protection, protecting those who make complaints from reprimand or dismissal during the complaints process.

A number of armed forces have personnel outside the chain of command who are trained to advise and support those who have been the victim of (and, in some cases, those accused of) discrimination, harassment, bullying or abuse. In Australia trained trauma specialists are available on a 24-hour hotline; in Ireland there are designated contact persons; in Germany, equal opportunity officers; and in the United States, besides equal opportunity personnel, there are specialist sexual assault response coordinators.<sup>4</sup>

## EXAMPLE 8: SWEDISH ARMED FORCES' CHECKLIST FOR INVESTIGATING GENDER-RELATED COMPLAINTS

### How to investigate gender-related complaints

To investigate these matters is not about finding who to blame, although it can sometimes lead to disciplinary consequences. It is primarily about developing measures to deal with the immediate situation and to avoid similar situations in the future.

#### WHEN SOMETHING HAPPENS

1. Assess the situation and get a picture of what happened.
  - a. At first – speak with the victim.
  - b. Then speak to those who have been pointed out as being behind the harassment or abuse.
  - c. Then speak with any others relevant to the case.
2. Document the interviews.
3. Develop active measures in consultation with the employees.
4. Document the decided measures. Specify when they will be implemented and who is responsible. This represents the action plan/investigation we are required to do.
5. Offer support to all interested.
6. Follow up the action plan.
7. Provide feedback conversations and action plans to all parties included – if possible at the same time.
8. Conduct follow-up interviews.
9. Notify all concerned when the action plan is completed.

### Be sure to give support to all concerned

This checklist is a part of the Swedish Armed Forces' policy document on Equal Opportunities and Equality. Its use is supported by training.

*Source:* Translation provided by Swedish Armed Forces Human Resources Centre, 24 April 2015.

The risk of retaliation against a complainant, and against witnesses, must be anticipated and addressed. In the US military, 62 per cent of women who report being sexually assaulted say they experienced retaliation.<sup>5</sup> Retaliation is at times disciplinary: for example, when a person is punished for minor “collateral misconduct”, such as underage

drinking or adultery, which only came to the attention of authorities because the person came forward to report an assault. Retaliation is often professional: reassignment to more menial tasks or those outside one's speciality, poor performance evaluations and denial of opportunities for training and advancement. Retaliation is often also social: bullying and isolation from peers, which can escalate into threats, harassment and abuse. At times, while there is initial support for a victim, the amount of time they spend away from their post attending counselling and participating in the investigation process can eventually lead to resentment. Clear communication with commanders can help to forestall this, explaining that, for example, a complaints process will be time-consuming and complainants will need to spend time away from their jobs; and that they as commanders need proactively to prevent gossip about a complaint among junior ranks.

Transfer programmes must be carefully developed to ensure a balance between, on one hand, protecting the victim and, on the other, avoiding the appearance that the victim has been moved because they are "the problem" and the potential damage caused by reassignment to their career. The German Parliamentary Commissioner for the Armed Forces has noted, "In many instances, the servicewomen in question are moved to new assignments in order to reduce the tensions in their units. They understandably perceive such transfers as unjust."<sup>6</sup> He has suggested that in cases where the results of an investigation indicate that the parties involved need to be separated, it should preferably be the offender who is transferred, unless the victim specifically requests a transfer.<sup>7</sup>

Support services should be available to victims who come forward even years after the incident(s), and to veterans as well as to serving personnel. Likewise, support should be provided for an extended period, recognizing that it can take years for a victim of sexual abuse to recover and the impacts upon their career can be profound. The French armed forces' *Thémis* cell (Example 9 on p. 65) follows victims for five years, and support can include helping the victim find a new post or position outside the military.

## 5.7 Ensuring effective and fair investigation of gender-related complaints

### Skills and standards

A commander's first response on receiving a complaint should usually be to conduct a preliminary review to decide whether the complaint is to be dealt with in an administrative procedure, or whether it may amount to a criminal offence. Different processes are followed depending upon this initial determination. Commanders and investigators can have difficulty understanding the difference between sexual harassment (usually, although not always, a non-criminal matter) and sexual abuse, which is a criminal offence.<sup>8</sup> All those involved in investigating complaints of discrimination, harassment or bullying thus require special training on the relevant military and civilian laws, and should have access to expert support.

Safeguards in investigating discrimination, harassment and bullying should include the following.

- Clear standards to guarantee that the investigation is fair, transparent, thorough and conducted as quickly as possible.
- Clear standards addressing the confidentiality of the complaint, investigation timelines, measures to prevent retaliation against the victim and mechanisms for regular communication with the victim.
- A policy of allowing the complainant and the alleged perpetrator to be accompanied by an independent third party when being interviewed – this could be an advocate or a chosen colleague.
- A policy of allowing the complainant to bypass their chain of command (discussed further below).

There are many reasons why a victim of sexual abuse, for instance, might only much later report the crime. As such, time limits which specify that a complaint must be brought within a specified period after the incident should be used with caution, if at all.

### Independence of investigation from chain of command

Investigation of minor disciplinary offences within the chain of command is common within armed forces, but can present challenges to the integrity of the process and its perceived integrity. The German

Parliamentary Commissioner for the Armed Forces, examining the reasons behind reluctance to report instances of bullying, sexual harassment and sexual abuse, found that personnel feared their claims would not be properly investigated “because personal friendships frequently exist between the offender and the persons entrusted with examining the case”.<sup>9</sup>

In order to have credibility and legitimacy in the eyes of both armed forces’ personnel and the public, military justice must be detached from the chain of command. Any complaint of a serious disciplinary or criminal offence – sexual assault, for example – should be investigated by individuals outside the chain of command of both the complainant and the alleged perpetrator. Likewise, judges, jury, prosecution and defence counsel, and any other members of a court deciding the matter should be appointed independently of the influence or control of the superior officers of the complainant and alleged perpetrator. Appeal processes should be transparent and based on the legality of the conviction (and not on whether, for example, the convicted individual holds technical skills useful to the military).

The degree of seriousness of an allegation needed to take its handling out of the chain of command – for example, in cases of alleged sexual harassment, bullying or discrimination – varies between armed forces. In France, responding to public scandal about sexual misconduct in the armed forces, a new cell, Thémis, was recently established to work independently of the chain of command on such cases (Example 9). Because of the possibility that a person’s commander is implicated in their mistreatment or otherwise not independent, there should always be mechanisms to make a complaint that bypass the chain of command.

