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#AidToo, or when situation permits rape: sexual violence among humanitarian aid workers

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Abstract

This article explores the prevalent issue of sexual violence against and among humanitarian aid workers, with a focus on why the aid sector creates a particularly permissive environment for sexual violence. Although the issue is primarily an industry problem, with both perpetrators and survivors being members of the aid community, humanitarian organizations have been hesitant to address the issue. The article argues that legal ambiguities, barriers to accessing justice, and organizational mismanagement contribute to the permissive environment in the aid industry. Drawing on secondary survivor testimonies and legal frameworks, I highlight the need for more tangible prevention and follow-up mechanisms for survivors based on the legal duty of care of aid organizations. The analysis underscores the need for a comprehensive and proactive approach to addressing sexual violence within the aid sector, grounded in an understanding of power dynamics and organizational culture.

Keywords #AidToo, Sexual violence, Aid sector, Organizational mismanagement, Legal ambiguities, Access to justice

Introduction

Roland Van Hauwermeiren, Brendan Cox, and Karim Elkorany are infamous names in the aid sector, not for their noble humanitarian work but for their alleged rape and sexual assault of multiple women, including their employees. All three were senior officials at Oxfam/Action Against Hunger, Save the Children, and the United Nations, respectively, and were able to exploit their positions of power for years (Riley 2020; Neumeister 2022). While these cases gained prominence for being among the few that were made public, they are by no means isolated incidents.

Sexual violence against and among humanitarian aid workers¹ is an increasing concern for the humanitarian community, although until recently, it has been a less understood and documented part of attacks on humanitarian action. This is beginning to improve, although challenges around data collection are amplified when discussing the issue of sexual violence, as survivors may feel ashamed or are afraid of possible negative consequences should they report incidents. This highlights the need to address power dynamics and organizational culture in the sector.

¹ The terms humanitarian and aid workers are used interchangeably and follow a definition by the United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA): 'all workers engaged by humanitarian agencies, whether internationally or nationally recruited, or formally or informally retained from the beneficiary community, to conduct the activities of that agency' (UN OCHA, 2004, 15).

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The #AidToo movement is a response to the prevalence of sexual harassment, abuse, and exploitation within the aid industry, which has historically been difficult to address due to power imbalances and a culture of silence. The movement has gained momentum since the emergence of the #MeToo movement, with women coming forward to share their experiences of abuse and exploitation within the sector. The movement argues that the aid industry must address the structural factors that enable and perpetuate abuse, including power imbalances, gender inequality, and cultural norms. It highlights the need for greater accountability and transparency within the aid industry, with a focus on survivors of abuse and their rights to access justice and support services (Riley 2020).

Under the Women, Peace, and Security (WPS) Agenda, the United Nations Security Council (UNSC) has passed a series of resolutions² on the role of women and girls in armed conflict (Hilhorst et al. 2018). The WPS agenda emphasizes the importance of including women in participation, protection, prevention relief, and recovery during armed conflict and thereby humanitarian crises. It recognizes the need to prevent and respond to gender-based violence, including sexual violence. General Assembly Resolution A/RES/71/129 specifically calls for better protection of female staff within the humanitarian context. Sexual violence among aid workers can discourage women's participation in humanitarian response efforts. It creates an environment where women feel unsafe and excluded, reinforces power imbalances, and damages credibility and effectiveness. These factors lead to women's underrepresentation in decision-making processes and hinder their ability to contribute to peace and security initiatives. However, the humanitarian sector has come short of focusing on internal gender problems among its staff, which may contribute to a culture of permissiveness around sexual violence.

According to the Women, Peace, and Security Index, sexual harassment is more likely in countries with low rankings along a set of indicators on inclusion, justice, and security for women (Klugman et al. 2018). At the same time, these are locations with high numbers of reported sexualized attacks on aid workers (Nobert 2017). On first thought, it does not seem surprising that sexual harassment against aid workers is more prevalent in countries with hostile environments toward women since aid workers should be no different than other civilians. The link is intriguing because most sexual violence incidents against aid workers are perpetrated by their colleagues, including both national and expatriate staff. Most incidents take place between

colleagues from the same organization, second between staff from different agencies, peacekeepers, and armed groups, and least commonly from the local population against aid workers (Nobert 2017). This raises questions about the responsibility of aid agencies to counter violence and harassment against their staff and restrain their staff from committing such violence, particularly in contexts with little legal accountability and patriarchal social structures.

The literature on gender and power relations in conflict-affected settings can provide insights into how power dynamics and organizational cultures can enable or discourage harmful behaviors. The unique features of the humanitarian sector, including the 'machismo' culture and lack of legal accountability, contribute to a permissive environment for perpetrators of sexual violence (Nobert 2016; Nobert and Williamson 2017).

This article aims to demonstrate how aid organizations fail to adequately protect their staff from sexual violence committed by other aid workers and how this situation creates a culture of permissiveness. It draws on secondary survivor testimonies and legal frameworks to underscore the need for more tangible prevention and follow-up mechanisms for survivors based on the legal duty of care of aid organizations. Based on the Beijing Declaration, which prompts employers to develop anti-harassment policies and prevention strategies, I emphasize the responsibility of humanitarian organizations to protect their staff from all forms of discrimination and violence, including sexual harassment. The analysis highlights the need for a more comprehensive and proactive approach to addressing sexual violence within the aid sector, grounded in an understanding of power dynamics and organizational culture.

This article first presents literature that could be applied to explain why there is a sexual violence problem in the aid industry. I then connect a formal framework for violent crime prevention to the sexual violence issue in the aid sector and argue that situational permissiveness provides opportunities for sexual violence in the workplace. Next, I present why it matters by analyzing survivor testimonies, first with a comparative content analysis followed by an in-depth evaluation of individual testimonies. The section highlights three factors that contribute to an environment permissive to sexual violence in the aid sector, namely, an ambiguous legal framework, barriers to accessing justice, and organizational mismanagement. The section further explains why humanitarian organizations should be obliged to adopt more tangible prevention and follow-up mechanisms for survivors based on their legal duty of care. The last section gives concluding remarks.

² UNSC Res. 1325, 1820, 1888, 1889, 1960, 2106, 2122, and 2242.

The sexual violence problem in the humanitarian sector

Research on violence against aid workers is an emerging field that focuses on either individual wrongdoing by aid workers (Fast 2014), opportunistic crime (Buchanan and Muggah 2005; Fast 2014), or the politicization of aid (Stoddard et al. 2009; Terry 2011; Narang and Stanton 2017; Sauter 2023). The focus of this literature lies on aid organizations' relation to the host community or armed groups and not on internal dynamics within organizations, which makes it less suitable to analyze sexual violence among aid workers.

The literature on generalized sexual violence in conflict zones is typically referenced in discussions about the motive behind sexual violence against aid workers, likely because most humanitarians operate in conflict settings and there is a general lack of analysis on this more specific form of sexual violence. This literature argues that armed groups may strategically use sexual violence to achieve military aims (Wood 2006; Cohen 2016), to boost the masculinity of their fighters (Boesten 2014), and to create group cohesion, but it may also lead to group fragmentation (Cohen and Nordås 2015; Nagel and Doctor 2020). Since most sexual violence incidents among aid workers take place between colleagues, the literature focusing on organized armed actors may not be sufficiently suitable to explain sexual violence among aid workers.

Sexual violence can also be an opportunistic crime, carried out for private reasons rather than an objective of organized actors. War generates opportunities for people to commit different forms of misconduct because the rules of law are non or malfunctioning. For some individuals, this might mean an opportunity to rape with impunity because order, norms, and social structures shift or break down (Wood 2006; Cohen 2013). This reality is certainly true for aid workers who work in fragile environments. The very nature of humanitarian emergencies requires work in fragile situations, even in non-conflict-affected regions. Breakdown in law and order is inherent to most emergency environments. Sexual violence can also be a practice (i.e., neither strategic nor opportunistic), where the violence is tolerated by the organization and individuals adapt to the behavior of others in the organization (Wood 2014).

Prevailing cultures of masculinity may enhance behaviors that lead to sexual violence. Soldiers in the Democratic Republic of the Congo (DRC), for example, stated that rape was a pressure valve for frustrations and aggressions to demonstrate power and masculinity, paired with sexual need and desire (Baaz and Stern 2009). In Colombia, women and victims associations remarked that sexual violence is not specific to the armed conflict, but notions of masculinity and gendered power relations are amplified in war, exacerbating everyday sexual violence

(Kreft 2020). A masculine environment may enhance but not create the problem in the first place. As with other crimes, situational permissiveness is key in creating criminal opportunities for perpetrators (Reike et al. 2015).

The literature on sexual violence in the workplace highlights the role of power dynamics and organizational culture in perpetuating sexual violence. Hierarchical structures, unequal power relationships, and gendered norms contribute to a climate that enables harassment and abuse. Toxic workplace cultures, lack of reporting mechanisms, and fear of retaliation further exacerbate the problem (Zippel 2006). When women work in subordinated organizational positions, they are more vulnerable to sexual harassment (Welsh 1999; Chamberlain et al. 2008). In male-dominated work settings, sexual harassment is more common because masculine qualities such as power, toughness, dominance, aggressiveness, and competitiveness play a more important role (Vogt et al. 2007).

In the workplace, perpetrators can engage in sexual coercion or sexual threats. Sexual coercion includes offering bonuses, salary raises, and promotions. Sexual threats involve withholding financial benefits or other entitlements, decreasing work hours, terminating employment, or creating a hostile environment through threats and intimidation (Glomb et al. 1997; McDonald et al. 2008; Scott and Martin 2013).

Scholars emphasize the importance of proactive organizational responses to prevent and address sexual violence. This includes promoting gender equality, developing comprehensive policies, establishing supportive reporting mechanisms, conducting training programs, and fostering a culture of respect and accountability (Parker 1999; Berdahl and Moore 2006).

After the #AidToo movement, the literature has highlighted that the humanitarian sector is predominantly governed by white, male humanitarians. This has resulted in non-white, local staff facing intersectional threats that are often disregarded (Daigle et al. 2020; Bian 2022). Although the concept of a 'duty of care' has emerged, it has mainly been applied to international, overwhelmingly white staff. Sexual violence has conventionally been portrayed as a danger that aid workers encounter from external sources—especially in security manuals from humanitarian organizations—whereas studies have shown that aid workers are more likely to experience assault from their colleagues. In particular, female aid workers face an increased prevalence of harassment and abuse (Nobert 2017; Gillespie et al. 2019). The prevalence of abuse, harassment, and assault in the aid industry is perpetuated by gender, class, and race inequalities. The power structures of the sector make it challenging to report instances of abuse and easy to conceal them (Riley 2020).

This study addresses a significant gap in the current literature by providing a systematic analysis of survivors’ narratives. By connecting these stories to the legal options accessible to survivors, the study demonstrates that legal uncertainties, difficulties accessing the legal system, and a harmful workplace culture create a situational permissiveness that tolerates sexual violence in the aid industry.

A permissive environment in the humanitarian sector

Aid workers often work in fragile political environments, come from diverse nationalities, may struggle to interact with local authorities, and operate under different legal frameworks. These factors cumulatively create a cumbersome and intimidating system that can deter survivors of sexual violence from seeking legal justice. Many aid agencies focus on victim-based measures, which reinforce victim-blaming and perpetuate the ‘boys will be boys’ culture. Security manuals, for example, tell women what to wear and how to behave appropriately to minimize the risk of an attack (Matti 2015; Strub 2019). Furthermore, addressing only potential victims among their own staff, agencies exclude victims from other organizations, while the perpetrator may still be from their own agency (Nobert 2016; Mazurana and Donnelly 2017). This approach, coupled with temporary contracts, isolated contexts, and unequal power distribution, creates a climate favorable to sexual violence (Shaw et al. 2018). In a comprehensive research report on sexual assault against aid workers, Mazurana and Donnelly (2017) find that the humanitarian sector is indeed characterized by machismo, hyper-masculinity, misogyny, and racism, paired with a sense of power by senior officials. Combined with chaotic situations and weak rule of law in conflict settings, this creates a climate favorable to sexual violence.

As such, aid workers can find themselves in a situation similar to military service. Research on sexual violence among military troops suggests that in stressful environments with high degrees of violence, masculinity is constructed in more intense ways and more strongly defined by toughness and honor. The military highlights the roles of bravery, physical strength, and sense of duty as defining characteristics of men’s masculinities (Barrett 1996; Turchik and Wilson 2010). In many ways, aid workers’ situation is similar to military service, where a complex set of factors, such as power imbalances, lack of accountability, and male-dominated culture, perpetuate a culture of gender-based violence. Studies have also found that organizational cultures in the military often discourage reporting of sexual violence, and survivors who do report are often subject to retaliation, stigma, and secondary victimization. The military’s hierarchical structure, rigid gender

roles, and emphasis on conformity and loyalty can also contribute to situational permissiveness, as those who report may be seen as violating the group’s norms and subjected to social exclusion (Fitzgerald et al. 1995, 1999; Thomsen et al. 2018).