### Confidentiality

Confidentiality is an issue of special concern, given the particular risk of retaliation that can accompany complaints of sexual harassment and abuse. It is important that confidentiality of communications between victims and their advocates/advisors is protected. In the United Kingdom, for example, the Service Complaints Commissioner’s office keeps its casework area separate from the rest of the office, and as few individuals as possible are involved in each case. It treats lack of respect for a complainant’s confidentiality as an “aggravating factor” which can itself give rise to a further complaint.

### EXAMPLE 9: THE THÉMIS CELL IN THE FRENCH ARMED FORCES

The Thémis cell was established in 2014 to work on cases of sexual harassment, sexual abuse and discrimination based on sex, sexual orientation or gender identity within the French armed forces. Situated within the General Inspectorate, Thémis is independent of the chain of command in the cases it considers, and staffed with personnel from each branch of the armed forces.

Thémis allows victims to bypass the chain of command in bringing a complaint. It:

- informs complainants of their rights;
- provides medical, psychological, legal and social assistance to complainants;
- undertakes preventive measures, such as integrating sexual harassment into the Defence Code and the Soldiers' Code;
- provides the chain of command with recommendations on disciplinary measures, and supports the harmonization of disciplinary measures;
- conducts administrative surveys;
- contributes to the development of a statistical database on cases of harassment, sexual violence and discrimination.



A complaint can be brought to Thémis by a victim or witness in a number of ways: in writing, using a dedicated phoneline or by e-mail. Following the initial contact, the complainant is asked to document the complaint in writing. Thémis staff then meet with the complainant to explain Thémis's role and how it can support them, and advise on the possible outcomes of their complaint.

If Thémis decides to investigate a complaint, the complainant's written authorization to proceed will be requested. In some cases Thémis can investigate directly; in others it relies upon army, navy or air force investigators. Thémis has wide powers of access to documentation and sites. Its investigation will conclude with a recommendation as to whether or not to proceed with charging the alleged perpetrator(s).

As of 1 December 2014 Thémis had received a total of 66 cases: 83 per cent of these were received from military personnel and 17 per cent from civilian members of the armed forces; 88 per cent were from women.

*Sources:* Contrôle Général des Armées, "Décision N° 6877/DEF/CAB relative à la création de la cellule THEMIS au sein du contrôle général des armées", *Bulletin Officiel des Armées*, Édition Chronologique No. 37, 2014; AFP, "Violences sexuelles dans l'armée: 66 cas recensés par la cellule Thémis", *20 Minutes*, 12 December 2014; Ministère de la Défense, *Plan d'action contre les harcèlements, violences et discriminations* (Paris: Ministère de la Défense, 2014).



France's Thémis cell keeps complainants' confidentiality until they give their written consent to proceed with investigation. Complainants agree what information about their complaints will be shared with the chain of command.

It is not the case that victims can be guaranteed "anonymity", as it is necessary for them to be identified to investigate their complaints. In some countries, however, a complaints body will accept anonymous complaints as the basis for a systemic inquiry into a particular issue. In Belgium a complainant has the right to remain anonymous while a counsellor attempts to help them to resolve the problem informally. If this is unsuccessful, they can pursue either mediation or a formal investigation process.

## **5.8 Special mechanisms concerning investigation of criminal acts of sexual harassment and abuse**

There is significant variation in how armed forces deal with criminal offences. In some countries, criminal offences by members of the armed forces are dealt with by military courts (for example in Azerbaijan, Belarus, Luxembourg, Poland, Switzerland, Turkey and Ukraine). In others, civilian courts have jurisdiction over criminal offences committed by members of the armed forces, at least when committed in their home countries (for example in the Czech Republic, Denmark, Finland, Germany, Italy, the Netherlands, Norway, Spain and Sweden). In a third model there is overlapping jurisdiction, where military courts might hear some crimes and civilian courts others, depending upon the nature of the offence, where it took place and who the victim(s) and alleged perpetrator(s) were (for example in Belgium, Canada, the United Kingdom and the United States). In the United Kingdom, for instance, although the military retains jurisdiction to hear criminal cases, in the case of sexual offences involving penetration, authority to proceed with a prosecution lies with independent military prosecutors rather than with commanders.<sup>10</sup>

In the past the discussion around these different models has focused primarily on how the rights of the accused are protected. However, where a military justice system is dealing with sexual abuse, it is particularly important to ensure that the victim's rights and interests are also respected. Recognizing this need, the US military has introduced a Special Victims' Counsel programme, composed of lawyers who

provide legal support to the victims of sexual abuse and advocate for their interests.

Those responsible for sexual abuse cases and investigations require special training and education. Investigators should have guidelines and training detailing how interviews and investigations are to be conducted, and how forensic evidence should be collected.<sup>11</sup> It is useful to involve civilian lawyers who work with victims and victim advocates to help build an empathetic approach to investigation. In some countries military police and prosecution services receive the same training on sexual violence as that provided to civilian investigators and prosecutors. The US military has recently developed sexual assault investigators' courses, and some services have designated personnel specialized in investigating and prosecuting sexual abuse crimes. Likewise, the Irish Defence Forces have qualified military police sexual offence investigators and are developing a sexual offence investigation training course, with an emphasis on responding appropriately to and supporting victims. Both female and male investigators should be available.

Judges and investigators should be educated to understand the likely victim responses to sexual abuse (including those that might appear to undermine victims' credibility as witnesses), as well as the specific evidentiary requirements of the charges. Box 9 (on p. 68) lists key safeguards that need to be in place in a sexual abuse trial, whether in a civilian or a military court.

The victim should be able to appeal to a civilian court to review any decision by a military prosecution service not to press charges, and should also continue to receive support services in this instance.

Communication of the outcome of an investigation should be carefully handled. There will inevitably be instances where a decision is taken not to prosecute due to problems in meeting technical evidentiary standards. This does not mean that the complainant is not credible. However, there is a risk of backlash against the complainant: either a formal action against him/her for a malicious or vexatious complaint, or informal retaliation in the form of exclusion and rumour-mongering. There is also the risk that the failure to proceed with a prosecution leads to a diminishing of confidence in the complaints system, deterring other victims from bringing a complaint.

### BOX 9: SAFEGUARDS IN SEXUAL ABUSE TRIALS

- Confidentiality measures to protect the victim's identity from the press and public, such as withholding the victim's name from public records
- Rules of evidence and procedure that counter sexist assumptions about women's consent. For example, rules should specify that consent cannot be inferred where there is coercion, or by a victim's silence or lack of resistance. There should not be any requirement for corroborating evidence or evidence of resistance.
- Rules of evidence and procedure that prevent "revictimization" of the victim through, for example, questions as to his/her prior sexual conduct or dress, or evidence about the victim's "reputation".
- Trial rules that grant the judge power to stop any sort of badgering or harassment of the victim by the defence counsel.
- Victim support measures to ease the victim's experience during his/her testimony, such as allowing a support person to be present with the victim in court.
- Communications between a victim and any advocate/advisor remain confidential ("privileged"), unless the victim waives that privilege.

*Source:* Kim Thuy Seelinger, Helene Silverberg and Robin Mejia, "The investigation and prosecution of sexual violence", Sexual Violence & Accountability Project Working Paper Series (Berkeley, CA: University of California, 2011), pp. 45–47, 51.

## 5.9 Handling complaints during multinational operations

### Complaints by military personnel

Receiving and handling complaints by personnel in overseas missions are recognized by ombuds institutions for the armed forces as logistically difficult. In a multinational operation it can be unclear to whom a complaint should be made. Some guidance is given as regards NATO missions by the NATO Standards of Behaviour.<sup>12</sup> Specific thought also needs to be given to ensuring that deployed personnel can access support services. When British troops were deployed to Afghanistan, for example, the charity SSAFA extended the hours of its telephone helpline so that they could access it for support, including information on how they could make a complaint.

Particular challenges have arisen where personnel have suffered sexual harassment or abuse by members of a coalition partner's armed forces, and that coalition partner has less developed understandings of this misconduct and response mechanisms. In some such cases, the victim has not been adequately supported and the perpetrator has not been appropriately punished. In this complex situation, it can be helpful for the victim's superior officers in his/her own armed forces to exert pressure on the partner armed forces to ensure appropriate investigation and accountability.

### Complaints by civilians of sexual exploitation and abuse

Sexual exploitation and abuse perpetrated by members of peacekeeping and other international military missions against members of the local community are receiving heightened international attention. It should be recognized at the outset that there are significant barriers to civilians abused by members of a foreign military making a complaint. As described by an expert of the UN Commission on Human Rights' Sub-Commission on the Promotion and Protection of Human Rights:

In the types of situation in which a PSO [peace support operation] is deployed, there may be difficulties of communication, making it difficult to ensure that the population knows how to complain, difficulties in travelling, making it difficult to reach the place where complaints should be lodged, and, above all, a lack of confidence in any form of complaints procedure. This may be because the population never had the experience of effective accountability for governmental acts or their experience of the PSO may lead them to assume that effective accountability will not be delivered in practice, whatever the rhetoric. In addition, there may be a cultural reluctance to report certain types of crimes, particularly those of a sexual nature.<sup>13</sup>

Significant underreporting of sexual exploitation and abuse in the UN missions in the Democratic Republic of the Congo, Haiti, Liberia and South Sudan was confirmed by a UN expert mission in 2013, for example. Military contingents claimed to be unaware that their personnel were infringing the mission policies on sexual exploitation and abuse, contributing to "a culture of enforcement avoidance".<sup>14</sup> Military police had not been tasked to prevent sexual exploitation and abuse, and had poor investigative capacity.<sup>15</sup>

If a complaint is made against a member of a national military contingent, the forces' own state typically has exclusive criminal and disciplinary jurisdiction to investigate, rather than the host-nation justice system or a third state (unless, in principle, the act constitutes an international crime).<sup>16</sup> Although there are solid reasons for this arrangement, it is problematic in practice. All too often the militaries concerned have little commitment to prosecute their own personnel for acts of sexual misconduct and abuse, and allegations may not be investigated sufficiently thoroughly. Rapid rotation of personnel hampers effective gathering of evidence. Whether or not the investigation is effective, proceedings may not always be brought where they should be. The charge may not adequately reflect the seriousness of what is alleged to have taken place; and even where a person is convicted, the sentence or penalty may not adequately reflect the seriousness of what has been proved to have occurred.<sup>17</sup>

In NATO missions, the NATO Standards of Behaviour specify the rapid appointment of an investigation officer to conduct a fact-finding/preliminary inquiry, and referral to the appropriate national authority.<sup>18</sup> However, the Standards of Behaviour do not lay down clear guidance for how investigations should proceed, how disciplinary action is ensured or how victims are protected and supported.

In UN missions the authority and responsibility to investigate an allegation of serious misconduct by a member of a military contingent remain with the military concerned and/or its state. More recent versions of the model agreements between the United Nations and peacekeeping forces grant authority to the United Nations to initiate investigations into allegations of sexual exploitation and abuse where the troop-contributing country is "unable or unwilling" to do so.<sup>19</sup> The UN's role is, however, most often limited to the provision of investigative and logistical support to investigations conducted by the troop-contributing country. Jurisdictional gaps still arise where states have not amended their administrative rules, regulations and codes governing the military to clearly recognize all forms of sexual exploitation and abuse as misconduct.<sup>20</sup>

The UN "Guidelines for Preliminary Investigations – Investigating Allegations of Serious Misconduct Involving Military Members of National Contingents, Military Observers and Civilian Police Officers

Serving in United Nations Field Missions<sup>21</sup> are an excellent resource for militaries in developing their own in-mission investigative procedures regarding sexual exploitation and abuse. They address planning an investigation; confidentiality; interviewing complainants and witnesses; collecting evidence; and reporting. The United Nations has recommended an on-site court martial be held in the country where the alleged offence occurred; and for more minor matters, local disciplinary proceedings can be conducted. Careful arrangements need to be made to ensure that the mission has the capacity to make rapid but thorough investigations into sexual exploitation and sexual abuse. The mission should be aware that a victim of sexual abuse may be vulnerable to stigmatization by her or his own family or community. Complainants should be offered protection, and referred to local support services (which the mission should help to fund). If a victim's complaint is upheld, he or she should be compensated. There should also be a system to respond to paternity claims concerning children who mission personnel may have fathered with local women.