In criminology, violent crimes are analyzed by taking the overall situational context into account. Reike et al. (2015) framework combines insights from criminology, international relations, and law and assumes that certain factors facilitate the occurrence of individual crimes within armed conflict. Figure 1 shows their triangular scheme built on the three dimensions of crimes—perpetrator, victim, and permissive environment (Reike et al. 2015, p. 34). The problem analysis triangle provides a tool for analyzing violent crimes of individuals by taking the overall situational context into account. Situational permissiveness means that the environment creates opportunities that are favorable for committing sexual violence crimes.

The triangle makes clear that the incentives of perpetrators or the vulnerability of victims may enhance the occurrence of atrocities, but neither of them is sufficient alone. By only focusing on the survivor or the perpetrator, the situational context is ignored. Instead, a permissive environment is needed that allows for exploiting the incentives and vulnerabilities of the perpetrator and victim.

I argue that aid agencies’ reluctance to tackle internal mismanagement, coupled with an uncertain legal framework, creates a permissive environment for sexual violence. This situation affects both victims and perpetrators, with victims often struggling to navigate the legal system, while perpetrators face little or no consequences for their actions. By focusing solely on either the perpetrator or the victim, the overall situational context is ignored, leading to an incomplete understanding of the

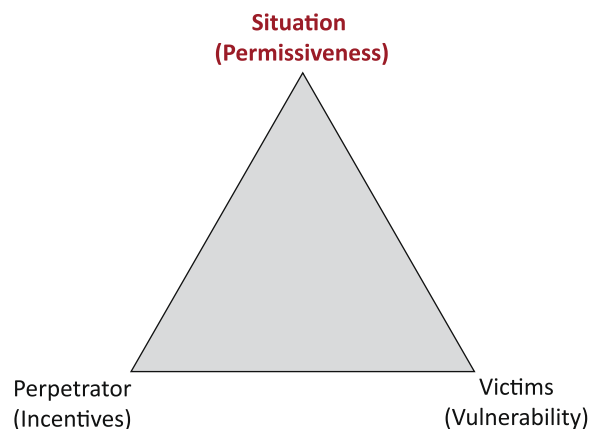


Fig. 1 Problem analysis triangle

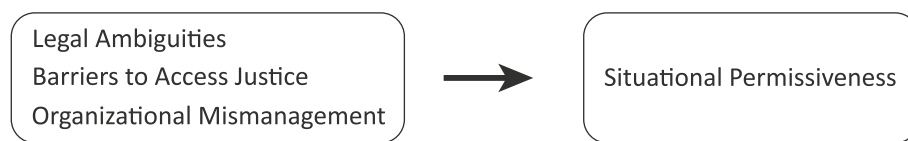


Fig. 2 Frequency of reactions among survivor testimonies

problem. The following sections analyze how international law should protect aid workers and simultaneously fails survivors of sexual violence and provide survivor testimonies to illustrate the link between situational permissiveness and internal mismanagement.

Why it matters: evidence from survivor testimonies

Based on survivor testimonies from aid workers, I highlight three factors contributing to a permissive situation: legal ambiguities, barriers to accessing justice, and organizational mismanagement. First, existing laws often suffer from ambiguity, particularly for international staff. Prevailing cultures of impunity for perpetrators of sexual violence in numerous countries worldwide further hinder the pursuit of justice for survivors. Second, and because of the first point, many survivors face obstacles in accessing justice, exacerbating the problem. Third, most employers mismanage the situation if a survivor decides to report it and create problems for the survivors. An organizational culture that states that only the ‘fittest’ make it in the field leads to a permissive environment for sexual violence. Figure 2 summarizes the argument.

Data and method

I analyzed 62 survivor testimonies from public data. 49 of the testimonies were published by Report the Abuse (Nobert 2017), 9 testimonies were from the ‘Secret Aid Worker’ rubric by The Guardian (The Guardian 2015), and 4 were from a Devex article (Edwards 2017). All testimonies were self-reported in reaction to a public call. The most systematic collection comes from Report the Abuse, an organization that was founded by a survivor who wanted to give a platform to other aid workers to speak about their experiences with sexual violence. The organization collected more than 1,000 reports from survivors between 2015 and 2017 and published 49 of them in a comprehensive public report.³ Although these testimonies are in no way representative accounts of sexual harassment within the aid sector, they can give insights into the wider scope of the problem. In all testimonies, the identity of the survivors remained anonymous.⁴

While these testimonies are publicly available, there has been no systematic analysis of their content.

Our knowledge about sexual violence is constrained by underreporting, or the so-called ‘tip of the iceberg’ phenomenon (Palermo et al. 2014). Sexual violence occurs more often than it is reported because survivors often feel shame and fear repercussions, creating a situation in which the harm of reporting an incident outweighs the benefit. Between 1997 and 2018, only 21 cases of sexual violence against aid workers were recorded in the Aid Work Security Database (Stoddard et al. 2019). However, between only 2 years of data collection, Report the Abuse received more than 1,000 self-reported survivor testimonies (Nobert 2017). The discrepancy between official reports and the everyday experiences of aid workers makes it difficult to approach the topic.

For each testimony, I undertook a qualitative content analysis and assigned keywords identifying the situational narrative and reactions to the incident, how colleagues behaved toward the survivor, and whether concrete measures were taken by superiors or the organization. The full testimonies and the coding scheme can be found in the appendix.

Analysis

Figure 3 shows a graph of the frequencies of said keywords.⁵ Fifty-four survivors indicated that there were no legal measures taken, not even an internal complaint within the organization even though a serious crime had been committed. In 45 out of 60 cases, survivors reported that the behavior of their assailants was condoned by supervisors or the organization. Twenty-two survivors reported that they were completely left alone, either because they did not dare to tell anyone or because the organization isolated them after an incident. In 17 cases, supervisors and colleagues dismissed survivor reports, either not believing in the report at all or deeming it too exaggerated. In 9 cases, survivors were blamed by their colleagues or supervisors for having provoked the assault through inappropriate behavior. In 7 cases, senior staff members suggested that survivors were unfit for the field if they could not handle an experience such as that. Six

³ The other testimonies are not public data.

⁴ The full testimonies can be found in the appendix.

⁵ Each testimony can have several keywords.