Where perpetrators are not tried in the host state, efforts should be made to communicate the outcome of the trial to the victims and their communities, so they can (one hopes) see that justice is done. If it is perceived that military personnel who abuse local men, women and children are left unpunished – for example, when the alleged offender is simply repatriated home – this undermines the credibility of the entire mission.

### **5.10 Implementing sanctions**

Accountability mechanisms should not only ensure that perpetrators are punished, but should also hold supervisors responsible for ensuring that discrimination, harassment, bullying and abuse are not tolerated. This can include disciplining any commander who fails to take reasonable steps to identify and stop harassment or to ensure a safe environment. For example, in the Slovenian Armed Forces, after an instance of misconduct within a unit, commanders have 15 days to achieve a “healthy environment”. To prevent misconduct arising, senior commanders must continually hold subordinate commanders accountable for supporting and maintaining a unit command climate that promotes respect, tolerance and diversity, and does not tolerate sexual harassment, discrimination, bullying or sexual assault.

There should also be recognition of institutional accountability towards victims of gender-related misconduct. Example 10 describes an approach developed in Australia applying restorative justice principles to facilitate a process whereby a victim's experience is heard, acknowledged and responded to by the armed forces.

Examples of practices that promote accountability include the following.

- Ensuring all allegations of sexual discrimination, harassment, bullying or assault are referred to the appropriate investigative body.
- Publicizing the punishments for misconduct or criminal offences.
- Incorporating monitoring of diversity issues into readiness assessments (for example, quarterly training briefings, operational readiness assessments, inspections) to ensure programme implementation and compliance.
- Senior leadership engaging with subordinate commands to review results and progress in command climate assessments.

Any complaint should also prompt review of institutional shortcomings that failed to prevent the misconduct. This is discussed further in Section 6.4

### EXAMPLE 10: THE AUSTRALIAN DEFENCE FORCE'S RESTORATIVE ENGAGEMENT PROGRAM

In 2012 the Australian Human Rights Commission published *Review into the Treatment of Women in the Australian Defence Force*. One of the barriers to women's full participation and advancement in Australia's military was identified as "a culture still marked, on occasion, by poor leadership and unacceptable behaviour including exclusion, sexual harassment and sexual abuse" (p. 22). The review found that many victims of sexual harassment, sex discrimination and sexual abuse never reported it for fear of victimization, ostracism from colleagues and a negative impact on their careers. The review moreover demonstrated that poor leadership was common in relation to such instances.

One response to allegations of sexual and other forms of abuse within the armed forces has been the development of the Defence Abuse Restorative Engagement Program. Based on restorative justice programmes, the Restorative Engagement Program allows victims of abuse the opportunity to tell their personal story of abuse (to the extent they wish) and the impacts of this on their life to a senior defence member (OF-6 rank or above), and to have their story of abuse heard, acknowledged and responded to by the military. A restorative engagement normally includes the complainant, his/her support person, the senior military member and an independent facilitator. The military member's role is to listen to the story of the victim, to "stand in their shoes". The sessions are confidential.

Much preparation goes into a conference before the parties meet. The senior military member will be required to undertake training on the process before he or she is selected to participate in a conference. The victim will be prepared for the conference through information sessions and counselling. Counselling is also on hand during and after the sessions, with complainants entitled to up to 20 counselling sessions.

As of October 2014, 116 senior defence representatives had taken part in individual restorative engagement conferences. The programme has proven valuable for both victims of abuse and the military. For victims, it is a powerful and often cathartic experience. For the military, it has created insight into the profound impacts of abuse and developed understanding of the cultural and systemic failures that may have enabled the abuse, or mismanagement by the military of a report about the abuse. This has increased the commitment of military members to champion cultural reform, diversity and inclusion across the organization.

*Sources:* Rey Juan Carlos University, Australian Human Rights Commission and Australian Defence Force, *UNSCR 1325 Reload*, 2015; Australian Human Rights Commission, *Review into the Treatment of Women in the Australian Defence Force, Community Guide, Phase 2* (Sydney, NSW: Australian Human Rights Commission, 2012); personal correspondence from Alex Shehadie, Australian Human Rights Commission, 28 June 2015.



## Endnotes

1. Department of Defence, *Defence Forces Policy on Interpersonal Relationships in the Defence Forces*, 2003.
2. Headquarters, Department of the Army, "Army Regulation 600-20 Personnel – General Army Command Policy" (Washington, DC: Headquarters, Department of the Army, 6 November 2014), p. 95.
3. Another example is US Department of Defense, "Commander's 30 day checklist for unrestricted reports of sexual assault", SAPR Toolkit, [www.sapr.mil/public/docs/policy/toolkit/Commander\\_Checklist\\_for\\_Unrestricted\\_Reports\\_20150122.pdf](http://www.sapr.mil/public/docs/policy/toolkit/Commander_Checklist_for_Unrestricted_Reports_20150122.pdf).
4. The US military's sexual assault response coordinators (SARCs) receive special training, including training on how to be a victim's advocate. Some are active-duty personnel, while many are civilians, reservists or members of the National Guard. SARCs provide services and training to military personnel, civilian Department of Defense staff, families and military contractors. Their role is to be the "go-to" person for issues related to sexual abuse, including for victims, commanders, supervisors and other military members. SARCs also forge collaborative relationships with other military first-responders to sexual abuse, as well as with civilian agencies.
5. National Defense Research Institute, "Sexual assault and sexual harassment in the U.S. military top-line estimates for active-duty service members from the 2014 RAND Military Workplace Study" (Santa Monica, CA: RAND Corporation, 2014), p. 20.
6. Parliamentary Commissioner for the Armed Forces, "Annual report 2014", German Bundestag Printed Paper 18/3750, 2015, p. 44.
7. Parliamentary Commissioner for the Armed Forces, "Annual report 2013", German Bundestag Printed Paper 18/300, 2014, p. 38.
8. In some countries, some acts of sexual harassment have been criminalized (for example, s. 264 of Canada's Criminal Code on "Criminal Harassment"). For the purposes of this handbook, sexual harassment refers to non-criminal acts. Criminal acts of sexual harassment should be considered in a similar manner to sexual abuse.
9. Parliamentary Commissioner for the Armed Forces, note 7 above, p. 37.
10. Different approaches to discipline and military justice, as well as the human rights protections involved, are explained in Hans Born and Ian Leigh, "Discipline and military justice", in Hans Born and Ian Leigh, *Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel* (Warsaw: OSCE/ODIHR, 2008).
11. US Department of Defense, Instruction on Investigation of Adult Sexual Assault (Washington, DC: US Department of Defense, 2013), pp. 5–7, provides further details of the training appropriate for investigators. Guidance on collecting evidence of sexual assault is presented in UNODC, *Handbook on Effective Police Responses to Violence against Women* (New York: UNODC, 2010), pp. 55–58; Liz Kelly, "Promising practices addressing sexual violence", report for expert group meeting, *Violence against Women: Good Practices in Combating and Eliminating Violence against Women* (Vienna: UN Division for Advancement of Women, 2005), p. 5. Recommendations for investigating sexual violence are formulated in Kim Thuy Seelinger, Helene Silverberg and Robin Mejia, "The investigation and prosecution of sexual violence", *Sexual Violence & Accountability Project Working Paper Series* (Berkeley, CA: University of California, 2011), pp. 21–25.
12. NATO, *Bi-Strategic Command Directive 40-1, Integrating UNSCR 1325 and Gender Perspective into the NATO Command Structure, Annex B* (Mons/Norfolk, VA: NATO, 2012).
13. Françoise Hampson, "Working paper on the accountability of international personnel taking part in peace support operations", UN Doc. E/CN.4/Sub.2/2005/42, United Nations, 7 July 2005, para. 54.
14. Thelma Awori, Cathrine Lutz and Paban J. Thapa, "Final report on expert mission to evaluate the risks to SEA prevention efforts in MINUSTAH, UNMIL, MONUSCO, and UNMISS", report prepared for UN Department of Peacekeeping Operations, 3 November 2013, p. 3.
15. *Ibid.*, pp. 20–21.