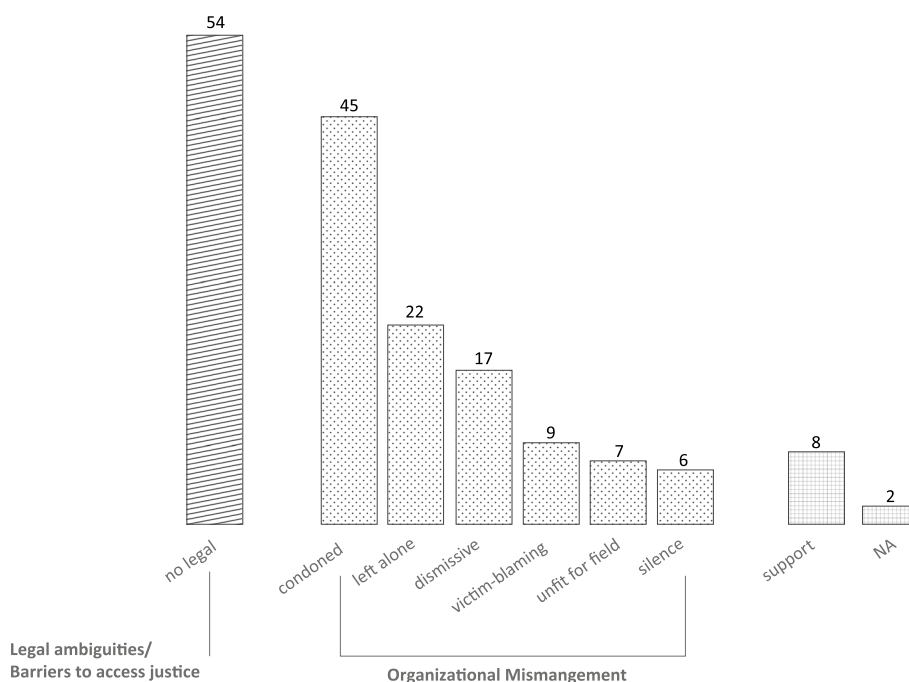


Fig. 3 Frequency of reactions among survivor testimonies

The barplot shows the number of counts for each keyword. Each testimony can have several keywords. NA indicates no answer

survivors reported that the organization ordered them to remain silent due to sensitive relations with partner organizations or donors. I summarize the coding ‘condoned, left alone, dismissive, victim-blaming, unfit for the field and silence’ under the umbrella of organizational mismatchment. Only 8 survivors experienced support from colleagues or the organization itself, either psychologically or in terms of follow-up mechanisms. In 2 reports, it was not clear what happened after the incident. Although survivor testimonies are not directly comparable because some spoke about the incident while others discussed the follow-up or lack thereof, this preliminary content analysis indicates that the aid sector may have a formal and structural problem with sexual harassment in the workplace.

I proceed with first analyzing why it is so difficult for survivors to access justice and then focus on employers’ responsibility to better manage the duty of care for their staff.

Ambiguous legal framework

None of the survivors mentioned any sort of formal legal action, and 54 testimonies implicitly stated that no legal action was pursued. This demonstrates that the current legal framework does not provide a viable alternative or is not easily accessible to survivors.

International law theoretically provides a comprehensive, albeit somewhat ambiguous, legal framework

protecting aid workers in general and against all forms of sexual and gender-based violence. This section shows how International Humanitarian Law (IHL) protects humanitarian during active conflict episodes, followed by an overview of the varying legal situations for aid workers operating outside of conflicts, based on International Human Rights Law (IHRL), other non-binding international protocols, and domestic law.

International humanitarian law applies in conflict, and these conflicts have rules for protecting those who seek to provide humanitarian assistance. IHL is based on a set of principles that limit the effects of armed conflict that are commonly known as The Geneva and The Hague Conventions and describe the protection of civilians and restriction of the means of warfare.⁶ In any active armed conflict, IHL applies as the decisive legal framework (Heintze 2011).

Aid workers always have the status of civilians, even if they operate in conflict settings.⁷ Neither The Geneva nor The Hague Conventions mention aid workers specifically,

⁶ See Geneva Convention (I-IV) of 12 August 1949, Protocols Additional to the Geneva Conventions of 12 August 1949, The Hague Conventions (I-XIV).

⁷ For a definition of civilians in armed conflict see: Geneva Convention (III) of 12 August 1949, Relative to the Treatment of Prisoners of War, 75 UNTS 135, Art. 3.

as they only address the legal protection of civilians.⁸ Only the 1998 Rome Statute acknowledges aid workers as a specific subgroup of civilians and declares intentional attacks against humanitarian personnel as war crimes.⁹

In terms of sexual violence, IHL has often been criticized for not providing a strong legal framework, regardless of who is victimized by the crime (Gardam 1998; Skjelsbaek 2001). The 1929 and 1949 Geneva Conventions explicitly mention sexual violence only regarding the treatment of prisoners of war. The Fourth Geneva Convention states more explicitly that women shall be protected against rape or any other form of indecent assault.¹⁰ The additional protocols became more specific, stating that any form of indecent assault infringing upon personal dignity is forbidden.¹¹ In short, IHL prohibits any act of sexual violence against civilians and thus also aid workers, whether committed by armed actors or civilians. The only caveat is that the protocols focus their statement on women as the survivors, although evidence shows that men can be subject to sexual violence in the aid sector as much as women can be perpetrators (Nobert 2017).

The prohibition of sexual violence under IHL has some limitations for aid workers. Although IHL applies to all armed conflicts, not every situation in a conflict is subject to IHL. Only if an action is connected to one of the conflict parties can IHL be applied. This may be the case if an aid worker is raped by a member of an armed group but not if the assaulter is another aid worker. When neither the perpetrator nor the victim belongs to one of the conflict parties, the law expects that the violent act would have taken place during peacetime too. IHL assumes that violence not directly affiliated with one of the conflict parties is unrelated to the conflict (Gaggioli 2014).

If there were no conflict, there would probably be no need for humanitarian assistance in the first place, making violence between aid workers less likely. IHL does not give a clear answer to this gray zone, making it a genuine situation of legal uncertainty.

Not every humanitarian emergency takes place in conflict zones. Situations outside this framework are usually only subject to domestic criminal law, plus applicable human rights treaties (Heintze 2011). This is an important distinction because domestic law greatly varies among countries. While some countries may have specific laws prohibiting sexual violence, others do not. For example, several countries do not prosecute rapists who marry their victims (Joseph and Nağmābādī 2003).

Individual nations may have different interpretations of sexual violence than others. National legal systems define the age or manner of consent in different ways and vary in other matters that might affect the ability to obtain domestic prosecutions after sexual violence incidents. One aid worker reported that they wanted to fire an HR manager who systematically sexually harassed every local female staff member, but “Turns out, there’s no law against sexual harassment in that country, so the ministry of labour wouldn’t allow us to fire him for that.”¹²

When domestic laws fail to protect individuals, human rights laws may be applied as a superordinate legal framework. Human rights describe basic civil, social, cultural, political, and economic rights that every human being should enjoy.¹³

Most human rights treaties are weaker than IHL with regard to sexual violence, as they do not specifically mention sexual or gender-based crimes (Sellers 2007).¹⁴ However, the broader prohibition of torture and cruel, inhuman, or degrading treatment or punishment provides a strong legal base for the prohibition of sexual violence.¹⁵ Rape and other forms of sexual violence are commonly accepted to be inhumane and degrading treatments because of forced and non-consensual behavior.¹⁶ Sexual violence is acknowledged to always have an inherent intentional motive of the perpetrator (Gaggioli 2014). Sexuality touches upon the most private part of an individual,

⁸ Protocol Additional (I) to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, 1125 UNTS 3, 8 June 1977, Art. 48, and Protocol Additional (II) to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, 1125 UNTS 609, 8 June 1977, Art. 13. However, the Conventions create discrimination, because they address specific groups of aid workers. Carriers of the Red Cross emblem (and its local variations) enjoy a special legal status, and medical staff enjoy specific protection (see Els Debuf, “Tools to Do the Job: The ICRC’s Legal Status, Privileges, and Immunities,” *International Review of the Red Cross* 97, no. 897–898, 2015, pp. 319–44. United Nations personnel and affiliates are offered extended legal protection, see ‘Convention on the Safety of United Nations and Associated Personnel’, 9 December 1994, and its optional protocol of 8 December 2005).

⁹ Rome Statute of the International Criminal Court, A/CONF.183/9, 17 July 1998, Art. 8(2)(b)(iii) and (e)(iii).

¹⁰ Geneva Convention (IV) of 12 August 1949, Relative to the Protection of Civilian Persons in Time of War, 75 UNTS 287, Art. 27.

¹¹ Protocol Additional (I) to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, 1125 UNTS 3, 8 June 1977, Art. 75(2)(b).

¹² Survivor #54.

¹³ UNGA, Universal Declaration of Human Rights, 10 December 1948, 217 A (III).

¹⁴ However, exceptions are, e.g., the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa, Art. 1(j).

¹⁵ E.g., Universal Declaration of Human Rights of 1948, Art. 1 and Art. 5, Cairo-Arusha Principles on Universal Jurisdiction in Respect of Gross Human Rights.

¹⁶ International Criminal Tribunal for the former Yugoslavia, Prosecutor v. Dragoljub Kunarac and Others, Case No. IT-96–23&23/1 (Appeals Chamber), 12 June 2002, para. 150 ‘sexual violence [not rape] necessarily gives rise to severe pain or suffering, whether physical or mental and in this way justifies its characterization as an act of torture.’

and as such, sexual violence violates the right to privacy as commonly accepted by several human rights courts.¹⁷

A number of other non-binding human rights documents address sexual violence and violence against women more specifically.¹⁸ For example, the UN General Assembly (UNGA) states that sexual harassment is prohibited at work, in educational institutions, and elsewhere and urges states to develop domestic policies targeted at ending violence against women.¹⁹

In summary, IHL theoretically provides a legal framework to protect aid workers against violence in conflict settings. Aid workers are protected by the Geneva Conventions under their status as civilians, including from sexual violence. Furthermore, the Rome Statute institutionalized intentional attacks against humanitarians as war crimes. Nonetheless, it can only be applied to incidents in which perpetrators belong to one of the conflict parties.

Outside of conflicts, only non-binding human rights treaties regulate sexual violence. Any country that does not prohibit sexual violence in its domestic law thus has a weaker legal base for survivors to seek justice in non-war-time situations. Furthermore, any international resolution or ratified treaty requires further translation into the national legal or policy body of a state. This usually requires the work of parliament and expert groups (Seelinger 2014).

Why do so few aid workers pursue legal action? On the one hand, this can be attributed to many survivors feeling ashamed or fearing negative consequences for their careers and social lives.

However, there are also significant challenges specific to aid workers in accessing justice.

Barriers to accessing justice

States have the primary responsibility to bring violators of IHL to justice. This leaves victims of conflict-related crimes in a vulnerable situation because they cannot step over local authorities. Many, but not all, humanitarian agencies operate in conflict settings. The inherent justification for humanitarian operations is the inability of a country to manage the humanitarian needs of its population, indicating a weak government. Prosecution of perpetrators by domestic courts may always fall short during

humanitarian emergencies due to non- or not fully functioning judicial systems.

For example, in Mali, many localities are de facto without a formal judicial system despite having an elected or appointed judge. Due to this insecurity, judges stay in larger cities protected by UN peacekeepers and are unable to proceed with cases from their constituencies.²⁰ This leaves communities to their traditional justice system, usually executed by village chiefs.

A more positive example is the DRC, which was the first country in which domestic courts invoked the Rome Statute of the ICC to convict soldiers for committing rape. Lake (2014) argues that the capacity of aid organizations to influence policies and courts in the DRC led to progressive court rulings in an otherwise fragile state.

Sexual violence against aid workers is prohibited based on different legal frameworks and treaties, yet prosecution strongly depends on state capacity. This reality places an extra burden on survivors and makes it difficult to find an international legal solution.

Different legal frameworks create problems for aid agencies and survivors seeking justice. The varying norms make it complicated to find the right path to access justice if this is possible at all. Even for legal experts, it is not always easy to judge whether IHL, IHRL, or domestic law should act as the decisive legal framework for prosecution. This is especially true for armed conflict situations in which some acts of violence may be associated with strategies related to the conflict, but other crimes may be committed because the fragile conflict situation simply offers a convenient opportunity. Moreover, staff from the ICRC and the UN are protected by certain legal immunities (Reinisch 2008). United Nations staff, including members of peacekeeping forces, have immunity in the country where they are deployed (Fleck 2013). This means they cannot be prosecuted by domestic courts. Traditionally, the UN has relied on the home country of its respective staff members to decide whether a legal process should be opened.

Many international aid agencies operate across conflicts and national borders. This makes it somewhat unclear under which legal regime they are operating, creating confusion among staff as to where they can seek formal justice. For example, one survivor stated that they did not know what to do or where to go to report the incidents, which happened in front of her supervisor who showed no reaction.²¹ The organization had no formal procedures on how to deal with a sexual harassment case.

¹⁷ Inter-American Court of Human Rights, *Meja v. Peru*, 108; European Court of Human Rights, *X and Y v. The Netherlands*, Application No. 8978/80, Judgment, 26 March 1985.