16. Hampson, note 13 above, para. 46. A more detailed discussion of jurisdictional issues concerning crimes and acts of sexual abuse and exploitation committed by military personnel on mission is beyond the scope of this handbook. However, see UN Secretary-General, "A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations", Zeid Report, UN Doc. A/59/710, United Nations, 2005; Melanie O'Brien, "National and international criminal jurisdiction over United Nations peacekeeping personnel for gender-based crimes against women", doctoral thesis, University of Nottingham, 2010; Róisín Burke, "Troop discipline and sexual offences by UN military peacekeepers: The UN's response – Moving beyond the current status quo?", Working Paper No. 1.5, presented at workshop, Australian National University, 8–9 December 2011. General discussion of the jurisdiction of a military justice system within an OSCE framework is provided in Born and Leigh, note 10 above.
17. Hampson, note 13 above, para. 64; see also Burke, *ibid.*
18. NATO, note 12 above.
19. Burke, note 16 above, p. 37.
20. UN Secretary-General, "Special measures for protection from sexual exploitation and sexual abuse", report of the Secretary-General, UN Doc. ST/SGB/2003/13, UN General Assembly, Sixty-ninth session, 2015, para. 58.
21. UN Department for Peacekeeping Operations, "Directives for disciplinary matters involving civilian police officers and military observers", DPKO/MD/03/00994 (New York: UN Department for Peacekeeping Operations, undated), Annex B.



# 6

## MONITORING AND LEARNING FROM GENDER-RELATED COMPLAINTS

### 6.1 Introduction

Strong and effective monitoring and oversight (or supervisory) structures and systems are key components of a complaints mechanism. Oversight encompasses systems that help armed forces to uphold standards of conduct, ensure that their values are aligned with those of the wider society and learn from experience.

Monitoring and oversight structures and systems vary greatly between countries. A detailed discussion of oversight of armed forces is found in DCAF's *Handbook for Ombuds Institutions for the Armed Forces*. This section examines monitoring of gender-related complaints by both:

- internal oversight mechanisms, including commanders and other leaders, inspectors general and individuals responsible for supervising such aspects as human resources, training and organizational change;
- external, independent oversight mechanisms, such as NHRIs and ombuds institutions for the armed forces.

We know that gender-related discrimination, harassment, bullying and abuse are underreported (as discussed in Section 2.6). As such, to understand whether this misconduct is prevalent, it is not sufficient to monitor only complaints. Internal and external oversight mechanisms must be proactive in monitoring the degree of gender equality within armed forces and the institutional culture as concerns diversity and equality.

This section contains the following subsections.

- Ongoing monitoring of progress towards gender equality in the workplace.
- Monitoring the handling of gender-related complaints.
- Learning from complaints.

## **6.2 Ongoing monitoring of progress towards gender equality in the workplace**

Many approaches have been successfully used by internal mechanisms and external oversight bodies to monitor the gender dynamics and equality of opportunities within the armed forces. These include:

- systematically collecting, analysing and reporting sex-disaggregated data;
- regular climate surveys and assessments with female and male personnel examining workplace issues and overall satisfaction (the armed forces of Finland, Norway, the United Kingdom and the United States, for example, undertake “workplace climate” surveys);
- interviews and focus groups;
- exit interviews/surveys;
- collaboration with external researchers and investigators;
- independent data, such as reports by local and international human rights organizations and women’s services.

Information from these sources should be analysed alongside data concerning the complaints submitted, their handling and outcomes. Ideally, anonymous sources of information are used to establish a baseline prevalence of gender-related discrimination, harassment, bullying and abuse, against which the number of complaints is compared. If there are few complaints of discrimination and harassment, but other measures show these problems to exist, this indicates problems with the complaints system. The UK Service Complaints Commissioner for the Armed Forces, for example, compares its own complaints data with information from the Ministry of Defence’s sexual harassment surveys, the annual Armed Forces Continuous Attitude Survey, the Recruit Trainee Survey and reports on equality and diversity.

Box 10 sets out some types of sex-disaggregated data in relation to recruitment, retention and advancement that should be systematically

collected as part of ongoing monitoring of gender equality in the workforce. As discussed in Section 2.5, a person's age, ethnicity, sexual orientation, gender identity and other characteristics impact upon how they are likely to experience discrimination, along with their gender. In the armed forces, a person's rank may also be an important factor in their vulnerability to misconduct. It is thus important to collect and analyse data across all these dimensions, as far as possible, so that one can understand the specific barriers and discrimination faced by particular subgroups within the armed forces (for example, ethnic minority women or gay men who are enlisted personnel).