¹⁸ See, for example, UNSC Res. 1820, 19 June 2008, On Acts of Sexual Violence against Civilians in Armed Conflicts, recognizing that sexual violence is indeed a security concern, or UNGA Res. 438, 30 November 2006, Advancement of Women, stating that states are obliged to eliminate gender-based violence in public and private life.

¹⁹ UNGA Res. 104, 20 December 1993, on the Declaration on the Elimination of Violence Against Women, Art. 2(b) and Art. 4(d-f).

²⁰ UNSC, Situation in Mali, Report of the Secretary-General, S/2020/223, 20 March 2020.

²¹ Survivor #14.

The supervisor knew about it but accepted the harassment as appropriate behavior.

The structure of the humanitarian system allows expatriate staff to escape justice in many cases. Some survivors noted that after reporting an incident to their employer, the organization simply assigned the perpetrator to another duty station (Nobert 2016). International staff have an advantage compared to national staff in leaving or fleeing a country when they realize they might face prosecution or other consequences. Although criminal prosecution does not depend on the place where the perpetrator is currently living, it makes it more complicated and costly to gather evidence and testimonies if a perpetrator moves far away from where the crime was committed (Gaggioli 2014).

Furthermore, national policies toward sexual harassment and violent crimes may vary greatly, sometimes creating legal opportunities for expatriate perpetrators they would not have in their home country. One survivor was afraid of reporting the incident to the police. Due to prior negative experience with the police, the survivor was convinced that they would blame her for what happened.²²

These issues are amplified for national staff, who may have to deal with additional cultural and social stigmas. In the DRC, for example, survivors of sexual violence are stigmatized by their family and community, imposing additional challenges for recovery (Bartels et al. 2010). In other countries, such as Turkey, honor killings are still being executed in rural areas and even target rape survivors (Sev'er and Yurdakul, 2001). The workspace of national staff is usually located in the community in which their families live, exposing them to retaliatory acts from within their community.

Organizational mismanagement

The aforementioned legal avenues solely address implications for perpetrators prohibiting (sexual) violence against aid workers and carve out States as the responsible stakeholders to implement policies on the national level. This may give the impression that employers, whether international organizations or private sector actors have little responsibility and legal liability when their staff is affected by sexual violence.

More than 70% of self-reported testimonies indicated that their colleagues, supervisors, or the organization mismanaged the situation. This is consistent with the fact that most aid organizations' prevention strategies focus on survivors of sexual violence rather than perpetrators. By shifting the focus to victims, agencies impose a structural barrier in the workplace to hold perpetrators

accountable (Mazurana and Donnelly 2017). It signals that the behavior of the perpetrator is normal and that it is the duty of potential victims to protect themselves. For example, a survivor reported that her supervisor advised her that it was inappropriate to even talk about her experience with sexual violence at the workplace and used it as an example of inappropriate workplace behavior.²³

Humanitarian organizations, like any other employer, have a duty of care to protect their staff from harm. The duty of care is highly contextual, describing an organization's obligation to manage and address foreseeable risks. The standards vary across countries and can have a moral and a legal dimension. Most humanitarian organizations follow a set of moral duty of care principles that guide program implementation.²⁴ For example, the Core Humanitarian Standard asks aid agencies to establish a harassment-free work environment and to have prevention and response mechanisms in place for when their staff perpetrate sexual violence.²⁵ According to Nobert and Williamson, the moral duty of care guiding humanitarian operations should also be 'extended to the provision of a safe and secure workplace for humanitarian staff, including the prevention and appropriate response to incidents of sexual violence' (Nobert and Williamson 2017, p. 4).

Legal duty of care describes the legal obligation an employer has toward its staff with a focus on workplace health and security. The legal responsibility for humanitarian organizations toward their staff has been revived with the Dennis vs. the Norwegian Refugee Council (NRC) court ruling.²⁶ Steven Dennis was injured and kidnapped while working for the NRC. Because his employer had its headquarters in Norway, Dennis submitted his legal claim for gross negligence in the Oslo District Court, which found the NRC liable for compensation for economic and non-economic loss following the kidnapping. The decisive part of the court ruling was that humanitarian organizations have to adhere to their legal obligation to the same standard as any other employer (Kemp and Merkelbach 2016).

In the humanitarian realm, 'staff security' is distinctive from 'civilian protection', thereby clearly distinguishing between aid workers and local civilians. Civilian protection strategies tend to be reactive and focused on mitigating the consequences of violent incidents, while staff-security strategies are forward-looking and focused

²³ Survivor #9.

²⁴ E.g., Good Humanitarian Donorship Initiative, The Sphere Handbook, Core Humanitarian Standard.

²⁵ Core Humanitarian Standard, 2014, p. 78.

²⁶ Case No: 15-032886TVI-OTI R/05, Steven Patrick Dennis v. Stif-telsen Flyktninghjelpen [the Norwegian Refugee Council], delivered on 25 November 2015 in Oslo District Court, Translation from Norwegian.

²² Survivor #20.

on risk assessment. The legal obligations inherent in the notion of ‘duty of care’ have shaped staff-security strategies, which may explain the differences in the measures taken for expatriate staff compared with national staff. There is no equivalent legal obligation to protect other civilians, even for agencies with explicit protection mandates (Bradley 2019).

When in 1995 the UN assembled world leaders and civil society actors to debate a global call for action to improve the situation of women and girls, it was widely recognized that non-state actors are equally important in ensuring harassment-free environments. The Beijing Platform for Action (BPFA) was the first summit specifically asking governments to coordinate and cooperate with International Organizations (IOs), NGOs, employers, unions, and civil society to ensure gender equality and women’s empowerment.²⁷

The Beijing Declaration, the document created out of the BPFA, directly addresses the responsibility of employers to protect their staff from all forms of discrimination and violence, including sexual harassment. Employers are prompted to develop anti-harassment policies and prevention strategies, and law enforcement bodies are urged to ensure the enactment and enforcement of laws on sexual violence.²⁸ This document could serve as a basis to hold aid agencies liable in terms of protecting their staff from sexual violence and harassment and implementing a zero-tolerance policy toward perpetrators.

The UN itself and other IOs and international NGOs should be expected to follow this call for action (Gardam and Jarvis 2000). Yet too often the responsibility is solely delegated to individual States (Moser and Moser 2005). When in 2015 the UN itself evaluated the impact of the Declaration 20 years after the Beijing Platform, it only addressed the impact of governments.²⁹ No paragraph in the entire report was dedicated to the evaluation of how IOs or NGOs or private sector actors (could have) advanced the agenda.

The Beijing Platform for Action as well as other legal documents mentioning gender-based violence focus on women.³⁰ In recent years, it has become more acknowledged that sexual violence survivors are not only women and that the focus needs to shift to include all genders in policies (Lewis 2009). Despite this fact, the UNGA

adopted a Resolution in 2016 calling for more gender-sensitive policies in protecting humanitarian workers by specifically asking for better protection of female staff.³¹

Although the Beijing Declaration was signed more than 20 years ago, aid agencies lack both programs and procedures to eliminate sexual harassment. Most aid agencies have inadequate mechanisms for assessing internal threats, particularly regarding gender (EISF 2019). The lack of prevention mechanisms within aid agencies is rooted in organizational cultures that protect perpetrators better than victims. A survivor reports that she did not receive any support from the organization after the assault. Even worse, her probation period was extended, and she was told she was on tenuous ground. When the perpetrator returned to the field, she had one month to leave. The perpetrator now continues to run activities in rural India.³² Leaving the perpetrator in a managing position and laying the survivor off is outright mismanagement of the organization. Indeed, supervisors mismanaging the situation are the most often named problem by survivors. In another example, the survivor received just two email addresses of people with training in psychological assistance.³³

One survivor was assaulted by a colleague who pulled her shirt down to reveal her breasts. He was working for human resources (HR) and jokingly said she could report the incident to HR. When she later reported to higher-ups, they blamed her for having provoked the incident.³⁴ Dismissive behavior toward survivors generates a situational permissiveness that can create a reinforcing mechanism, where initially, only very few men motivate others to adopt a similar mindset (Abbey and McAuslan 2004).

The hierarchical structures of most aid agencies and the lack of gender-sensitive policies may be contributing factors to the sentiment that only the ‘fittest’ make it to the top. For example, a survivor was completely cut off from the job after she declined sexual advances from her boss, who even proceeded to secretly advertise her position.³⁵ One survivor’s colleagues just laughed about the incident.³⁶ The colleagues of another survivor belittled and made fun of her and suggested that she should try to use the incident to her advantage.³⁷ Some survivors who dared to speak out about their experiences had to terminate their employment with the respective agency.³⁸

²⁷ United Nations, Beijing Declaration and Platform of Action, adopted at the Fourth World Conference on Women, 27 October 1995.

²⁸ United Nations, Beijing Declaration and Platform of Action, paras. 112–130 on ‘Violence against Women’ and paras. 131–149 on ‘Women and Armed Conflict’.

²⁹ UN Women, ‘The Beijing Declaration and Platform for Action Turns 20’ 2015.

³⁰ E.g., Protocol Additional (I) to the Geneva Conventions of 12 Aug. 1949, and Relating to the Protection of Victims of International Armed Conflicts, 1125 UNTS 3, 8 June 1977, supra note 19, Art. 76.

³¹ A/Res/71/129.

³² Survivor #22.

³³ Survivor #9.

³⁴ Survivor #52.

³⁵ Survivor #53.

³⁶ Survivor #2.

³⁷ Survivor #19.

³⁸ Survivor #60, #22.

Domestic aid workers may be more dependent on their jobs and salaries since there are fewer alternative national opportunities for them and they may have larger families to sustain. They are more vulnerable to power abuse from senior officials.

Other survivors were assaulted by perpetrators who worked for other organizations or important donors. Because their employer did not want to risk bad relations, the survivor was actively discouraged from reporting the incident. For example, a female staff member was dancing at a party and a diplomat approached her from behind and tried to put his middle finger inside her. Her colleagues discouraged her from reporting the incident, referring to his diplomatic immunity.³⁹ One survivor was attacked by the manager of a local partner organization. The survivor was afraid of taking any action because they were dependent on the organization. Instead, the organization blamed her for not being able to cope with the local environment.⁴⁰ Another survivor was touched inappropriately by an expat UN staff member who oversaw grants for the survivors’ organization. She felt unable to resist and let it happen.⁴¹ Again, impunity fosters abuse of power and creates situational permissiveness for sexual violence.

Figure 4 shows the situational narrative that led to an incident. Power abuse was reported in more than 70% of the testimonies, which fosters a toxic work environment favorable to sexual abuse. These incidents involved superior staff, staff from major donors, or expats who abused their position of power by going after local staff to commit sexual violence. In 18 cases, survivors reported a narrative of masculinity, meaning that because of gender norms and the masculine-driven environment, the incident was deemed normal and, in some cases, even the right of the perpetrator to enforce his sexual desires. In 14 cases, the perpetrator used physical force against the survivor. Four survivors said that alcohol was involved in the incident, and 5 reports were inconclusive about the situational narrative.

In emergency contexts, individuals tend to build up stronger notions of masculinities to adhere to the group dynamic of toughness and ‘fit for the field’. Survivors mirrored this argument in their testimonies when they had been blamed for being unfit for the field. One survivor working in Afghanistan continued to have nightmares after her assault. Her manager, who knew about the incident, pressured her to ‘get over it’ immediately and made her feel that she needed to be able to cope with that when

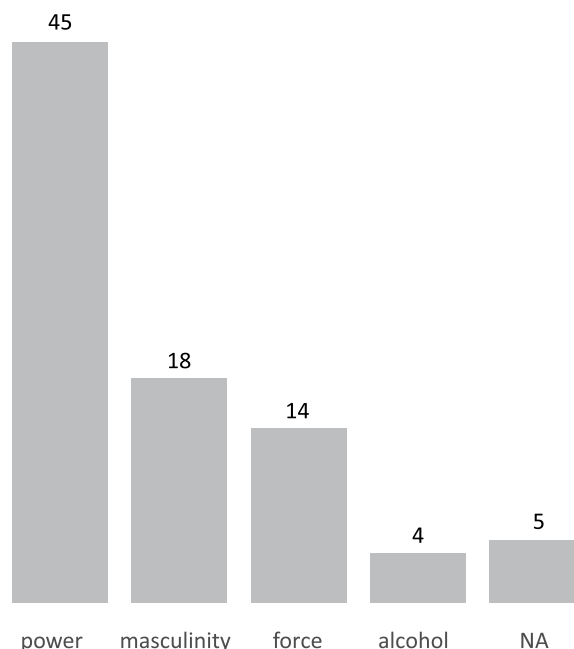


Fig. 4 Situational narrative leading to the incident

The barplot shows the number of counts for each keyword. Each testimony can have several keywords. NA indicates no answer

working in a conflict environment.⁴² Organizations that foster this culture create internal dynamics normalizing sexual harassment and violence in the workplace. Ultimately, this cultivates victim-blaming notions and protects perpetrators with impunity. In addition, a vast majority of senior officials and security officers are still men, creating masculine-driven environments (Humanitarian Women’s Network 2017). Combined with chaotic situations and weak rule of law in conflict settings, this creates a climate favorable to sexual violence.