### **BOX 10: GOOD PRACTICE IN COLLECTING AND USING SEX-DISAGGREGATED DATA TO MONITOR GENDER EQUALITY**

#### **Recruitment**

- Collecting data on the sex of candidates at every stage of the recruitment process, comparing the percentages of women and men who make it through each stage and examining barriers to underrepresented groups.
- Using data on force diversity, including on the representation of women and men in particular services and roles, in recruitment decisions (see the example of the NATO International Staff's Diversity Scorecard in Appendix 2).
- Periodically reviewing the recruitment programme against its targets, investigating reasons why any targets are not being met and identifying solutions.

#### **Assignment, career development, deployment, promotion and salaries**

- Routinely collecting and analysing statistics about female and male personnel at all stages of their careers, including:
  - ✓ percentages of women and men of every rank;
  - ✓ units in which women and men are serving, with special attention paid to the percentage of women in specialized functions;
  - ✓ participation rates of women and men in specialist training, mentoring and leadership programmes;
  - ✓ deployment rates of women and men;
  - ✓ respective salaries of women and men of the same rank;
  - ✓ applications made by and grants afforded to women and men for family-friendly provisions;
  - ✓ retention rates of women and men;
  - ✓ reasons given by women and men for dropping out of training or leaving the service.
- Periodically reporting on progress on gender equality across a range of key indicators.

More information on monitoring gender equality and integration of a gender perspective within armed forces can be found in the DCAF, OSCE, OSCE/ODIHR guidance note, *Integrating a Gender Perspective into Internal Oversight within Armed Forces*.

### 6.3 Monitoring the handling of gender-related complaints

Monitoring of gender equality in the workplace is a complement to focused monitoring and evaluation of the handling of gender-related complaints. Monitoring mechanisms within armed forces and external oversight mechanisms should strive to do the following.

- Regularly review records of complaints of sexual discrimination, harassment, bullying and abuse to identify trends and check the timeliness, consistency, transparency and equity of procedures and sanctions. If there is a disproportionate abandonment of complaints, failure to investigate, failure to find complaints substantiated or failure to discipline perpetrators appropriately, investigate the reasons behind this. Doing this requires that:
  - records are kept of all complaints of sexual discrimination, harassment, bullying and abuse, as well as of investigations, findings and their resolution;
  - there are standardized definitions of various types of misconduct (for example, sexual harassment, sexual abuse) and of available resolutions in cases (substantiated or unsubstantiated) to ensure that data can be compared.
- Scrutinize whether individuals who have made complaints may have been subjected to retaliation.
- Publish statistics about the number of sexual discrimination, harassment, bullying and abuse complaints received, as well as the nature of the complaints and their consequences (while, of course, not disclosing any details that could identify victims or alleged but unconvicted perpetrators).

Monitoring should also measure how aware personnel are of the various complaints mechanisms and their level of confidence in the complaints system.

## 6.4 Learning from complaints

Armed forces should have an explicit strategy of learning from complaints, and pay special attention to complaints of sexual or homophobic discrimination, harassment, bullying or abuse within this learning strategy. Important steps in a learning process include the following.

- In each complaint case, endeavour to identify and record lessons.
- Regularly conduct gender analysis of all complaints, scrutinizing the different types of complaints brought by men and women (regardless of whether they appear to be gender-related), and looking for the underlying causes. This involves examining how complaints that do not refer to gender or sex may in fact be related to the gender roles ascribed to complainants or the culture in their units concerning women and men.
- Look for underlying causes of discrimination, misconduct and unfair treatment, including a lack of proper supervision, a lack of training and/or ambiguous policies or instructions.
- On the basis of this review and analysis, identify recommendations for change or further review. Follow up by modifying policy, procedures, training, education, and action (or, if one cannot make such changes directly, make recommendations for such modifications), and then evaluate the impact of these changes.
- In regular visits to bases and installations, review whether previous recommendations made in relation to complaints have been implemented, and treat having done so as an aspect of operational readiness.

Consider involving external stakeholders and experts in this monitoring and learning process, such as through an independent monitoring group (Example 11 on p. 82).

Senior command should be periodically briefed on problems identified through the complaints system. Periodic reporting to external oversight bodies, such as the parliament, an ombuds institution or NHRI (as appropriate), on actions taken to reduce and eliminate sexual harassment, discrimination, bullying and sexual abuse also helps to ensure these issues have the attention of senior command.



### **EXAMPLE 11: THE IRISH DEFENCE FORCES' INDEPENDENT MONITORING GROUP**

During 2002 there was some public debate in Ireland around the issue of bullying and harassment in the Defence Forces. The Minister for Defence responded by appointing an external advisory committee to research the issue, namely to:

- determine the nature and extent of any harassment, bullying, discrimination or sexual harassment within the Defence Forces;
- review existing policies and procedures on interpersonal relationships within the Defence Forces, specifically in regard to harassment, bullying, discrimination and sexual harassment;
- make recommendations on strategies and programmes for the development of a culture based on the dignity of the individual and mutual respect.

After this committee had reported, the Independent Monitoring Group (IMG) was established to oversee the implementation of its recommendations relating to harassment, bullying, discrimination and sexual harassment. The IMG has reported in 2004, 2008 and 2014. As of 2014, the IMG was composed of six members: an external expert, Dr Eileen Doyle, who led the original 2002 research of the external advisory committee and is chair of the IMG; an OF-6 representative of the Defence Forces; a representative of each of the associations of officers and other ranks; and the policy director and a human resources expert from the Department of Defence.

In each of its reports, the IMG examines the extent to which its previous recommendations have been adopted, but also looks for evidence of best practice and new issues. Its methodology includes review of reports, documents and processes, alongside interviews and meetings with individuals and groups across the Defence Forces, including recruits at differing stages of training, cadets, recently commissioned officers and the representative associations.

The IMG reports attract significant public and parliamentary attention. The Defence Forces find the reports useful as a method of “recalibrating the organization” every four to six years, to ensure that they are considering all aspects of personnel issues, and also to give guidance on any new challenges emerging.

*Source:* Department of Defence and Defence Forces Ireland, “Third report of the Independent Monitoring Group”, 2014, [www.defence.ie/website.nsf/IMG3\\_2014](http://www.defence.ie/website.nsf/IMG3_2014); personal correspondence from Jayne Lawlor, Irish Defence Forces, 23 June 2015.