Summary: situational permissiveness

The testimonies show that sexual harassment is not something that ‘just happens’ in a patriarchal environment with a prevailing culture of masculinity. They show that aid agencies lack formal procedures to prevent this behavior or support survivors after an incident. Consequently, aid workers are exposed not only to fragile environments and weak judicial systems from the host state but also to non-functioning workplace policies with little internal liability. Many supervisors

enhance a culture of acceptance toward sexual violence by ignoring, mismanaging, or even initiating incidents themselves. The lack of prevention policies and organizational will on the side of aid agencies contributes to the situational permissiveness that allows perpetrators to act.

³⁹ Survivor #55.

⁴⁰ Survivor #10.

⁴¹ Survivor #16.

⁴² Survivor #5.

The lack of internal prevention mechanisms is sustained by a legal system with serious flaws in sexual violence crimes in the international context.

In 2016, a survey among 1005 female aid workers conducted by the Humanitarian Women's Network (HWN) found that 69% of female aid workers have heard male colleagues commenting on their physical appearance or clothing, with international staff reporting this more frequently than their national counterparts. Additionally, 48% of women had experienced unwanted physical touching by a male colleague. Furthermore, 55% of women have experienced persistent romantic or sexual advances from a male colleague. 69% of women who experienced these acts did not report it officially, and out of those who did, 47% reported that nothing happened after their claim (Humanitarian Women's Network 2017). The large percentage of women who experienced these acts but did not report them indicates the inadequacy of reporting mechanisms and the fear and stigma associated with reporting. The fact that almost half of those who did report received no response highlights a lack of accountability and a failure to take allegations of sexual harassment and assault seriously.

A reinforcing mechanism of cultural acceptance can create more opportunistic perpetrators who act because they know that the risk of legal prosecution or other punishment is relatively low. These crimes can and should be prevented with the right policies and prevention measures in place.

The issue of mismanagement of sexual violence cases is not unique to the humanitarian sector, as it also exists in other workplace cultures, such as private companies and the military. Research has shown that workplace cultures and ambiguous legal frameworks often contribute to a permissive environment for sexual harassment and violence to occur in these settings as well (Fitzgerald et al. 1995). Similar to the situation in the humanitarian sector, survivors of sexual violence in private companies and the military often face barriers to accessing formal legal pathways and encounter mismanagement from their employers after an incident occurs (Fitzgerald et al. 1999). To address these issues, researchers have called for organizations to adopt clear and consistent policies to prevent and respond to sexual violence and harassment, as well as to establish a strong culture of accountability and support for survivors (Thomsen et al. 2018).

Research on sexual violence in the workplace explains that power dynamics play a significant role, rendering subordinate groups particularly vulnerable to sexual harassment and violence. Within these dynamics, managers possess greater leverage, as they can utilize the threats of contract non-renewal or withholding promotions. These

concerns were also raised by survivors in this analysis. What distinguishes the aid sector is its international nature and the challenging and stressful environments in which aid workers operate. These factors reinforce the conditions that can contribute to situational permissiveness, as seen in other workplaces.

Conclusion

The article highlights how an ambiguous legal framework, barriers to accessing justice, and the mismanagement of such cases by humanitarian organizations create a permissive environment for sexual violence in the aid sector. Survivor testimonies show that access to formal legal pathways is difficult, and most survivors experienced shocking mismanagement from the organization after an incident occurred.

In general terms, a legal framework protecting aid workers from sexual assaults exists, but the implementation remains a problem. Theoretically, the law protects aid workers against all forms of violence, including sexual violence. Problematically, even for international law, the state is primarily responsible for bringing perpetrators to justice. Most aid workers operate in fragile situations in countries with a weak or no rule of law. Consequently, these states often fail to enforce the law and bring perpetrators to justice. Therefore, humanitarian organizations should protect their staff with tangible policies. Even if survivors speak out, many agencies have no clear protocol on how to assist them legally in bringing perpetrators to justice, and some employers clearly mismanage sexual harassment incidents.

The content analysis of survivor testimonies indicates that the aid sector may have a formal and structural problem with sexual harassment in the workplace. The testimonies suggest that the current legal framework does not provide a viable alternative or is not easily accessible to survivors, as none of the survivor testimonies mentioned any sort of formal legal action. More than 70% of self-reported testimonies indicated that their colleagues, supervisors, or the organization mismanaged the situation. This is consistent with the fact that most aid organizations' prevention strategies focus on survivors of sexual violence rather than perpetrators, which imposes a structural barrier in the workplace to hold perpetrators accountable. The hierarchical structures of most aid agencies and the lack of gender-sensitive policies may be contributing factors to the sentiment that only the 'fittest' make it to the top. The findings indicate that there is a need for better prevention mechanisms within aid agencies to address the problem of sexual harassment and violence in the workspace.

The humanitarian sector can learn from the experiences of other workplace cultures regarding preventing

and responding to sexual violence. Specifically, by implementing the Beijing Declaration's call for action and adopting tangible policies to protect their staff, humanitarian organizations can work toward creating a safer and more supportive workplace culture, both for their own staff and for survivors of sexual violence more broadly.

Humanitarian organizations typically operate in various countries around the world and should seek to provide uniform and consistent workplace policies. Humanitarian organizations have a legal duty of care toward their staff, which is extended explicitly to sexual violence and harassment in the workplace by the Beijing Declaration. The Beijing Declaration is an ideal instrument to tackle situational permissiveness for sexual harassment and violent crimes by placing responsibility on employers and underlining the legal duty of care of employers toward their staff. It would end the impunity of perpetrators taking advantage of an ambiguous international legal system by delegating responsibility to employers.

In addition, countries that host headquarters of international organizations should be more concerned about their labor ethos in their field stations. For example, Switzerland hosts several humanitarian organizations in Geneva and at the same time is known for having a well-functioning judicial system. Switzerland, and other countries hosting headquarters of humanitarian organizations, could therefore apply more pressure on these organizations to implement the Beijing Declaration's call for action. Ultimately, it is in the interest of humanitarian organizations to protect their staff and support their safety, security, and well-being. As Oxfam staff pointed out, *“Could we realistically expect to achieve at the program-level what we could not achieve in our own workplace”* (Keating 2003, pp. 3–4).

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