# 7

## ADDITIONAL RESOURCES ON GENDER AND COMPLAINTS

### 7.1 Handbooks and guidance documents

Bastick, Megan and Valasek, Kristin (eds), *Gender and Security Sector Reform Toolkit* (Geneva: DCAF, OSCE/ODIHR, UN-INSTRAW, 2008).

Bastick, Megan, *Gender Self-Assessment Guide for the Police, Armed Forces and Justice Sector* (Geneva: DCAF, 2011).

Bastick, Megan, *Integrating a Gender Perspective into Internal Oversight within Armed Forces* (Geneva: DCAF, OSCE, OSCE/ODIHR, 2014).

Bastick, Megan, *Integrating Gender into Oversight of the Security Sector by Ombuds Institutions & National Human Rights Institutions* (Geneva: DCAF, OSCE, OSCE/ODIHR, 2014).

Born, Hans and Leigh, Ian (eds), *Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel* (Geneva: OSCE/ODIHR and DCAF, 2008).

Buckland, Benjamin and McDermott, William, *Ombuds Institutions for the Armed Forces: A Handbook* (Geneva: DCAF, 2012).

Committee on Women in the NATO Forces, *Improving the Gender Balance: A Selected List of Best Practices* (Brussels: NATO, 2008).

Polchar, Joshua, Sweijjs, Tim, Marten, Philipp and Galdiga, Jan, *LGBT Military Personnel: A Strategic Vision for Inclusion* (The Hague: The Hague Centre for Strategic Studies, 2014).

## 7.2 Research

Balon, Bojana (ed.), *The Position of Women in the Armed Forces in the Western Balkans* (Belgrade: SEESAC, 2014).

Buckland, Benjamin, *Ombuds Institutions for the Armed Forces and Gender* (Geneva: DCAF, 2014).

Carreiras, Helena, *Gender and the Military: Women in the Armed Forces of Western Democracies* (Abingdon: Routledge, 2006).

Carreiras, Helena, and Kümmel, Gerhard (eds), *Women in the Military and in Armed Conflict* (Wiesbaden: VS Verlag für Sozialwissenschaften, 2008).

Cawkill, Paul, Rogers, Alison, Knight, Sarah and Spear, Laura, *Women in Ground Close Combat Roles: The Experiences of Other Nations and a Review of the Academic Literature* (Fareham: Defence Science and Technology Laboratory, 2009).

Davis, Karen D., *Women and Leadership in the Canadian Forces: Perspectives and Experience* (Kingston, ON: Canadian Forces Leadership Institute/Canadian Defence Academy Press, 2007).

Febbraro, A. R. and Gill, Ritu M., "Gender and military psychology", in Joan C. Chrisler and Donald M. McCreary (eds), *Handbook of Gender Research in Psychology, Volume 2: Gender Research in Social and Applied Psychology* (New York/Dordrecht/Heidelberg/London: Springer, 2010), pp. 671–696.

Goldstein, Joshua S., *War and Gender* (Cambridge: Cambridge University Press, 2001).

Harrell, Margaret C. and Miller, Laura L., *New Opportunities for Military Women: Effects Upon Readiness, Cohesion, and Morale* (Santa Monica, CA: RAND, 1997).

Kümmel, Gerhard, *Truppenbild ohne Dame? Eine sozialwissenschaftliche Begleituntersuchung zum aktuellen Stand der Integration von Frauen in die Bundeswehr* (Potsdam: Bundeswehr Centre of Military History and Social Sciences, 2014).

Obradovic, Lana, *Gender Integration in NATO Military Forces* (Farnham: Ashgate Publishing, 2014).

Okros, Alan and Scott, Denise, “Gender identity in the Canadian forces: A review of possible impacts on operational effectiveness”, *Armed Forces and Society*, Vol. 41, No. 2, 2015, pp. 243–256.

Pinch, Franklin C., MacIntyre, Allister T., Browne, Phyllis and Okros, Alan (eds), *Challenge and Change in the Military: Gender and Diversity Issues* (Kingston: ON: Canadian Forces Leadership Institute/Canadian Defence Academy Press, 2004).

Rey Juan Carlos University, Australian Human Rights Commission and Australian Defence Force, *UNSCR 1325 Reload, 2015*, [www.nato.int/issues/nogp/meeting-records/2015/UNSCR1325-Reload\\_Report.pdf](http://www.nato.int/issues/nogp/meeting-records/2015/UNSCR1325-Reload_Report.pdf).

Schjøset, Anita, *Closing the Gender Gap in the Armed Forces: The Varying Success of Recruitment and Retention Strategies in NATO*, PRIO Policy Brief 4 (Oslo: PRIO, 2010).

Schjøset, Anita, “Data on women’s participation in NATO forces and operations”, *International Interactions*, Vol. 39, No. 4, 2013, pp. 575–587.

Steder, Frank Brundtland (ed.), *Military Women – The Achilles Heel in Defence Politics?* (Oslo: Abstrakt forlag AS, 2015).

### 7.3 Examples of investigations into gender issues by ombuds institutions for the armed forces

**Australia:** Reviews into treatment of women in the Australian Defence Force by the Australian Human Rights Commission, <http://defencereview.humanrights.gov.au>.

**Canada:** Deschamps, Marie, *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces* (Ottawa, ON: External Review Authority, 2015).

**France:** Contrôle général des armées and Inspecteur General des Armées – Terre, *Rapport de la mission d’enquête sur les cas de harcèlement, agressions et violences sexuels dans les armées* (Paris: Ministère de la défense, 2014).

**New Zealand:** New Zealand Defence Force and New Zealand Human Rights Commission, *Report of the Gender Integration Audit of the New Zealand Defence Force (The Burton Report)* (Wellington: NZDF, 1998).

**United States:** Department of Defense Inspector General, *Evaluation of the Military Criminal Investigative Organisations Sexual Assault Investigations* (Alexandria, VA: Department of Defense Inspector General, 2013).

# APPENDIX 1: CORE COMPETENCIES – SEXUAL ASSAULT PREVENTION AND RESPONSE TRAINING

*From SAPRO training factsheet, US Department of Defence Sexual Assault Prevention and Response Office.*

## **Accessions (Recruit) \* Annual Refresher Training \* Pre-Deployment Training**

- Sexual Assault – Describe sexual assault and its impact on the military
- Prevention – Describe strategies to prevent (reduce the risk of) sexual assaults
- Reporting and Response – Identify support resources available to victims of sexual assault

## **Post-Deployment Training**

- Reporting and Response – Identify local, national, international, support resources available to victims of sexual assault

## **Professional Military Education (Enlisted and Officer)**

- Sexual Assault – Describe sexual assault and its impact on the military
- Prevention – Describe strategies to prevent (reduce the risk of) sexual assaults
- Reporting and Response – Identify support resources available to victims of sexual assault

### **Pre-Command and Senior Enlisted Leader Training**

- Sexual Assault in the Military – Refresh understanding of basic concepts of sexual assault
- Prevention – Understand risks and circumstances associated with sexual assault incidence and the proactive measures to prevent sexual assault and associated destructive behaviors within their command
- Advocacy and Response – Understand the essential elements of quality victim care response programs and the roles and responsibilities of victim service providers
- Investigations and Accountability – Understand the complexity of sexual assault crimes and the appropriate investigation and disposition options available
- SAPR Program Leadership – Understand commander’s and senior enlisted leader’s roles in fostering a command environment free of sexual assault

### **Sexual Assault Response Coordinator/SAPR Victim Advocate**

- Apply the SAPR Program to aid victims of sexual assault
- Demonstrate awareness of the impact of sexual assault on victims
- Respond to victim reports and manage crises effectively
- Coordinate services and advocate for victims
- Conduct prevention activities
- Communicate effectively
- Facilitate education and training
- Uphold ethical standards
- Manage the SAPR Program at the installation level

### **Chaplains**

- Demonstrate awareness of the SAPR Program
- Demonstrate awareness of the impact of sexual assault on victims
- Provide effective care to those impacted by sexual assault

# APPENDIX 2: NATO INTERNATIONAL STAFF'S DIVERSITY SCORECARD

NATO International Staff's human resources policy aims to achieve geographic diversity and gender balance in staffing (in particular at senior levels). Policy thus specifies that while NATO does not use quotas for gender, age or geographical distribution, if there are several candidates of equal merit for a position, the candidate from the less represented group in terms of diversity should be appointed.

The International Staff use a “diversity scorecard” to:

- communicate key diversity metrics (nationality, gender and age) to recruiting decision-makers, to inform final deliberations and decisions on qualified candidates;
- communicate details of NATO's diversity footprint to senior managers and increase their awareness of diversity;
- assist recruitment services to diversify pools of candidates when sending out vacancy notices.

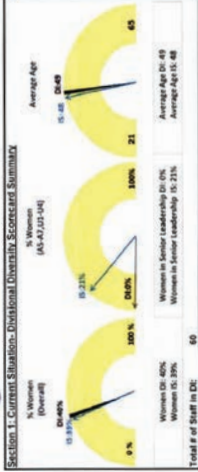
The diversity scorecard compares individual diversity metrics for each division in terms of distribution of women (overall and in senior positions), nationalities and average age against the International Staff averages. It produces recommendations (for example, “Increase the number of men in B-grade positions”) based upon the data. The scorecard is prepared twice per year, and can also be generated upon request, populated with data from the central personnel management system database.

*Source:* NATO International Staff, “Action Memo EM(2014)0553, Subject: Diversity Scorecard”, NATO, Brussels, 2014.

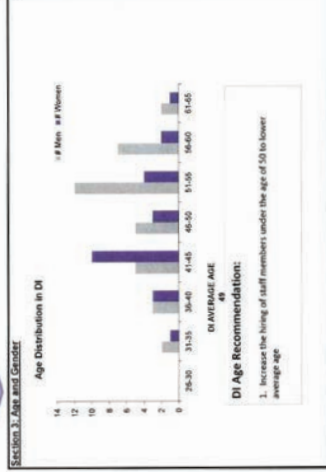


HOW TO READ THE DIVERSITY SCORECARD

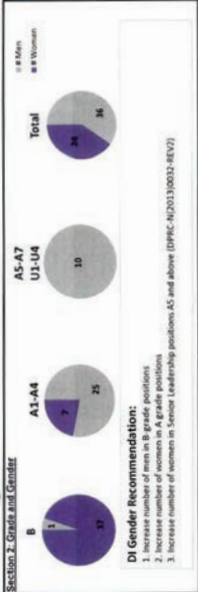
**Section 1:** Compares the Division/Independent Office Scorecard with the International Staff averages and the Average Age with the International Staff averages.



**Section 3:** Compares age groups by gender within the Division/Independent Office. The recommendation provides areas for improvement to balance age diversity.

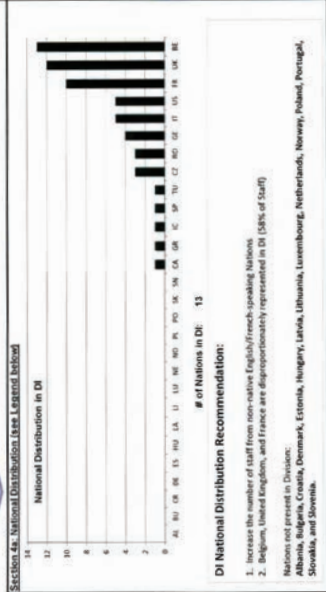


**Section 2:** Displays the number of staff per grade and by gender within the Division/Independent Office. This information provides areas for improvement to increase gender diversity.



**Section 4:** Displays the number of staff per nationality within the Division/Independent Office. This information provides areas for improvement to increase national diversity.

**Section 4b:** Provides the legend for the nationality graph.



Around the world, armed forces are recognizing the important contribution that women make within their ranks, and the fact that increasing the representation of female personnel is fundamental to future capability and operational effectiveness. In tackling barriers to women's full participation in armed forces, a key priority is to prevent gender-related discrimination, harassment, bullying and abuse – in other words, to ensure that all personnel, men and women, serve in an environment that is healthy, safe and respectful, and upholds their human rights. Effective and trusted complaints mechanisms are a crucial component of such an environment.

This handbook brings together knowledge and experience as regards prevention of misconduct and handling and monitoring of complaints within armed forces, with particular regard to gender. It is a resource for armed forces, ministries of defence, ombuds institutions and others that manage and oversee armed forces in:

- establishing a safe and non-discriminatory environment for men and women in the armed forces;
- dealing with instances and complaints of gender-related discrimination, harassment, bullying and abuse in the armed forces;
- monitoring and overseeing the handling of instances and complaints of gender-related discrimination, harassment, bullying and abuse in the armed forces.

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